

<b>ALAMEDA COUNTY</b> <b>SHERIFF'S OFFICE</b> <b>GENERAL ORDER</b>	<b>NUMBER:</b> 1.02 <hr/> <b>RELATED ORDERS:</b> CALEA 1.3.8 General Order 1.01, 1.05, 6.05 <hr/> <b>ISSUE DATE:</b> March 1, 1996 <hr/> <b>REVISION DATE:</b> <i>October 29, 2016</i>
<b>CHAPTER:</b> Law Enforcement Role, Responsibilities, and Relationships	<b>SUBJECT:</b> Critical Incident Involving Fatality or Great Bodily Injury

- I. **PURPOSE:** To establish a policy for the investigation of Agency Personnel involvement in incidents where death or great bodily injury (GBI) occurs.
- II. **POLICY:** When death or GBI occurs as a result of an incident by a member of this Agency, while on duty or acting under color of authority while off duty, it shall be the policy of the Alameda County Sheriff's Office to investigate the incident. This policy is designed to protect the interests of the community and the Agency member(s) involved.
- III. **ORDER:** Any member of this Agency while on duty or acting under color of authority while off duty, who becomes involved in an incident, resulting in the death or great bodily injury (GBI) of any person, shall immediately notify the on duty Watch Commander at Eden Township Substation (ETS). This order cannot anticipate every type of incident resulting in a fatality or GBI; however, incidents including, but not limited to, the conduct of sworn members, sworn member operations or activities, or the conduct of another person towards sworn members and specifically, officer involved shootings, shall be reported
  - A. Any supervisor, who becomes aware of any incident resulting in death or GBI by a member of this Agency, while on duty or acting under color of authority while off duty, shall immediately notify the Watch Commander at ETS.
  - B. **ETS WATCH COMMANDER NOTIFICATION:**
    1. Upon being advised of the incident, the ETS Watch Commander shall notify the Departmental Watch Commander (DWC), when on duty. The ETS Watch Commander or the DWC shall notify the following personnel:
      - a. The ETS Commanding Officer and the Lieutenant of Investigations. If the ETS Commanding Officer is not available, the Watch Commander will attempt notification in the following order:
        1. Division Commander, Eden Township Division.
        2. On-Call Management Member, as set forth in Sheriff's Office General Order 2.09.

- b. Supplemental notification is the responsibility of the management member contacted by the ETS Watch Commander.
- c. In all critical incident cases involving members of this agency, while on duty or acting under the color of authority while off duty, resulting in fatality or great bodily injury, the District Attorney's Homicide Unit shall be contacted. The District Attorney's Homicide Unit may, at their own discretion, respond to critical incidents, based on the circumstances and conduct an independent investigation.
- d. The District Attorney's staff shall not impede the Sheriff's Office Investigators, who shall remain in charge of the investigation.

**C. CRITICAL INCIDENTS – ON SCENE MANAGEMENT - MEDIA:**

- 1. Immediate action shall be taken to care for any injured persons, to apprehend any outstanding suspects and to protect the crime scene. On-scene personnel should attempt to locate and identify victim(s) and any witnesses to the incident.
  - 2. On-scene members will ensure that a supervisor has been notified and attempt to refrain from excessive discussion of the incident pending the arrival of a supervisor. Members are not to speak with the press. Inquiries will be directed to the Agency Public Information Officer (PIO), or designee pursuant to General Order 6.05.
- D. SUPERVISION OF OFFICER INVOLVED SHOOTING (OIS) SCENE IN ACSO JURISDICTION:**

- 1. The first supervisor to arrive at the scene of an officer involved shooting incident that occurred in ACSO jurisdiction, and such incident, through the use of deadly force by agency personnel, results in a fatality or great bodily injury, after seeing to the welfare of the involved personnel and moving them to a secure location, shall instruct all involved members to provide a "Public Safety Statement" as soon as reasonably possible. The "Public Safety Statement" shall be as a result of the following questions when appropriate:
  - a. "Deputy, there are several limited questions you must answer in the interest of public safety. It is important you understand that due to the immediate need to take action, you do not have the right to wait for representation before answering."
  - b. "In what direction did you fire rounds?"
  - c. "If you know of anyone who is injured, what is their location?"
  - d. "If there are any outstanding suspects;
    - 1. What is their description?
    - 2. What is their direction of travel?
    - 3. How long have they been gone?"

4. What crime(s) are they wanted for?
  5. What weapons are they armed with?
- e. "If there is any evidence that needs to be protected, where is it located?"
  - f. "Deputy, to preserve the integrity of this investigation, you must not discuss this incident with anyone, including other supervisors or staff deputies, prior to the arrival of the assigned investigators, with the exception of your legal representatives."
2. The deputy is not required to make any further statements to anyone, including the assigned investigators or criminal investigators, until the arrival of a legal representative. Any member refusing to comply with a "Public Safety Statement" as defined in this order, shall be deemed as insubordinate. Insubordination may lead to disciplinary action, up to and including termination.
  3. The supervisor on scene will find an appropriate location to establish a command post and assign a scribe. A written scene log must be established as quickly as possible. In addition, the supervisor shall ensure the following:
    - a. Emergency life saving measures is the first priority.
      1. First aid
      2. Consider need for more EMS resources; fire, additional ambulances, medical helicopter.
    - b. The scene is secured for the protection of all evidence. Establish a perimeter a sufficient distance away to safeguard evidence, law enforcement personnel and operations. In some circumstances an inner and outer perimeter are appropriate. Adjust scene boundaries as necessary as more information becomes available. Maintain control of the scene and any secondary scenes.
    - c. All suspects, victim(s) and witnesses are identified, insofar as possible.
      1. A thorough and systematic search for suspect(s).
      2. Canvas of the area for victims and witnesses
    - d. Ensure that all involved weapons, ammunition and gun belts are preserved as evidence, either on scene or at ETS, as appropriate. The weapon(s) of all involved members on the scene at the time of the incident should be checked to determine if they have been discharged and ensure that the weapon(s) are rendered safe. As soon as practical, photographs shall be taken of the involved member(s).
    - e. A non-involved member is assigned to transport each involved member to a Sheriff's Office facility where the involved member(s) can be sequestered to prevent unnecessary questioning. The assigned member should remain with the involved member pending the arrival of the investigative team(s).

- f. If member owned or assigned weapon(s) are taken, a replacement weapon will be provided, if applicable.
  - g. Non-involved members are assigned to remain with all injured suspects, witnesses and involved members. This includes riding to the hospital with them for the purpose of recording any statements i.e. dying or spontaneous declarations, made by any of these individuals and obtaining clothing or other evidence.
    - 1. Physical evidence tasks: identify, locate, secure and protect evidence properly so its value is not diminished; maintain chain of custody; report its discovery to a supervisor, assigned investigator, or evidence technician.
    - 2. Custody of the injured person if he/she has been or might be arrested.
      - a. Prevent escape.
      - b. Prevent destruction of evidence.
      - c. Protect that person.
      - d. Prevent unauthorized contacts.
      - e. If the injuries are fatal, maintain the chain of custody on the body until relieved.
    - 3. Document any statements made by the person, especially spontaneous statements (California Evidence Code §1240), dying declarations (California Evidence Code §1242), contemporaneous statements (California Evidence Code §1241).
    - 4. In most cases the member should not attempt to interview the person unless directed to do so by investigators.
    - 5. Identify medical personnel, including EMTs, paramedics and Emergency Room staff involved.
  - h. If a member is injured and requires hospitalization, a sergeant or other designee shall be dispatched to the hospital to control accessibility.
  - i. Involved members shall be allowed to contact their families and/or representatives. If a member is injured to an extent that he/she cannot contact family, the family shall be notified as soon as possible by the Sheriff or his designee.
4. OFFICER INVOLVED SHOOTING (OIS) FATALITY OR GREAT BODILY INJURY (GBI): When a member of this Agency is involved in an OIS during the course of duty, and the shooting results in a fatality or GBI, the ETS or DPS Criminal Investigation Team shall interview the involved member. The Investigators will make every attempt to interview all persons who have discharged their weapons in addition to those members who have witnessed the shooting.

- a. The involved member(s) shall be ordered to ETS / DPS, or other suitable location, to be interviewed and provide a statement to the assigned investigator. The interview must be clear as to the circumstances leading to the encounter, the hazards/threats faced by the member or others, and the reasons the decision to use deadly force was made. The statement of the involved member shall serve as his or her report.
- b. Prior to the interview of an Involved Deputy, Sheriff's Office investigators should review all available audio/video recordings from police vehicle in car cameras, personal body cameras worn by responding deputies and/or an Involved Deputy or independent sources.
- c. ***Personal Video Recordings of critical incidents (including OIS and GBI) shall be reviewed consistent with General Order 8.17. Consider that body worn camera videos are usually accompanied by an audio recording of the incident.*** Investigators should be mindful that ***body worn camera*** video recordings have limitations and may depict events differently than the events recalled by an Involved Deputy. If the investigator shows any video recordings to an Involved Deputy prior to the initial interview, the investigator should admonish the Involved Deputy about the limitations of visual recordings. The admonishment should include the following language:

***“In this case, there is video and audio evidence that you will have the opportunity to view and hear, before you have given your initial statement.*** Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events seen by the human eye. The “frame rate” of the video may limit the camera’s ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video ***and audio evidence are*** intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident.”

***All BWC video and audio footage and recording(s) are property of the Alameda County Sheriff's Office. The Sheriff shall authorize personnel working in specialized or pre-designated positions to view or listen to agency owned BWC video/audio, as it relates to Critical Incidents involving death or GBI.***

***Aside from the specialized or pre-designated positions, the Sheriff has the discretion of allowing certain personnel to view agency owned BWC video and audio recordings. In the absence of the Sheriff, his designee will make the determination on viewing/listening of any BWC footage.***

- d. When a member involved shooting incident has occurred and no injuries were sustained by the suspect or any other person(s), the involved member(s) shall be ordered to ETS / DPS, or other suitable location, to complete a detailed report of the incident.

- e. Members who witness the shooting shall write supplemental reports documenting their observations and their actions.
- f. All members assisting with the investigation, regardless of rank, shall write a supplemental report which accounts for their actions and their involvement in the incident itself.
- g. The report shall be written and submitted in a timely manner. Upon request of the member, each member who has discharged a firearm may individually consult with his or her union attorney or representative by telephone or in person while preparing the report. Involved members are prohibited from conferring together as a group either with each other or with their union attorneys or representatives. The member shall submit the report and await its approval prior to going off duty, unless approved by the watch commander. It is the responsibility of the watch commander to ensure that the submitted report is sufficiently detailed and comprehensive as to the circumstances leading to the encounter, the hazards/threats faced by the member or others, and the reasons the decision to use deadly force was made. The watch commander, in determining whether the report should be approved, retains the discretion to require supplemental written information from the member to ensure compliance.
- h. Any member refusing to comply with sections D 4, subsections a. through e. of this order, after having been ordered to do so by a watch commander or other supervisor, shall be deemed insubordinate. Insubordination may lead to disciplinary action, up to and including termination.

E. OIS ON-DUTY OUTSIDE AGENCY JURISDICTION:

- 1. The jurisdiction in which the incident occurred shall have the primary criminal investigation responsibility.
- 2. In the case of an outside agency conducting the criminal investigation, as soon as practical but before any formal questioning, the member should be escorted from the scene to a Sheriff's Office facility or the facility of the investigating law enforcement agency. The member shall comply with the outside agency's investigation. After consulting with a legal representative and if it has been determined the deputy is a victim of a crime, and if the incident was captured on the Deputy's Personal Video Recorder, the deputy and their representative shall view the video recording without audio, then the member shall then submit to an interview and provide a statement to the assigned investigator(s). A Sheriff's Office supervisor will remain with the member during any investigation by an outside agency.
- 3. Members who witness the shooting shall write supplemental reports documenting their observations and their actions.
- 4. Any member refusing to submit to an interview and provide a statement, after consulting with a legal representative and after having been ordered to do so by a watch commander or other supervisor, shall be deemed insubordinate. Insubordination may lead to disciplinary action, up to and including termination.

F. OIS OFF-DUTY INCIDENT:

1. If the incident occurs within our jurisdiction, the guidelines for an on-duty incident shall be followed.
2. If the incident occurs in an outside agency's jurisdiction, the guidelines for an on-duty, outside agency jurisdiction shall be followed. At the discretion of the Sheriff, our investigative staff shall respond and assist the local agency with the investigation. The local agency shall retain control of the investigation.
3. Any member refusing to submit to an interview and provide a statement, after consulting with a legal representative and after having been ordered to do so by a watch commander or other supervisor, shall be deemed insubordinate. Insubordination may lead to disciplinary action, up to and including termination.

G. OIS ON-DUTY OR OFF-DUTY INCIDENTS INVOLVING A MEMBER OF AN OUTSIDE AGENCY, IN OUR JURISDICTION:

1. Sheriff's Office investigative staff will conduct the criminal investigation. Staff from the outside agency shall assist at the discretion of the Sheriff or his designee.
2. If the incident involving an outside agency member occurs within our jurisdiction, at the discretion of the Sheriff, outside agency investigative staff shall respond and assist with the investigation.
3. The outside agency investigators shall not impede the Sheriff's Office Investigators, who shall remain in charge of the investigation.

H. DISTRICT ATTORNEY'S INVESTIGATION OF OIS INCIDENTS **AND/OR DEATH IN CUSTODY**:

1. In the event of an OIS, ***or any use of force by deputies which causes the death of a person***, by a member of this Agency, the District Attorney's Homicide Unit shall be notified pursuant to the procedure of this order.
2. The District Attorney's Office shall conduct an independent investigation as outlined in the Alameda County District Attorney, Law Enforcement Agency Guidelines for Investigation of Officer Involved Shooting Incidents (attachment 1)
3. The District Attorney's staff shall not impede the Sheriff's Office investigators, who shall remain in charge of the investigation.
4. In the event of an OIS incident that does not result in injury to any parties, the District Attorney's Homicide Unit shall be notified pursuant to the procedure of this order. The District Attorney's Homicide Unit may, at their discretion, respond and conduct an independent investigation.

I. CUSTODIAL FATALITY OR GREAT BODILY INJURY:

1. Any use of force by deputies which causes death or GBI of a person in custody of the Sheriff's Office, regardless of the duty station where custody is maintained, shall be deemed a critical incident as defined in this General Order.

**J. CRITICAL INCIDENTS OTHER THAN OIS (ON-DUTY AND OFF-DUTY):**

1. When a member of this Agency is involved in an incident on-duty, in our jurisdiction and such incident results in a fatality or GBI, the guidelines for the investigation will be the same as that of an OIS in our jurisdiction. (Refer to section III D, subsections 4a. through f. of this order)
2. When a member of this Agency is involved in an incident on-duty, in an outside agency's jurisdiction and such incident results in a fatality or GBI, the guidelines for the investigation will be the same as that of an OIS in an outside agency's jurisdiction. (Refer to section III E, subsections 1. through 4. of this order)
3. When a member of this Agency is involved in an incident off-duty, acting under the color of authority and such incident results in a fatality or GBI, the following guidelines for the investigation shall be followed:
  - a. If the member is off-duty and incident occurs within our jurisdiction, the guidelines for an on-duty incident shall be followed.
  - b. If the incident occurs in an outside agency's jurisdiction, the guidelines for an on-duty, outside agency jurisdiction shall be followed.
4. In the event a member from an outside agency is involved in an incident, resulting in fatality or GBI, in our jurisdiction, the Sheriff's Office Criminal Investigative Staff will conduct the criminal investigation. Staff from the outside agency shall assist at the discretion of the Sheriff or his designee.

**K. CRIMINAL INVESTIGATION TEAM:**

1. The Criminal Investigation Team shall consist of staff, deemed appropriate by the Lieutenant of Investigations.
2. The Lieutenant of Investigations or his/her designee shall remain in charge of the investigation and shall be the designated Agency contact for all follow-up investigations and evidence tracking.
3. The assigned Criminal Investigation Team shall conduct any Agency criminal investigations into the incident and complete the necessary reports.
4. The release of evidence shall be at the discretion of the Lieutenant of Investigations.

**L. ADMINISTRATIVE INVESTIGATION TEAM:**

1. The Administrative Investigation Team shall consist of personnel assigned by the Sheriff's Office Internal Affairs Captain. The Administrative Investigation Team will be assigned at the discretion of the Sheriff or his designee.

2. The Administrative Investigation Team shall be concerned with the incident as it relates to Agency policy, rules and regulations.
3. The Administrative Investigation Team shall have access to all information obtained by the Criminal Investigation Team.
4. Information obtained by the Administrative Investigation Team shall not be made available to the Criminal Investigation Team or District Attorney.

M. DISTRICT ATTORNEY'S INVESTIGATION:

1. The District Attorney's Office shall conduct an independent investigation as outlined in the Alameda County District Attorney, Law Enforcement Agency Guidelines for Investigation of Officer Involved Shooting Incidents (attachment 1)
2. District Attorney's staff shall not impede the Sheriff's Office Investigators, who shall remain in charge of the investigation.

N. AFTER ACTION ADMINISTRATIVE LEAVE / CLAREMONT BEHAVIORAL HEALTH REFERRAL / ***PEER SUPPORT***:

1. Often, following a critical incident in which force was used, the involved member(s) suffer emotional impact. ***The*** involved member(s) shall be given a mandatory three (3) days Administrative Leave with pay. The member's commanding officer, at his/her discretion, may grant additional days of Administrative Leave as necessary.
2. The Management Services Division shall arrange for a Management Referral to a designated licensed mental health professional for the member(s) involved. The member's Commanding Officer, or designee, shall advise the involved member(s) that attendance is mandatory, and encourage the member to participate.
3. During the involved member's initial Administrative Leave, a member of the Sheriff's Office Command Staff will communicate with the member daily.
4. ***Peer support services will be offered to the involved member(s), in accordance with General Order 1.07, Post-Trauma Response and Debriefing.***

Attachments:

1. Alameda County District Attorney, Law Enforcement Agency Guidelines for Investigation of Officer Involved Shooting Incidents.