

*"Keep Orlando a safe city by reducing crime and maintaining livable neighborhoods."*

## ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE

### 1309.13, OFFICER-INVOLVED SHOOTINGS, DEATHS (OR LIFE-THREATENING INJURIES) AND IN-CUSTODY DEATHS

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CHIEF OF POLICE:	ERIC D. SMITH

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## 1. PURPOSE

The purpose of this policy is to outline the protocols for the proper investigation and collection of evidence of Officer-Involved Shootings, Deaths, or In-Custody Deaths so a legally established body can determine if criminal laws were violated.

## 2. POLICY

It is the policy of the Orlando Police Department to provide a fair and impartial investigative review of Officer-Involved Shootings, Deaths (or serious injury likely to cause death), and In-Custody Deaths. The Florida Department of Law Enforcement (FDLE) will be requested to independently investigate all officer-involved shootings and in-custody deaths.

Any employee significantly involved in an incident involving death or serious bodily injury will be temporarily removed from duty and shall not return to duty until the preliminary administrative review is completed. This policy also applies if there is doubt whether an employee was "significantly involved," for the protection of the employee and the agency.

Refer to the current version of P&P 1604, Discipline, for information on the handling of officer-involved shootings in which animals are injured or killed.

### **3. DEFINITIONS**

Employee: An employee is any person, sworn or non-sworn, employed by the Orlando Police Department to include Reserve Officers and Temporary employees.

### **4. PROCEDURES**

#### **4.1 RESPONSIBILITIES**

The following sections define the responsibilities of individuals, teams, and/or sections involved in the investigative process.

##### **4.1.1 EMPLOYEES INVOLVED**

- a. Notify Communications immediately and request appropriate emergency medical services and a supervisor.
- b. Request assistance, render aid, and secure the scene.
- c. Cooperate fully with the investigative team reviewing the incident.

##### **4.1.2 SUPERVISOR ON SCENE**

It is the responsibility of the scene supervisor to determine the level of involvement of all officers on scene. This is crucial in determining whether these officers will be listed as principal or witness officers.

- a. Complete tasks outlined in the Officer-Involved Shooting On-Scene Task Checklist (Attachment A).
- b. If a sworn officer is involved, complete the On Scene Supervisor's Officer-Involved Death/Life-Threatening Injury Checklist (Attachment B)

##### **4.1.3 WATCH COMMANDER ON SCENE**

The on duty Watch Commander will communicate with the scene supervisor and determine the number of principal officers, witness officers, and civilian witnesses. It's the on-duty Watch Commander's responsibility to notify the Chief of Police, Patrol Services Bureau Commander, and the Chief of Staff as soon as possible as well as all other all personnel on the Officer-Involved Shooting On Scene Task Checklist (Attachment A).

- a. Complete tasks outlined in the Officer-Involved Shooting On Scene Task Checklist (Attachment A)
- b. If a sworn officer is involved, complete the Watch Commander Officer-Involved Death/Life-Threatening Injury Checklist (Attachment C)
- c. Relay additional information to the on-call Homicide Unit supervisor
- d. If an employee was significantly involved in an incident in which death or serious bodily injury occurred, the employee shall be temporarily removed from duty, served with a Relief of Duty Form, and shall not be returned to duty until the completion of a preliminary administrative review. If there is any doubt whether the employee was "significantly involved", for the protection of the employee and the agency, the employee should be relieved of duty. Refer to the current issue of P&P 1617, Relief of Duty, Alternative Duty, and Limited Duty, for appropriate procedures and forms. These protocols are intended to expedite the release of the principal officers following an Officer-Involved Shooting or In-Custody Death.

**4.1.4 CRIMINAL INVESTIGATIONS DIVISION (CID)**

**4.1.4.1 VIOLENT CRIMES SECTION COMMANDER**

- a. Respond to the scene.
- b. Obtain briefing from the watch commander.
- c. Coordinate crime scene security needs with the appropriate patrol manager.
- d. Notify the Investigative Services Bureau chain of command.
- e. Assume quality-control responsibility for the entire criminal investigative process.
- f. Serve as the liaison between the Chief's staff and the homicide team.

**4.1.4.2 HOMICIDE UNIT SUPERVISOR**

The Homicide Supervisor will respond to the scene and determine the level of their unit's response based on the information provided to them by the Watch Commander during the initial callout. The Homicide Supervisor will then immediately contact the FDLE's Officer-Involved Shooting Squad supervisor, along with additional notifications as determined by the CID SOP.

- a. Assign a homicide team to respond.
- b. Respond to the scene.
- c. Obtain briefing at the scene.
- d. Request the Crime Scene shift supervisor and a crime scene investigator.
- e. Contact the State Attorney's Office.
- f. Serve as the investigative coordinator and oversee all aspects of the investigation.
- g. Make arrangements to allow significantly involved officers and their legal representation to review the body worn camera footage. Body worn camera shall not be shown without first receiving authorization from the Violent Crimes Section Commander.

**4.1.4.3 HOMICIDE INVESTIGATIVE TEAM**

- a. Respond to the scene and obtain briefing.
- b. Direct assisting personnel as necessary.
- c. Interview all involved parties, including witnesses.
- d. Notify the medical examiner (if appropriate).

**4.1.5 CRIME SCENE SHIFT SUPERVISOR**

- a. Respond to the scene and obtain briefing.
- b. Notify the Forensic Section Manager
- c. Call out CSI or CSI Team for processing
- d. Ensure that the incident scene is properly and thoroughly processed.
- e. Ensure photographs are taken of all involved officers and their duty gear, to include their firearms and ballistic vests.

**4.1.6 CRITICAL INCIDENT STRESS MANAGEMENT (CISM) TEAM COMMANDER**

- a. Respond to the scene and obtain briefing.
- b. Initiate appropriate procedures as outlined in the current version of P&P 1502, Critical Incident Stress Management Team.
- c. Coordinate all efforts with the Homicide Unit to avoid any impairment of the criminal investigation.

**4.1.7 INTERNAL AFFAIRS (IA)**

- a. Respond to the scene.
- b. Restrict pertinent body worn camera footage or direct the Crime Center to do so.
- c. Monitor the progress of the criminal investigation.
- d. Conduct the administrative investigation upon completion of the criminal investigation

## **4.2 INVESTIGATIVE PROCEDURES**

The following sections define investigative procedures for the Florida Department of Law Enforcement and the Orlando Police Department.

### **4.2.1 FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE) INVESTIGATION**

- a. The FDLE Critical Incident Team Supervisor will respond and establish contact with the on-scene watch commander and the Violent Crimes Section Commander.
- b. FDLE investigators and crime scene investigators will assume control of the investigation.
- c. OPD will complete an initial Incident Report indicating that the investigation has been turned over to FDLE.
- d. OPD will provide any assistance requested by FDLE.
- e. The Violent Crimes Section Commander will serve as a liaison between OPD and FDLE.

### **4.2.2 ORLANDO POLICE DEPARTMENT (OPD) INVESTIGATION**

- a. The Homicide Unit will assume control of the investigation.
- b. No one, other than the homicide detectives, will interview involved officers or witnesses unless directed to do so by the Commander of the Criminal Investigations Division or the lead detective or designee. Involved officers will not be ordered to provide statements or reports until approval is obtained from the lead detective or designee. This does not preclude the supervisor from asking basic questions in the interest of officer safety, suspect apprehension, or proper notification. Uninvolved officers who are witnesses will be required to provide necessary reports and statements.
- c. The physical and emotional condition of the involved officer will be taken into consideration when determining when and where to conduct his or her interview.
- d. The involved officer will be afforded all constitutional rights during the criminal investigation.
- e. In the absence of a voluntary statement by the involved officer, an attempt should be made by the lead detective to obtain a proffer, which is a statement provided by the involved officer through his or her representative, concerning the incident. This allows the investigation to progress while protecting the officer from self-incrimination.
- f. An area canvass will be initiated under the direction of the Homicide Unit to locate additional witnesses who may have pertinent information regarding the incident. All information shall be brought to the immediate attention of the lead detective. At the direction of the lead detective or designee, statements should be taken from all persons interviewed.
- g. A scene re-enactment may be conducted upon approval and under the direction of the State Attorney's Office or Federal Prosecutor and Police Legal Advisor.

## **4.3 REPORTING**

### **4.3.1 INITIAL REPORT**

The initial responding officers on the scene will complete an initial report on the incident or crime which precipitated the shooting, death, or life-threatening injury. Due to the nature of these incidents and the investigation by an outside agency such as FDLE, the initial report should not identify the involved members. The primary responsibilities of the responding officers are:

- a. Secure the scene,
- b. Render first aid, and
- c. Gather witnesses.

Witnesses will be separated, and an effort will be made to keep them from leaving before the Homicide Unit can conduct interviews. If a witness must leave, then the officer will get detailed information for future contact and a written statement as to the witness's knowledge of the incident.

#### **4.3.2 DEATH/SERIOUS INJURY REPORT**

The death/serious injury report may be under a separate case number and will be the responsibility of the Homicide Unit's lead detective. Copies of all reports relating to the incident will be forwarded to the Homicide Unit. The Homicide Unit will be the clearinghouse of all information involving the incident. All press releases shall be coordinated with the Homicide Unit and released through the Media Relations office.

The Homicide Unit report should include, but is not limited to, the following:

- a. A chronological narrative of the incident in detail, including all events before, during, and immediately after the incident.
- b. The names and addresses of all civilian witnesses (including secondary points of contact), if any, and the names of other Department officers present or involved.
- c. Whether other law enforcement agency members were involved or present at the incident, either in uniform or civilian clothing.
- d. Whether involved vehicles were marked or unmarked, and the vehicle numbers.
- e. A description of the scene, including lighting, weather conditions, obstacles, wind, foliage, trees, furniture, type of ground cover or flooring, and any other natural or man-made element which could have a bearing on the incident.
- f. A description of injuries sustained by any person present at the time of the incident, whether attributed to police action or not.
- g. A description of the officer's weapon, ammunition discharged, number of rounds fired, direction, approximate distance, weapon serial number, type of holster, and any other pertinent information.
- h. A description of weapons or firearms used by all those involved.
- i. A list of other police, fire, and ambulance personnel present at the scene, including names, when possible.
- j. All available information on the suspect.
- k. A detailed sketch of the scene.
- l. Written statements from all witnesses, including civilian and Department officers.
- m. Medical examiner's report.

#### **4.4 RELIEF OF DUTY**

Refer to the current version of P&P 1617, Relief of Duty, Alternative Duty, and Limited Duty, and P&P 1604, Discipline, for appropriate procedures and forms. Once the officer(s) have been photographed by CSI, they are to be escorted to Internal Affairs, where they will meet with the IA manager or designee for relief of duty and EAP referral. Officers can choose to stay for the FDLE round count, however, it is not mandatory.

#### **4.5 EMPLOYEE ASSISTANCE PROGRAM (EAP) REFERRAL**

If a firearm is used in a deadly force situation by an employee, significant force is used against an employee, or the employee was significantly involved in an incident in which death or serious bodily injury occurred, the involved employee's section commander shall make a mandatory supervisory referral to the Employee Assistance Program (EAP) within 24 hours of the incident by contacting EAP to schedule the appointment for the employee. In the event the involved employee's section commander is unavailable, then the on-duty watch commander shall make a mandatory supervisory referral to the EAP within 24 hours of the incident. The section commander or on-duty watch commander will notify the employee of the date and time of the appointment on the Management EAP Referral Form (Attachment A) in the current issue of P&P 2202. The form will be faxed to EAP immediately upon completion. If the section commander is unavailable, the on-duty watch commander will forward a copy to the section commander. The form will list the affected employee's bureau commander as the appropriate point of contact.

When making the EAP appointment, the section commander will request that EAP notify the employee's bureau commander when the employee has attended the EAP session.

The section commander or designee, or appropriate on-duty watch commander, will be responsible for verifying the employee's attendance at the mandatory EAP session.

When an employee is involved in incidents as outlined above, they may experience heightened physical and emotional reactions. The purpose of the EAP referral is for the employee to discuss any physical or psychological effects they are having as a result of the incident so that the counselor can make an educated evaluation of the employee's readiness to return to duty. Other than giving the title of the incident, such as officer-involved shooting or in-custody death, the employee is not required to discuss specifics of the incident that would either interfere with the investigative process or the employee's legal rights.

#### **4.6 ADDITIONAL RESPONSIBILITIES**

##### **4.6.1 ADMINISTRATIVE REVIEW**

An administrative review is a documented assessment of the preliminary information regarding an incident or occurrence prepared by the employee's bureau commander. An administrative review is conducted when any employee is significantly involved in an incident resulting in death or serious bodily injury. The administrative review will be noted on the Return to Duty form, which can be found in the current version of P&P 1617, Relief of Duty, Alternative Duty, and Limited Duty.

##### **4.6.2 EMPLOYEE'S RETURN TO DUTY**

If an employee has been removed from duty due to significant involvement in an incident in which death or serious bodily injury occurred, the employee's bureau commander shall ensure that the following are completed:

- a. A preliminary administrative review is conducted.
- b. Based on the administrative review and recommendations from the mandatory EAP referral, the bureau commander will determine when the employee should be returned to full duty. The bureau commander will advise the Chief of Police before the employee is returned to full duty.
- c. A Return to Duty form will be directed to the employee's division commander indicating when the employee should be returned to full duty.
- d. Copies of the Return to Duty form will be distributed to the employee, Internal Affairs, and the Chief of Police.

#### **4.7 IN-CUSTODY DEATHS**

Deaths that occur in the "process of arrest," whether by natural causes or homicide, include the following:

- a. Physical custody, and physical restraint of law enforcement even if not formally arrested.
- b. Killed by any use of force by law enforcement officers before booking.
- c. At a crime/arrest scene or medical facility before booking.
- d. In transit to or from law enforcement facilities.
- e. Confined in lockups or booking centers.

## **5. FORMS AND APPENDICES**

**ATTACHMENT A- On-Scene Task Checklist**

**ATTACHMENT B- On Scene Supervisor Checklist**

**ATTACHMENT C- Watch Commander Checklist**