

ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

Effective: 09/21/04; Replaces: 01/01/99
04-POR15

**2-31 INVESTIGATION OF SHOOTINGS AND THE USE OF DEADLY
FORCE INVOLVING DEPARTMENT PERSONNEL**

POLICY:

Department policy is to thoroughly investigate all cases where department personnel are involved in the use of deadly force. This policy does not cover incidents of accidental discharge where no death or injury results or when an **officer shoots an animal**. The on-call "Police Shooting Team," (PST), is responsible for coordinating the criminal investigation.

The department recognizes that certain situations will require the deployment of deadly force to disable a vehicle to prevent the escape of a suspect as outlined in SOP, Procedural Orders, 2-52-3. Department policy is to thoroughly investigate these instances, however the level of response will not rise to the level as those circumstances that deadly force is deployed which has or reasonably could have resulted in death or great bodily harm to a person.

DEFINITION:

For purposes of this policy, the term "principal personnel" shall be defined as: Any officer who under color of law has used deadly force which has or reasonably could have resulted in death or great bodily harm or who under color of law has discharged a firearm which has or reasonably could have resulted in a physical injury. This includes any officer who has used deadly force and/or discharged a firearm when the force was directed at a specific individual even if no injury resulted.

"Involved personnel" shall be defined as: Any officer, present at a scene other than principal personnel where department personnel have used deadly force which has or reasonably could have resulted in death or great bodily harm or where, under color of law, a firearm has been discharged by department personnel which has or reasonably could have resulted in a physical injury. This includes a scene, which involves the use of deadly force and/or discharge of a firearm when the force was directed at a specific individual even if no injury results.

Deadly force to disable a vehicle shall be defined as: Those instances where an officer has discharged a firearm in an attempt to disable a vehicle. It must be shown that the force was clearly intended to only disable the vehicle. If the force is used in such a manner that has or could have reasonably resulted in death or great bodily harm to a person, this definition shall not apply.

RULES:

**2-31-1 FIELD SERVICES DUTIES AND RESPONSIBILITIES
[5]**

- A. Field Services officers are responsible for securing the outer perimeter of the crime scene and searching for possible suspects believed to be in the area until relieved by PST supervisor or by the Criminalistics supervisor.
- B. The first supervisor on the scene will:

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- 1. Make an initial assessment of the scene to determine whether it will be handled as a police shooting or an attempt to disable a vehicle.**
- 2. If it is determined the event will be handled as a police shooting, the below listed procedures will be followed.**
 - a. Place all witnesses, including principal personnel, in separate locations to ensure witness credibility.
 - b. Ensure all principal personnel remain in the same attire and do not dispose of any items, which were in his/her possession at the time of the shooting until authorized by Criminalistics personnel.
 - c. Remain on the perimeter of the crime scene to assist investigators.
 - d. Immediately initiate an area canvass to locate any witnesses who may have information.
 - 1) The Homicide Canvass Questionnaire form will be used for this canvass.
 - 2) Any witnesses found should be brought to the immediate attention of the PST sergeant or the primary investigator.
- 3. If it is determined that deadly force was used in an attempt to disable a vehicle, as defined above, the following procedures will apply.**
 - a. The scene will be secure and all evidence preserved.
 - b. An attempt to locate and identify any witnesses will be made.
 - c. The officer(s) who fired their weapons will be separated and instructed to not dispose of any items that were in their possession during the shooting. The officer will maintain possession of their weapon(s) until Criminalistics personnel inspect it.
 - d. An assessment team comprised of the on-call Internal Affairs, Violent Crimes, and Criminalistics supervisors will be notified and respond to the scene.
 - e. The on-scene supervisor will remain until the assessment team arrives, and then provide assistance as requested.
 - f. Notify the appropriate Investigative Unit.

2-31-2 ASSESSMENT TEAM - INTERNAL AFFAIRS, VIOLENT CRIMES, CRIMINALISTICS SUPERVISORS RESPONSIBILITIES FOR DEADLY FORCE TO DISABLE VEHICLES INCIDENTS

- [5] A. The assessment team will respond at the request of an on-scene supervisor whose initial assessment has been that the use of deadly force was intended to disable a vehicle as defined above.**

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- B. The assessment team will conduct a preliminary investigation at the scene to determine the circumstances involving the use of deadly force. At the end of this investigation, they will reach one of two conclusions:**

 - 1. The use of deadly force constitutes an attempt to disable a vehicle, or;**
 - 2. The use of deadly force constitutes an officer involved shooting.**
- C. If the assessment team cannot come to a consensus, the investigation will be handled as an officer involved shooting.**
- D. Regardless of their conclusion, the assessment team will not make a determination as to whether the incident was within policy for the given circumstances. They will merely be tasked with determining the course of the investigation to follow.**
- E. If it is determined that the use of deadly force constitutes a police shooting, the policies outlined below, beginning with 2-31-3 will be followed.**
- F. If it is determined that the use of force constitutes an attempt to disable a vehicle, the following procedures shall apply;**

 - 1. A Field Investigator will process the scene.**
 - 2. All involved personnel, including the officer(s) that fired their weapon(s), will write a supplemental report.**
 - 3. Any criminal investigation into the incident will be handled by the Investigative Unit that would have normally handled the incident had there not been an attempt to disable the vehicle. This Investigative Unit will be responsible for forwarding all reports to Internal Affairs.**
 - 4. Internal Affairs will conduct an administrative investigation to determine whether the use of deadly force to disable the vehicle was within policy.**
 - 5. The violent crimes supervisor will advise the officer(s) who discharged their weapon of the resources available to them, such as a Union Representative or Behavioral Sciences personnel. If the officer(s) request such assistance they will be provided.**
 - 6. At the conclusion of the investigation, a representative from the assessment team shall forward a memorandum to the concerned Deputy Chief outlining their decision to handle the incident as an attempt to disable a vehicle. Members of the team will choose this designee prior to leaving the scene.**

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2-31-3 POLICE SHOOTING TEAM AND CRIMINALISTICS RESPONSIBILITIES

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The Police Shooting Team and Criminalistics Section are responsible for the criminal investigation of all uses of deadly force involving department personnel in which any injury or death occurs to any person, or as directed by the Chief of Police.

- A. The on-call PST is responsible for all phases of the criminal investigation, with the exception of processing the scene and the collection of evidence.
- B. The Criminalistics Section is responsible for processing the scene and the collection of evidence and will work in coordination with the on-call PST.

2-31-4 INTERNAL AFFAIRS UNIT RESPONSIBILITIES

[N/A]

The Internal Affairs Unit has the responsibility to ensure that the integrity of the police department is maintained throughout the criminal investigation. Internal Affairs, at their discretion, has the authority to monitor all phases of the criminal investigation, except Internal Affairs will not be allowed to be in the same room as a principal officer/officers, during the interview of that principal officer/officers, and should not be seen or heard by that officer during such an interview.

2-31-5 CRIMINALISTICS COMMANDER

[5]

The Criminalistics commander will assume the responsibility for crime scene security and will coordinate the security with uniform supervisors and the on-call PST supervisors. Access to the inner or outer perimeters of the crime scene will be directed by Criminalistics personnel.

- A. Persons permitted within the crime scene inner-perimeter will be limited to:
 - 1. PST personnel as designated
 - 2. Criminalistics personnel as designated
 - 3. Internal Affairs Unit Personnel
 - 4. District Attorney representative
 - 5. The representative from the Office of the Medical Investigator (O.M.I.), if a death occurred, or upon request of a Violent Crimes Investigator.
- B. Persons permitted within the outer-perimeter but not within the inner-perimeter of the crime scene will be limited to:
 - 1. Field Services Supervisor
 - 2. Uniformed personnel dispatched and directed by the Criminalistics commander
 - 3. Police Chaplain or Victim Impact (DA's office)
 - 4. Public Information Officer
 - 5. Behavioral Sciences personnel
 - 6. Attorney, if required (refer to 2-31-9 B.)
 - 7. Chief of Police or representative
 - 8. Legal Counsel for APD

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CRIME SCENE TEAM

[N/A]

A. The Crime Scene Team consists of the on-call Criminalistics supervisor, Criminalistics primary and secondary investigators, and additional investigators as determined by the Criminalistics supervisor.

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B. The Crime Scene Team of the Criminalistics Section will respond and take charge of the scene and be responsible for all the documentation, collection, and preservation of evidence, and reconstruction of the crime scene.

1. Criminalistics investigators will be responsible for establishing a crime scene inner-perimeter. The outer-perimeter will be maintained by Field Services personnel as directed by Criminalistics supervisors.

2. Any evidence collected by personnel prior to the Crime Scene Team's arrival will be turned over to the primary Criminalistics investigator at the scene.

C. Upon arrival, Criminalistics personnel, including Field Investigators, will immediately obtain access to all involved personnel at the scene for the sole purpose of the collection of all physical evidence. At the completion of the collection of evidence, the principal personnel will be immediately escorted to the Homicide sergeant, who will then be responsible for the principal personnel.

D. Criminalistics personnel will be responsible for collecting the leather gear and weapons, performing primer residue tests, and any other necessary evidence processing of the involved personnel. This will be done out of public view.

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ON-CALL POLICE SHOOTING TEAM COMMANDER

[3]

The Commander of the on-call PST will:

A. Be responsible for the overall coordination of the investigation and will respond to all police shooting incidents.

B. Direct the transportation of the principal personnel and involved personnel to the on-call PST's substation.

C. Keep all concerned personnel apprised of the facts of the case.

D. Schedule a debriefing conference with the Chief of Police, Deputy Chiefs, Captains, Internal Affairs, and Risk Management Division. The debriefing will be on the first normal working day following the incident.

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- E. Control the release of information relating to the incident. Any information to be released to the media must have prior approval of the Commander of the on-call PST or the Deputy Chief of Police.

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POLICE SHOOTING TEAM SERGEANT

The PST Sergeant will:

- A. Respond to all police shootings and act as the investigation coordinator and oversee all aspects of the on-scene and follow-up criminal investigation reporting to the PST commander.
- B. Designate a primary investigative homicide team to investigate all such incidents.
- C. Act as liaison between the investigators and other police personnel on the scene.
- D. Along with the primary investigator, keep the commander of the PST informed of the all aspects of the investigation.
- E. Call for additional supervisory or investigative assistance as necessary.
- F. Coordinate with Criminalistics supervisor as needed.
- G. Ensure the case is completed and submitted to the District Attorney's office.
- H. Take responsibility for the principal personnel upon completion of collection of physical evidence by Criminalistics personnel.

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- I. Within seven working days, schedule a debriefing with the investigators of the PST, OMI and the District Attorney's office to discuss the status of the criminal investigation.

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[6]

INITIAL INTERVIEWS OF WITNESSES (ON SCENE)

Initial interviews of involved personnel at the scene, as necessary, will be done without delay and will be conducted by the on-call PST investigators as a fact-finding mission.

[5]

- A. The on-call PST investigators will ask the questions and will be in charge of all questioning. All other personnel will only monitor the questioning.
- B. The on-call supervisor will limit the number of personnel present to those who are directly involved in the investigation.

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[N/A]

- C. Involved personnel and civilian witnesses will be interviewed prior to interviewing the principal personnel, unless exigent circumstances exist. If the PST supervisory personnel on the scene deem it necessary, the principal personnel may be interviewed prior to the witnesses. (Refer to 2-31-9 B., Miranda Warnings.)
- D. The on-call PST sergeant or primary investigator will conduct an on-scene briefing with representatives from the District Attorney's office and Internal Affairs and OMI if necessary.

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[5]

INITIAL INTERVIEW OF INVOLVED PERSONNEL

- A. As a preliminary matter, any officer that was present during the shooting but not involved in the shooting, will be utilized for the preliminary investigation and any necessary "walk through".
 - 1. Persons involved in the "walk through" of the crime scene will be limited to:
 - a. Primary Homicide Investigator
 - b. Criminalistics Crime Scene Team
 - c. District Attorney Representative
 - d. OMI (If death has occurred)
 - e. Internal Affairs Investigator
 - 2. Only if reasonably necessary will the principal personnel be interviewed as part of the preliminary investigation or utilized for the "walk through". The "walk through" will be conducted at a time deemed appropriate by the primary Criminalistics detective even if all persons who are permitted to be present are not available.
- B. At the discretion of his on-call PST supervisor, the principal personnel may be briefly questioned at the scene concerning information necessary to care for and locate the injured, attempt to apprehend the suspect(s), protect the incident scene, locate evidence, and attempt to locate and identify witnesses.
 - 1. If such questioning is deemed to be necessary, the principal personnel will be advised of his/her Miranda Rights. If the principal personnel waives his/her Miranda Rights, then questioning may occur.
 - 2. If the officer requests an attorney, one will be provided prior to questioning.
- C. Principal personnel will remain separated and will be removed from the scene as expeditiously as possible and transported to an appropriate police facility as directed by the on-call PST commander.

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- D. Upon arrival at the police facility, principal personnel shall be given the opportunity to consult with the Department's psychologist and an attorney, if the principal personnel so desires. The Department will allow principal personnel reasonable time and opportunity to contact an attorney of his/her choice.
- E. The principal personnel will be requested to provide a statement to criminal investigators, and will be given Miranda warnings. If the principal personnel waives his/her rights per Miranda, formal interviews will be conducted by the primary homicide investigator or his/her designee at the police facility. All statements will be tape recorded at the time of the interview of the involved parties.
 - 1. If the principal personnel indicates he/she wishes to consult with his/her attorney before providing a statement, a reasonable period of time will be allowed for such consultation. After reasonable time has elapsed, the principal personnel will again be given Miranda warnings and asked for the statement by criminal investigators.
 - 2. If the principal personnel does not provide a statement to criminal investigators, Internal Affairs investigators may ask the officer for a statement, upon approval from the affected deputy chief/deputy director/area commander. If requested and the officer does not make a statement, it will be considered a refusal to provide a statement to Internal Affairs investigators.

All statements to Internal Affairs will be tape recorded at the time of the interview of the involved parties.

- F. Under no circumstances will Internal Affairs investigators question personnel involved in shootings/use of deadly force incidents until criminal investigators have indicated it is appropriate.

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FORMAL STATEMENTS OF WITNESSES AND OFFICERS

- A. Witness officer(s) will give a formal statement or be required to complete a detailed report. This will be dictated by the circumstances.
- B. On-call PST investigators will take formal statements from civilian witnesses, and family members who were at the scene of a police shooting or have knowledge of the events which transpired, where such individuals are reasonably available.
- C. Internal Affairs investigators may be present during the formal statements of all involved personnel and other witnesses, but not of principal personnel. Internal Affairs investigators will not interject any questions or remarks while monitoring.

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Internal Affairs investigators may monitor the interview of principal personnel so long as they are not in the same room and they are not seen or heard by the principal personnel.

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PERSONNEL REQUIRED TO SUBMIT REPORTS

- A. All participating police personnel other than principals/witnesses, regardless of rank, will submit a report. All original reports will be submitted to the PST supervisor before personnel end their tour of duty.
- B. Copies of all reports, statements, and documentation of the incident will be furnished to Risk Management, Internal Affairs, and the District Attorney by Violent Crimes supervisor as soon as possible.

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ISSUANCE OF TEMPORARY WEAPONS

Following the officers' formal interview by PST investigators, each officer who had his/her weapon removed by Criminalistics personnel will have a temporary weapon issued to them by criminalistics personnel while at the police facility. This weapon will then be returned to Criminalistics personnel when they, in turn, receive their personal duty weapon.

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ADMINISTRATIVE LEAVE

All principal personnel will be placed on administrative leave with pay for a minimum period of three days after the shooting. Involved personnel may also be placed on administrative leave upon advice of the APD Psychologist.

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INCIDENT DOCUMENTATION

After an officer involved shooting in which a citizen is injured or killed, the department will make available to the citizen's family within 30 days of the incident a copy of the following:

- A. All original Offense Incident reports prepared by the initial responding officer(s).
- B. All Supplemental Offense Incident reports prepared by all non-investigating officers who responded to the scene of the incident.
- C. Transcripts of any tape-recorded criminal statements given by any officer who responded to the scene of the incident, if such transcripts exist.

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- D. Supplemental Offense Incident reports prepared by the APD detectives who investigated the officer involved shooting will be made available to the citizen's family within ten (10) days upon their completion.
- E. The packet of information will be compiled by, and sent to the citizen's family by the Operations Support Commander. It will be the responsibility of the affected area commanders and/or investigative commanders to ensure this information is made available to the Operations Support Commander in a timely manner.