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|  | <b>SAN MARCOS POLICE DEPARTMENT</b>  |                  |
|   | <b>Policy</b> 6.4 Officer Involved Shooting Investigations   |                  |
|   | <b>Effective Date:</b> May 1, 2019   | <b>Replaces:</b> |
|   | <b>Approved:</b>   |                  |
|   | <br>_____ <b>Chief of Police</b> |                  |
| <b>Reference:</b>   |  |                  |

## I. POLICY

It is the policy of this department that officer-involved shooting incidents be investigated with the utmost thoroughness, professionalism, and impartiality to determine if officer actions conform to the law and this department's policy on use-of-force.

## II. PURPOSE

It is the purpose of this policy to provide guidelines for the investigation of officer-involved shooting incidents and to provide guidelines to minimize the chances that involved personnel will develop or suffer from post-traumatic stress disorder.

## III. DEFINITIONS

- A. Post-Traumatic Stress Disorder: An anxiety disorder that can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress.
- B. Officer-Involved Shooting Incident: A line-of-duty incident where shooting causes death or serious bodily injury to an officer or other person.

## IV. PROCEDURES

- A. Officer's Responsibility When Involved in a Shooting Incident
  - 1. Officers involved at the scene of a shooting incident shall take those measures that are reasonably possible and appropriate to protect their safety and others, and to preserve evidence essential to the investigation. This includes the following actions undertaken in the order deemed appropriate:
    - a. Ensure that the threats to officer safety and the safety of others are over.
    - b. Notify communications of the shooting incident and request immediate assistance.
    - c. Secure and separate any suspects.
    - d. Relay information on any fleeing suspects to communications and other field units and work with them to establish a containment area.
    - e. Immediately request a supervisor and emergency medical services, if necessary, and any other assistance required.
    - f. If injured, administer emergency first aid to oneself first. Then administer basic first aid to suspects and others, as necessary, pending arrival of emergency medical assistance.

- g. Holster any involved handguns or secure them in place as evidence. Secure long guns in the prescribed manner or in place as evidence.
  - h. Do not open, reload, remove shell casings from or in any other manner tamper with involved firearms after the situation has been made safe and backing units have arrived on scene.
  - i. Take note of the time, survey the entire area for relevant facts, individuals who are present and who departed the scene, witnesses, potential suspects, and suspect vehicles.
2. As time and capabilities permit before supervisory and other assistance arrive:
    - a. Secure the area, establish a perimeter with crime scene tape, and limit access to those authorized persons who are necessary to investigate the shooting and assist the injured.
    - b. Protect evidence from loss, destruction, or damage that is likely to occur before backup can arrive.
    - c. Ensure that evidentiary items are not moved, or if moved, note the original location and position of persons, weapons, and other relevant objects and evidence.
    - d. Record the names, addresses, and phone numbers of all witnesses and other persons present at the shooting scene and request that they remain on hand in order to make a brief statement whether or not they say they saw the incident.

#### B. Supervisor Responsibilities

1. A supervisor shall be dispatched as soon as possible to the scene of the incident, and shall assume primary responsibility for protecting the scene and caring for involved personnel. The supervisor may delegate any of the below responsibilities as is reasonable.
2. The supervisor will ensure the safety and determine the condition of the officer(s), suspect, and third parties, and summon emergency medical service providers if not yet summoned for officers, suspects, and third parties.
3. The supervisor should directly contact and advise the following of the condition of the officers and suspects and the exact location of the incident.
  - a. The commander.
    - i. The commander will notify the division assistant chief who in turn will notify
      - i. The Chief of Police
      - ii. The public information officer
      - iii. Police chaplain or advocate
  - b. On-call CID.

4. If the officer has been shot or otherwise injured, the supervisor will ensure the following:
  - a. That an officer accompanies and remains with the officer at the hospital.
  - b. That there is no release of the officer's name prior to the family's being notified.
  - c. Ensure that the clothing of officers and other injured persons is preserved for potential evidentiary purposes.
  - d. See that related equipment of the officers is safeguarded.
5. The chief or his designee will ensure:
  - a. That the officer's family is notified on a priority basis and in person when possible.
  - b. That family members are assigned transportation to the hospital or any other location where they are needed as soon as possible.
  - c. That an officer is assigned to the family for security, support, control of the press, and visitors.
6. The supervisor is to establish a command post and appoint a recorder to make a chronological record of all activities, including the names and actions of any personnel who enter the crime scene. The recorder shall prepare a supplemental report detailing their activities and observations. The original chronological record and the supplemental report will be placed in evidence after the scene is cleared.
7. The supervisor shall ensure that all audio/video recording systems, including in-car or body worn video systems that were at the scene at the time of the incident, are stopped and secured to protect any evidence thereon.
8. If the officer is not immediately transported to the hospital, the supervisor shall briefly meet with him/her. Only minimal, preliminary questions should be asked about the incident (Public Safety Statement). The officer should be advised that a more detailed administrative investigation debriefing will be conducted at a later time in accordance with the requirements contained in the meet and confer contract. The supervisor must, however, obtain sufficient information to protect the scene and begin an investigation. At a minimum the supervisor should determine the following:
  - a. The descriptions of any at large suspects, if any;
  - b. Approximate number and direction of shots fired (to protect crime scene and ensure no other persons are injured);
  - c. Description and location of any known victims or witnesses;
  - d. Description and location of any known evidence;
  - e. Any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects.
9. During any period where the involved officer is required to remain on the scene but has no immediate duties to fulfill, the supervisor should see that the officer is taken to a quiet area away from the scene of the incident. If available, a peer counselor or

other supportive friend or officer should remain with him/her, but that person should be advised not to discuss details of the incident.

10. The supervisor will see that a color picture of the involved officer is taken.
11. The supervisor will ensure that the overall scene and evidentiary items are photographed and video recorded.
12. The supervisor will ensure that all persons at the scene are video recorded.
13. The supervisor should advise the officer that they may seek legal counsel.
14. The supervisor will explain to the officer that any standard investigations concerning the incident will be discussed with the involved officers, and that the investigations shall include a criminal and an internal investigation.
15. The supervisor shall advise the officer not to discuss the incident with anyone outside of their direct chain of command, except a personal attorney, association representative, or departmental investigator until the conclusion of the preliminary investigation.
16. If in the course of the investigation the duty weapon is taken, the supervisor shall:
  - a. Take custody of the officer's weapon in a discrete manner;
  - b. Facilitate the replacement of the weapon,
17. The supervisor should ensure that the involved officer may notify his/her family about the incident as soon as possible. Where an officer is unable to do so, a department official shall personally notify his family and arrange for their transportation to the hospital if needed.
18. At all times, when at the scene of the incident, the supervisor should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
19. Upon arrival of investigators, the supervisor will brief the appropriate personnel on the details of the incident.
20. The supervisor shall ensure the completion of the original basic offense report concerning the incident by all officers on scene and prepare a detailed supplement report of their own activities after being notified.
21. The supervisor shall ensure that a departmental use-of-force and discharged firearm reports on the incident are completed.

#### C. Investigation

This department may request another agency to investigate incidents of officer-involved shootings.

1. Two different investigations may be conducted after an officer involved shooting incident.
  - a. If the officer was shot at, injured, killed, or otherwise is the victim of a criminal offense, a criminal investigation will be conducted to determine the identity of the suspect and for subsequent prosecution.

- b. If an officer shot at a suspect, an administrative investigation shall be conducted to determine compliance with departmental policy, as well as a criminal investigation to determine if the officer is criminally culpable.
2. These investigations, if both are required, may run simultaneously.
3. To avoid improper contamination of the criminal investigation investigators will be well versed in the issues of Garrity v. New Jersey.
4. Upon arrival, investigators will first ensure the tasks itemized above have been completed. They shall then conduct their investigation, which will include the following:
  - a. Investigators will receive a general briefing and walk-through by the supervisory officer regarding the circumstances surrounding the shooting. The decision to conduct a walk-through with the involved officer present at this time must be made based on the following:
    - i. The type of investigation being conducted
    - ii. The physical and mental state of the officer
    - iii. The availability of the officer's attorney
    - iv. The circumstances at the scene
  - b. Investigators will make a thorough inspection of the scene and they will review the collection of all items and substances of evidentiary value, including photos and video taken at the scene.
  - c. Investigators will obtain recorded statements from the suspects.
  - d. Investigators will ensure that notification is provided to next-of-kin of injured or deceased suspects.
  - e. Investigators will locate and identify witnesses and conduct initial recorded interviews.
  - f. Investigators will record interviews with fire department personnel, emergency medical service providers, and other first responders to the scene.
  - g. Investigators will conduct separate recorded interviews with each officer involved. (Involved officers will not be required to provide written or video recorded statements sooner than 48 hours after an incident.)
  - h. Investigators will conduct the interview in a private location away from sight and hearing of department members and others who do not have a need or a right to the information.
  - i. Investigators will advise the officer not to discuss the incident with anyone except their direct chain-of-command, a personal attorney, association representative, or departmental investigator until the conclusion of the preliminary investigation.
  - j. Investigators will be cognizant of symptoms of post-traumatic stress, which might include time and space distortions, confusion, hearing and visual

distortion, and emotional impairment, including shock. (Defer recorded interviews if these symptoms are evident.)

- k. Investigators will take any weapon fired by the officer into custody and handle it as evidence. If not already done so by a supervisor, firearms shall be taken from officers in a discrete manner and the OIC shall ensure that arrangements are made to replace them with other firearms.
  - l. Investigators will contact the medical examiner and obtain the autopsy report for any officer and/or suspect if required.
5. The results of any criminal investigation conducted will be presented to the District Attorney for independent review.

#### D. Post-Incident Procedures

1. Involved officers shall be removed from line duties pending evaluation but shall remain available for any necessary investigations.
2. Officers directly involved in the shooting incident shall be required to contact an department-designated specialist for counseling and evaluation as soon as practical after the incident. Involved support personnel should also be encouraged to contact such specialists after a shooting incident. After the counseling sessions, the specialist shall advise the department as to the following:
  - a. Whether it would be in the officer's best interest to be placed on administrative leave or light duty, and for how long;
  - b. What will be the best course for continued counseling. (The department strongly encourages the families of the involved officers to take advantage of available counseling services.)
  - c. If placed back on full duty and another deadly-force situation presented itself in the first work shift, would the officer be capable of defending himself/herself or another with the use of deadly force?
3. Any department investigation of the incident shall be conducted as soon and as quickly as practical.
4. The department should give a general briefing to other department members concerning the incident so that rumors are kept to a minimum.
5. All employees involved in a shooting incident should be advised that they are not permitted to speak with the media about the incident. Employees shall refer inquiries from the media to a designated department spokesperson, unless they are otherwise authorized to release a statement pertaining to the incident.
6. In order to safeguard their mental well-being, officers should avoid social media, news, and unrecognized phone calls.

#### E. Daily Stress Recognition

1. As post-traumatic stress disorders may not arise immediately, or the officers may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of unit members for symptoms of the disorder.

2. If a supervisor believes that stress may be disrupting the officer's job performance or other life skills, the chief of police should be informed immediately. The chief of police may refer the officer back into counseling.