

## Shooting Incidents

### 310.1 PURPOSE AND SCOPE

The intent of this policy is to establish procedures and protocols for the investigations of Shooting Incidents to ensure such incidents are investigated thoroughly, in a fair and impartial manner, and consistent with other administrative reviews (Use of Force 300, Critical Incident Reviews 301, Internal Affairs investigations 1020 & 1026).

#### 310.1.1 DEFINITIONS

**Officer-Involved Shooting (OIS):** An incident in which a Deputy Sheriff, Sheriff's Special Officer, and/or Deputy Coroner discharges a firearm at another person while exercising peace officer authority. OIS incidents include Hit and Non-Hit Shootings.

1. **Hit Shooting:** Department Member intentionally or unintentionally shoots and a person is struck.
2. **Non-Hit Shooting:** Department Member intentionally shoots at a person and no one is struck.

OIS incidents require a review protocol that considers both criminal culpability and administrative issues (policy violation, training, etc.).

**Firearms Discharge:** An incident in which a Deputy Sheriff, Sheriff's Special Officer, and/or Deputy Coroner discharges his/her firearm without the intent to shoot at a person and no one is struck. Firearms Discharge Incidents include:

1. **Warning Shot:** Department Member intentionally shoots as a warning without intent to strike a person and no one is struck.
2. **Animal Shooting:** Department Member intentionally shoots at an animal, whether the animal is struck or not.
3. **Unintentional Discharge:** Department Member unintentionally shoots and no one is struck.
4. **Shooting (Other):** Department Member intentionally shoots at an object, other than range qualification or a training exercise.

A Firearms Discharge incident requires an administrative review. The extent of the administrative review shall depend upon the circumstances and seriousness of the matter. The handling supervisor and the Department Commander shall triage the incident and determine the appropriate recourse, which could include a response by the Administrative Response Team (ART) or documentation submitted by the handling supervisor and forwarded up the involved Department Member's chain of command for review.

**Mandatory Administrative Leave:** Any Department Member involved in a traumatic critical incident, which could include an Officer-Involved Shooting incident, shall be required to take three working days off (with pay). During that time, the Department Member shall attend a counseling session with a certified psychiatric counselor. The results of that session shall remain confidential.

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1. When Department Members are placed on mandatory administrative leave due to traumatic critical incidents as defined in this policy, the Department Commander shall contact The Counseling Team International (TCTI) to arrange for counseling sessions with the appropriate Department Member(s). It shall be the responsibility of the Professional Standards Division, specifically the Employee Relations team, to contact TCTI to verify counseling session(s) have been arranged for the appropriate Department Member(s).

**Administrative Response Team (ART):** SAFE Division personnel shall be dispatched to the scene of an Officer-Involved Shooting to collect facts relating to administrative concerns (policy compliance, use of force, liability issues). A SAFE Division Sergeant shall enter the initial notification of the incident into the CRM database system.

### **310.2 INVESTIGATION RESPONSIBILITY**

The Department conforms to the parameters set forth in the Orange County Chiefs of Police and Sheriff's Association Operational & Procedural Protocol Number 105 (Establish Protocol for Officer-Involved Shootings).

The Office of the District Attorney shall serve as the Uninvolved Agency for all OIS Hit Shootings by Department Member(s) within the County of Orange and shall determine if there is criminal culpability on the part of the Department Member(s). The Office of the District Attorney shall review all OIS Non-Hit Shootings by Department Member(s) and shall determine if there is criminal culpability on the part of the Department Member(s).

In the event an OIS occurs outside Orange County, the agency in whose jurisdiction the incident occurred shall assume primary investigative responsibility. If geographically practical, the Criminal Investigations Bureau shall respond and conduct a parallel investigation and the ART Team shall also respond.

The Department shall conduct an administrative review of all OIS and Firearms Discharge incidents. This process shall include some or all of the following components:

1. An Administrative Review of an incident shall be completed by the ART in compliance with Policy 300.
2. The Supervisory Use of Force Analysis that is normally required per Policy 300 shall be superseded for OIS incidents by an Internal Affairs investigation. Final determinations about whether the force was "in policy" shall occur as part of the Internal Affairs review.
3. All Officer-Involved Shootings (Hit and Non-Hit Shootings) shall be the subject of a Critical Incident Review (CIR) per Policy 301.
4. An Internal Affairs investigation (I/A) shall be conducted into all Officer-Involved Shooting incidents (Hit and Non-Hit Shootings). The I/A investigation shall generally be tolled to await the District Attorney's review and conclusion into criminal culpability of the involved Department Member and potentially tolled due to other related criminal actions (i.e. suspects criminally charged as part of the incidents) and/or civil proceedings. The Sheriff may direct that the I/A investigation proceed immediately if

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the circumstances warrant, which could include an order to compel statements from involved Department Members.

5. All Firearms Discharge incidents shall be administratively reviewed by the involved Department Member's Commander and may be forwarded for further action and/or investigation (CIR, I/A investigation, decentralized discipline) if the circumstances warrant.

### **310.3 DUTIES AND RESPONSIBILITIES OF SCENE PERSONNEL**

#### **310.3.1 DEPARTMENT COMMANDER**

Upon learning of an OIS, Hit and Non-Hit Shootings, the Department Commander shall be responsible for the coordinating of resources and making the appropriate notifications.

#### **310.3.2 NOTIFICATIONS**

The following person(s) shall be notified as soon as practical:

1. Sheriff
2. Undersheriff
3. Assistant Sheriff (Patrol Operations Command)
4. Assistant Sheriff (Investigations & Special Operations Command)
5. Investigations Division Commander
6. Criminal Investigations Bureau Captain
7. District Attorney's OIS "Roll-out Team" (by CIB Team)
8. ***Homicide Unit Sergeant (first notification)***
9. SAFE-Internal Affairs Captain (ART Team)
10. Constitutional Policing Advisor
11. Peer Support Team
12. Counseling Team International (909-884-0133)
13. Association of Orange County Deputy Sheriffs (AOCDS)

All outside inquiries about the incident shall be directed to the Public Affairs & Community Engagement Division.

The Department Commander shall make notification to the involved Department Member's chain of command of all Firearms Discharge incidents (Warning Shots, an Animal Shooting, Unintentional Discharge, or Shooting (Other)).

#### **310.3.3 CRIMINAL INVESTIGATIONS BUREAU (CIB CAPTAIN AND/OR HOMICIDE SERGEANT)**

The Criminal Investigations Bureau (CIB) shall primarily be responsible for managing the scene and coordinating efforts with the Incident Commander. CIB shall notify the District Attorney's

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OIS "Roll-out Team" and arrange for the services of the Coroner (if necessary) and Crime Lab personnel.

CIB shall evaluate the circumstances and coordinate activities that will ensue (i.e. obtaining any search warrants, conducting interviews, follow-up investigative work to apprehend outstanding suspects, etc.).

CIB shall conduct a parallel investigation with the District Attorney's Office on all OIS incidents and may be responsible for investigating any underlying criminal acts by non-Department Members (suspects).

#### INCIDENT COMMANDER

The Incident Commander shall assume oversight of Officer-Involved Shooting incidents upon arrival at the scene. The Incident Commander shall have broad responsibility for management of the following areas:

1. Integrity of the shooting scene, security and crime scene perimeter, and associated locations.
2. Management of on-scene and responding resources.
3. Receipt of informational updates and regular communication with the Department Commander and Public Affairs (media relations) personnel.
4. Compliance of on-scene personnel with applicable policies, laws, and Peace Officer Procedural Bill of Rights protocols.
5. The identities of deputies involved in an OIS may only be released to the media pursuant to the consent of the involved deputy(s) or upon formal request filed and processed in accordance with the Public Records ACT (Policy 346.4.1) as applicable.

#### 310.3.4 INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an Officer-Involved Shooting, the first responding supervisor (not involved in the shooting) should:

1. Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
2. Attempt to obtain a brief overview of the situation from any non-shooter deputy(s).
3. In the event that there are no non-shooter deputies, the supervisor should attempt to obtain a brief voluntary overview from one shooter deputy.
4. Consult with the Incident Commander and Department Commander to determine an appropriate time to deactivate or reactivate the patrol video systems (PVS). This determination will be communicated on the primary channel. For additional, refer to policy 446 - Patrol Video System (PVS).

The supervisor shall administratively order any deputy from this Department to immediately provide public safety information necessary to secure the scene and pursue suspects. Public

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safety information shall be limited to such things as outstanding suspect information, involved and outstanding weapons, number and direction of shots fired, parameters of the incident scene, identity of known witnesses, and similar information.

### ***Public Safety Statement Example (see "OCSD Public Safety Statement card"):***

The supervisor requiring the Public Safety Statement (PSS) may state something along the following to the shooter deputy or other involved personnel:

"Deputy, I am ordering you to provide me with critical information to assist me in providing for the safety and welfare of the public and fellow law enforcement personnel. This information will be used to pursue and capture any outstanding suspect(s), locate and provide medical care to anyone injured, and otherwise assist the law enforcement response to this incident.

Some relevant questions in this regard could include:

1. Were you involved in the deputy-involved shooting?
2. Approximately how many rounds did you fire? If so, what direction?
3. Do you know if any other deputies fired rounds?
4. Did the suspect fire any rounds? If so, from what direction?
5. Was anyone injured? Where are they?
6. Are you aware of any witnesses? If so, where are they?
7. Approximately where were you when you fired the rounds?
8. Are there any outstanding suspects? (Description, Direction, Mode of Travel)
9. Are there any weapons or evidence that needs to be protected? (Locations)

Due to the need to take immediate action, the shooter deputy is not entitled to await representation before answering.

The Deputy should be admonished that in order to preserve the integrity of the investigation, he/she is ordered to NOT discuss the incident with ANYONE, including other supervisors, prior to the arrival of assigned criminal Investigators; with the exception of a legal (AOCDS) representative.

Supervisors should also bear in mind the following:

1. Absent a voluntary statement from any deputy(s), the initial on scene supervisor should not attempt to order any deputy to provide information other than public safety information.
2. Based on statement(s) provided and crime scene, consider the need for a Public Safety Protective Sweep for injured parties or damaged property.
3. Consider number of outstanding suspects, number of witnesses, and deputies to be interviewed and possible area to be canvassed as a means of determining the amount of investigative resources needed.

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4. Provide all available information to the Incident Commander, the Department Commander, and Emergency Communications Bureau (ECB). If feasible, sensitive information should be communicated over secure networks.

Supervisors shall take command of and secure the incident scene with additional personnel until relieved by an Investigations supervisor, higher ranking, or other assigned personnel.

As soon as practical, shooter deputies should be removed from the scene and away from media attention and outside influence. The deputy should be placed with a supportive peer or supervisor for reassurance and emotional support (Crisis Response Team Member if possible). However, they shall not discuss the facts or details of the shooting with the Member. Shooter deputies should be transported (separately, if feasible) to the station or designated remote location for further direction.

1. Each involved deputy should be given an administrative order not to discuss the incident with other involved deputies.
2. When a deputy's weapon is taken or left at the scene (e.g., evidence), the deputy shall be provided with a comparable replacement weapon.

### 310.3.5 ADMINISTRATIVE RESPONSE TEAM

Upon being notified of an OIS incident, the SAFE Division shall dispatch a minimum of two Sergeant(s) (ART) to the scene. ART personnel shall attend briefings on the incident and collect all facts relating to administrative concerns.

ART is responsible for evaluating the incident from an administrative perspective and identify possible policy-related issues (policy language and violation), risk management and liability issues, training concerns, force and force options, tactics, supervisory involvement and control, equipment issues, and other administrative factors.

ART shall evaluate the entire incident to include the circumstances leading up to the shooting, the actual shooting, and post shooting events and activities. ART shall utilize information as provided by the District Attorney's Office and/or the Criminal Investigations Bureau. No administrative interviews shall be conducted at the scene unless specifically directed by the Sheriff. ART shall collect all additional relevant information and prepare for an administrative briefing to the Executive Command no later than three days after the shooting. The Sheriff's Executive Command shall review and evaluate the administrative issues during the briefing and take any necessary action. ART shall also complete the Use of Force statistical summary.