



General Order: 2.8 DISCHARGE OF DEADLY FORCE

Effective: August 1, 1972
Last Revised: March 4, 2015

PURPOSE

The purpose of this General Order is to establish department policies and procedures in the event that an employee discharges a firearm.

POLICY

It is the policy of this department that whenever an employee intentionally or accidentally discharges a firearm, he will report the incident to his/her immediate supervisor or the on-duty sergeant, who will report the incident, via chain of command, to the Chief of Police. Exceptions to this policy are the discharge of a firearm for training and qualification purposes on the pistol range or in the course of a recreational event.

All arrest, crime, and supplemental reports that pertain to the incident will be completed prior to the end of shift by all employees involved in, witnessing, or having information regarding the incident. When the discharge of deadly force results in injury or death, and the Orange County District Attorney's Office is called in, the involved officers will complete a narrative report of the incident as directed by a supervisor.

If the discharge of a firearm by a Garden Grove Police Officer results in death or injury, the Orange County District Attorney's Office, as an independent body, will be requested to conduct an investigation into the incident. If the incident involves a Garden Grove Police Officer and occurs outside of the City of Garden Grove, the investigating agency will be urged to request the Orange County District Attorney's Office, or the district attorney's office that serves the jurisdiction, to conduct an independent investigation.

If an outside-agency officer is involved in a shooting in Garden Grove that results in injury or death, the District Attorney's Office will be requested to conduct an independent investigation into the incident.

Refer to General Order 2.10 - District Attorney Procedures for Officer-Involved Incidents.

All intentional or accidental discharges by a Garden Grove Police Officer, whether or not they involve death or injury, will be administratively investigated by the Garden Grove Police Department, Internal Affairs Unit. All discharge of deadly force administrative investigations will ultimately be forwarded to the Use of Force Review Board.

NOTIFICATIONS

If the discharge of a firearm involves death or injury, the on-duty Watch Commander will notify the Internal Affairs Sergeant, the Crimes Against Persons Sergeant, the officer's unit or Division Commander, the Bureau Commander, the Chief of Police, and the assigned Duty Chief (if applicable). If the discharge does not involve injury, the Internal Affairs Sergeant and the Unit or Division Commander will be notified and other notifications will be made at the Unit or Division Commander's direction.

If an officer is injured, the Watch Commander will make arrangements for the notification of the officer's family and their transportation to the hospital. The notification should be made in person, and if possible, by a supervisor.

PROCEDURES FOR OFFICER-INVOLVED SHOOTINGS

1. A field supervisor will assume command of the crime scene and insure that appropriate action is being taken to: provide first aid to the injured; detain suspects; identify witnesses; and secure evidence. The field supervisor should attempt to obtain a brief overview of the situation from any non-shooter officer(s).
2. The field supervisor will "freeze" the crime scene pending the arrival of Garden Grove Police Department Investigators and Orange County District Attorney's Office Investigators. It will be the responsibility of the Garden Grove Police Department to investigate any crime or incident (such as robbery) related to the officer-involved shooting.
3. The field supervisor or a ranking member of the department must assess the physical and emotional condition of the officers involved, if they are uninjured. Post-incident shock may occur. If the discharge of a weapon results in the death of a person, the officer(s) involved should be removed from the scene as soon as possible. If the incident results in injury, the officer may remain at the scene to assist investigators in "reenacting" the incident. In either case, the officer(s) should not be left alone. If the mental or emotional state of the officers suggests the need for medical attention, the on duty Watch Commander shall make such arrangements.

NOTE: In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer. If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known suspects, and similar information. Absent a voluntary statement from any officer(s), the initial on-scene supervisor should not attempt to order any officer to provide other than public safety information.

4. All collection of evidence from the involved officer(s) shall be completed in a timely and professional manner. The ranking member of the department must insure that the officer is treated with dignity by outside-agency investigators.
5. Once at the police department, the involved officers should be instructed not to discuss the specific incident with anyone other than authorized representatives. The following should be considered for the involved officer:
 - Any request for legal representation will be accommodated.
 - Although the department guaranties each officers individual right to representation, it expressly prohibits two or more involved officers/employees from meeting collectively or in groups with a representative prior to being interviewed by investigating officers.
 - Discussion with licensed attorneys will be considered privileged as attorney-client communications.
 - Discussion with departmental (e.g. Police Association) representatives will be privileged only as to the discussion on non- criminal information.
 - Discussion with the department psychologist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
 - Discussion with Trauma Support Team personnel will be considered confidential. Refer to General Order 2.23.
6. Members of the Crimes Against Persons Unit (CAP) will be assigned to handle the department's investigation of related crimes. CAP investigators will be assigned to work with investigators from the District Attorney's Office, and may also be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office. All related departmental reports, except administrative or privileged reports, will be forwarded to the CAP supervisor for approval.
7. Once public safety issues have been addressed, criminal investigators from the District Attorney's Office and the Crimes Against Persons Unit will be given the next opportunity to interview involved officers, in order to provide the officer with an opportunity to give a voluntary statement. The following shall be considered for the involved officers.
 - Supervisors and Professional Standards Division personnel should not participate directly in any voluntary interview of officers.
 - If requested, any involved officer will be afforded the opportunity to consult with a representative of his/her choosing or an attorney, prior to speaking with criminal investigators.
 - Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative investigation.
 - Absent consent from the involved officer or as required by law, no administratively coerced statement will be provided to any criminal investigators.
8. In the event that suspects remain outstanding or subject to prosecution for related offenses, the department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals. While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview involved officers as victims or witnesses. Since the purpose of

these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports. Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report. Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

9. If the shooting involves injury or death to a person, the involved officer(s) will be placed on ADMINISTRATIVE LEAVE WITH PAY pending a mandatory interview with a department-recognized psychologist. If the psychologist is not called out or is unavailable at the time of the incident, the involved officer's Unit or Division Commander will request that the Training Manager arrange an appointment with the psychologist. The officer's Unit or Division Commander will insure that a City of Garden Grove Personnel Action Form is completed to document the administrative leave with pay.
10. All officers who may have fired their weapons during the incident under investigation WILL BE REQUIRED TO SUBMIT THEIR WEAPONS FOR EXAMINATION AND TESTING BY RANGE AND/OR CRIME LABORATORY PERSONNEL. Officers will also turn in ALL expended ammunition and ALL ammunition carried by the officer for use in the weapon in question.

The department armorer will maintain at least one of each department-authorized handguns as replacement weapons in the event that an officer's weapon is retained as evidence. The on-duty Watch Commander will ensure that the replacement weapon and appropriate ammunition are issued to the officer in a timely manner.

11. The on-scene supervisor will complete a Use of Force Review memorandum ANYTIME an employee discharges a firearm, on or off duty, intentionally or accidentally. Exceptions to the above are range training and recreational events. Once reviewed by the Chief of Police, the Use of Force Review memorandum will be forwarded to the Professional Standards Division to initiate an administrative investigation.

ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer involved shooting, the department will conduct an internal administrative investigation to determine conformance with department policy. This investigation will be conducted by the Internal Affairs Sergeant under the supervision of the Professional Standards Division and will be considered a confidential peace officer personnel file.

If any officer has voluntarily elected to provide a statement to criminal investigators, the Internal Affairs Sergeant should review that statement before proceeding with any further interview of that involved officer.

If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview.

In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.

If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. The Administrative interviews should be tape recorded by the department (the officer may also record the interview).

The officer shall be informed of all constitutional "Miranda" rights and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions. The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (Lybarger or Garrity admonishment). The administrative interview shall be considered part of the officer's confidential personnel file.

The Internal Affairs Sergeant shall compile all relevant information and reports necessary for the department to determine compliance with applicable policies. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will determine compliance with the department's Use of Deadly Force Policy. Refer to General Order 2.9.

CIVIL LIABILITY RESPONSE TEAM

The Internal Affairs Sergeant will also notify the department's legal counsel at the time of the shooting. The Internal Affairs Sergeant will be assigned to work exclusively under the direction of the department's legal counsel to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The Civil Liability Response Team is not intended to interfere with any other investigation, but shall be given reasonable access to all other investigations.