

Resources

The IACP researches and addresses issues relative to officer-involved shootings (OIS) from various perspectives - including work done by the National Policy Center, the Legal Officers Section, and the Police Psychological Services Section. The following describes the missions of these IACP components, and also provides information on work done by each specifically on officer involved shootings.

National Policy Center

The IACP National Law Enforcement Policy Center has, since its inception in 1987, published over 120 model policies and accompanying discussion papers for use by state and local law enforcement agencies. In 1990, the center released a comprehensive policy and paper on "Investigation of Officer Misconduct." Since that initial publication, the documents have been refined twice, most recently in 2007. Combined, these documents provide a wide-ranging look at the legal intricacies, operational choices, and pitfalls often encountered during these investigations.

Legal Officers Section

Assists in the establishment of professional standards, assistance, and cooperation among attorneys who provide legal advice or representation to law enforcement administrators. The Legal Officers Section conducts twice yearly training programs specific to police attorneys, maintains a listserv to facilitate communication and sharing of expertise among members, and regularly assists in the preparation and review of amicus briefs submitted to the United States Supreme Court on cases of import to law enforcement.

Police Psychological Services Section

Develops professional standards, facilitates the exchange of information among police psychological service providers, and acts as a resource of professional expertise to the association. The Police Psychological Services Section developed Officer Involved Shooting Guidelines to provide information to law enforcement agencies and mental health providers who work with law enforcement personnel to ensure that officers' mental health needs are carefully considered in regard to OIS incidents.

Assessing Your Approach

- ❑ Do you have clear and concise policies and procedures in place to address officer-involved shootings? Have you trained all staff on these policies? (On-scene checklists are very helpful)
- ❑ Do you have a clearly defined use of force policy and training curriculum and are they updated regularly?
- ❑ Are you prepared to conduct OIS investigations in a timely manner to return officers to duty as soon as possible and appropriate?
- ❑ Do you have a strong partnership with the prosecuting attorney's office to assist in conducting a thorough, unbiased and, impartial investigation?
- ❑ Have you designated your investigative team to handle an investigation if an incident occurs? Will that team be from Internal Affairs, Homicide, or Special Investigation units or others? Is your OIS team fully trained and prepared to handle multiple scene requirements (on-scene, station, and hospital)?
- ❑ Do you have updated video evidence policies, including what video evidence (public or private) to use in the investigation, audio visual recording of officer statements, and if and when to review the video with the officer?
- ❑ Are your evidence technicians fully trained and ready to support the investigation to insure the integrity of evidence?
- ❑ Have you put in place mental health and wellness policies to support officers involved in a shooting? Do those policies include peer support and family outreach?
- ❑ Are you ready to engage the public and will your media relations team speak with 'one voice' representing you and your agency in an open and transparent manner?

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Officer-Involved Shootings Investigative Protocols

A Guide for Law Enforcement Leaders



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Officer-Involved Shootings

Officer-involved shootings (OIS), though relatively rare when compared to the number of interactions law enforcement officers have with the public each day, tend to be high profile events that draw media coverage and sometimes citizen concern.

When is Firearm Use of Force Legally Justified?

Firearm use of force is legally justified:

- To protect the officer or others from what is reasonably believed to be a threat of death or serious bodily harm
- To prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others

The use of verbal orders should be used to gain compliance. Under no circumstances may the use of physical force be more than that which is necessary to achieve a lawful purpose. Whether the use of force is objectively reasonable shall be judged from the perspective of an officer at the time of the incident, based upon facts known or reasonably available to him or her. Facts unknown to the officer, no matter how compelling, cannot be considered in subsequent investigations, reviews, or hearings.

Complexity of the Investigative Process

It is essential for police departments to demonstrate accountability to the community through an impartial, transparent, and systematic investigative process. Systematic investigations of officer-involved shootings may uncover deficiencies that lead to necessary changes in policy and training, and avert civil lawsuits. Officers need to understand the routine processes of OIS investigations so that they won't feel singled out and unfairly scrutinized.

What Officers Must Know Before An Incident Occurs

Training is essential for every officer and an important part of that is preparing officers in the event that they are involved in a shooting. Specifically:

- What are the officers' rights?
- What are the departmental rights?
- What are the differences between administrative and criminal investigations?
- What actions should be taken to assure officer mental health and wellness following an officer-involved shooting?

CRIMINAL INVESTIGATION

- **Miranda warning:** During the criminal investigation phase, assure officer(s) are advised of their Miranda rights.
- **Prosecutor role:** Administrative violations may not be crimes. To understand this dichotomy and the situations officers face, police training for prosecutors is helpful, to include a Citizen's Police Academy, shooting scenario, and use of force training.
- **Grand jury:** Typically selected by the prosecuting attorney's office, it is helpful if grand jury members have some knowledge of police practices, use of force, and firearms.
- **Determination:** Upon resolution of the criminal case, your agency may begin an administrative investigation, if not done concurrently, with appropriate safeguards. Once the criminal case has been adjudicated, all pertinent documentation should be forwarded to your agency's investigation team.
- **Preparation for civil litigation:** Your agency should prepare for civil litigation at the outset of any officer-involved shooting, to include preservation of evidence.

ADMINISTRATIVE INVESTIGATION

- **Applicable Law Enforcement Officers Bill of Rights (LEOBR) Provisions/Labor Contract Requirements:** It is important to be familiar with discipline-related laws, rules, rights, responsibilities, and deadlines.
- **On scene walk-through/initial statements:** On scene walk-through and initial statement should be used for evidentiary purposes and conducted with the officer involved.
- **Audio/Video recordings:** Videotaping the scene under the same or similar conditions will preserve its appearance and assist in showing the lighting, the weather conditions, and the integrity of the crime scene.
- **Administrative Leave/Administrative Duty:** Typically officers are placed on a brief paid administrative leave or in a no-contact assignment pending the outcome of the investigation.
- **Compelled Statement:** Taken during the administrative portion of the investigation this compelled statement, or any information gleaned from it, cannot be used in any manner in the criminal phase of the investigation.
 - During administrative investigation, the officer is compelled (ordered) to give a statement; failure to do so could result in discipline up to and including termination.
- **Actions:** Based on the investigative finding, if warranted, disciplinary action can include written reprimand, fines, retraining, reassignment, termination, or criminal charges.
- **Return to Work:** Consideration should be given to officers' readiness to return to duty. Areas of concern include, but are not limited to, use of force training, firearms requalification and mental health (psychological services). Even after officers are ready to return to duty, some may need additional time before returning full-time to the street; others may want to transfer to a different position.

OFFICER MENTAL HEALTH/WELLNESS CONSIDERATIONS

- **Sleep cycles before statements:** Whenever feasible, officers should have some recovery time before providing a full formal statement. At least one night's sleep is beneficial prior to being interviewed.
- **Memory and perception:** Memory and perceptual disturbances following a shooting or other critical incident are common and normal. These may include memory loss for part of the incident, sounds being quieter or louder, tunnel vision, increased attention to detail, time slowed down and/or time sped up.
- **Emotional stress:** The first few hours after a shooting or other critical incident is a potentially emotional and confusing time. Depending on the nature of the incident, stress may remain high for the involved officers in the aftermath of the incident.
- **Investigative process:** The investigative process and concerns over legal and administrative consequences are often the most stressful parts of an officer-involved shooting or other critical incident for involved personnel. Agencies should clarify with officers the purpose of procedures so that they are understood to be routine and not disciplinary in nature.
- **Psychological services:** The standard of practice is to visit a departmentally approved, trained, and licensed mental health professional following a shooting incident. The purpose of this confidential intervention is primarily educative, as this reassurance reduces worry, anxiety, and negative self-assessment. Additionally, group debriefings with a trained mental health professional mobilize peer support, enhancing a supportive social milieu that may be helpful to individuals in stressful situations.
- **Peer support:** Involved personnel can benefit from support from other law enforcement personnel. Sources of support include Peer Support and Critical Incident Stress Management Teams, fellow officers trained in peer support, or officers who have previously been involved in an OIS investigation. Support from supervisors can also be helpful.
- **Personnel:** Dispatch and other involved personnel may benefit from support and assistance as well.
- **Family:** Family members of officers involved in shootings may also benefit from contact with a trained mental health professional and/or peer support.

INFORMING THE COMMUNITY

- **Transparency:** Your department should provide the community with information as appropriate, as much as possible, at each investigative stage.
- **Media relations:** The media should be provided with the basic facts of the case, as available and normally within 24 hours.
- **Community/town hall meetings:** When it is appropriate, and the facts are known, arrange for speaking engagements before audiences that are most invested in the event and its outcome.
- **Messaging:** One person should speak on behalf of the department, such as the public information officer, chief, or a designated senior spokesperson, to assure information is accurate and consistent.