

SALEM POLICE**DEPARTMENT MANUAL****CHAPTER 19.5**

SUBJECT: USE OF FORCE AND OFFICER INVOLVED SHOOTING INVESTIGATIONS		DATE OF ISSUE 08/25/2015	EFFECTIVE DATE 09/29/2015
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PURPOSE

The purpose of this policy is to provide guidelines for the investigation of officer-involved use of deadly force incidents.

Although very few officers become involved in deadly force situations, all officers should have an understanding of steps that must be taken following such an event and the impact it will have on those officers involved. The initial response of the involved officers and the steps taken thereafter by first responders, supervisory and investigative personnel will be critical in conducting an accurate and complete investigation.

The reputation and career of involved officers and the agency's reputation within the community depend upon a full and accurate investigation to determine the circumstances that precipitated the event and the manner in which it unfolded. The critical nature of these investigations is also underscored by the frequency with which these incidents result in civil litigation.

Failure to take appropriate measures can lead to the loss of indispensable evidence, inaccurate investigative findings, inappropriate assignment of responsibility or culpability for wrongdoing. Even the filing of criminal charges against officers who acted responsibly and lawfully.

POLICY

It is incumbent upon all personnel involved in a post-shooting incident to be cognizant of the implications and the various facets associated whenever a member of this department resorts to the use of deadly force that results in the death or serious bodily injury of another. Personnel who are engaged in the supervision and/or the investigation of a post-shooting incident are expected to the balance what may seem at times to be competing objectives, to include:

Ensure that the officer involved in a shooting-incident receives prompt medical attention, when warranted.

Ensure the scene of a post-incident shooting has been preserved so as to facilitate a complete and thorough investigation.

Ensure that the constitutional rights of the officer involved in a post-shooting incident are preserved and respected.

PROCEDURES

Reporting Firearms Discharges (1.3.6a)

All firearms discharges, except discharges which occur during Department authorized firearms training or individual target practice (unless a discharge occurring during one of these exceptions results in death, personal injury, or property damage), shall be reported to the department forthwith. Officers who discharged their firearm where no death or injury to a person results, shall submit a detailed incident report relative to the facts of the case prior to the termination of the officer's tour of duty or, if not on duty at the time of the shooting, according to the orders of the Commanding Officer. If medical reasons so dictate, and after consultation with the doctor of record, the Chief or his designee may waive this requirement until a later time.

An officer who discharges his firearm during the course of his duties shall immediately notify his supervisor. The supervisor shall immediately notify the Patrol Division Commander.

An off-duty officer discharging his firearm in the City of Salem shall immediately notify the Officer in Charge who shall notify the Patrol Division Commander.

Any officer who discharges a firearm outside the City of Salem shall immediately notify the Police Department which has jurisdiction where the discharge occurred, identify them self as being a Salem Police Officer, and request their assistance. The officer shall also notify the Salem Police Officer in Charge who shall notify the Department Patrol Division Commander.

If the officer is unable to make these notifications due to serious personal injury, an accompanying Salem Police officer or a sworn law enforcement officer from that jurisdiction may do so on their behalf.

Immediate On-Scene Responsibilities by on Scene and**Responding Officers****Areas of Concern**

In deadly force situations, there are four general areas of concern that shall be addressed immediately after the initial confrontation by officers directly involved and/or by those who witnessed the incident. Because of potential public safety concerns and the fact that the scene of an officer-involved shooting cannot be preserved indefinitely, certain information is critical to facilitate the investigation and to assist in obtaining the most accurate information possible to proceed accordingly. This information may also be relevant in providing medical aid to any injured parties, identifying and apprehending violent individuals and in locating and securing relevant evidence. Because this information is often time-sensitive in terms of life safety and the basis for a thorough and complete investigation, the information must be relayed to other responding officers and supervisors immediately by those officers noted above. The four areas of concern are:

The welfare of the officers, victims, and suspects including the rendering of appropriate medical aid as needed;

The apprehension of suspects both still on scene or those that may be at large;

The securing of the crime scene(s) and preservation of evidence; and

The identification of witnesses.

The safety and well-being of the officer(s) and the general public is the first priority.

Actions Immediately Following an Officer Involved Deadly Force**Incident**

Eliminate hostile threats: Initially, the officer(s) should ensure that the threat from the suspect(s) has been terminated.

Suspect(s) should be handcuffed or otherwise secured as appropriate;

If not handcuffed or otherwise secured during the application of emergency first aid, an armed officer must be present at all times and tasked with overseeing the security of the suspect and safety of the emergency service providers;

One should never assume that because a suspect has been shot or otherwise incapacitated that he/she is unable to take aggressive action.

Secure and separate suspects.

Conduct a protective sweep of the scene.

Remove the suspect and others from the immediate crime scene as appropriate.

If the suspect cannot be immediately removed and firearms or other weapons are in the vicinity of the suspect, they should be collected and secured.

Obtain additional assistance, i.e. supervisor, additional back-up, and any other assistance required immediately.

Summons medical assistance.

Provide medical attention of the injured.

If injured, administer emergency first aid to one's self first, if possible.

Administer first aid to suspects and others, as necessary, pending arrival of emergency medical assistance.

Apprehend Suspects

Relay information on fleeing suspects to Dispatch and other units and coordinate with them to establish a containment area to locate and arrest suspects.

Secure the Crime Scene and Preserve Evidence

Make the scene safe.

Assess the situation: 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.

Firearms: Holster any involved handguns or secure them in a place as evidence. Do not open, reload, remove shell casings or in any other manner tamper with involved firearms.

Secure the scene, establish a crime scene perimeter and limit access to authorized persons necessary to investigate the shooting and assist the injured.

Protect evidence from loss, destruction or damage that is likely to occur. 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.

Identify Witnesses

Witnesses should be separated to avoid contamination of their memories. 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.

Supervisory Responsibilities at the Scene

Officer-in-Charge

The first supervisor to arrive at the scene of an officer-involved deadly force incident will normally be designated as the officer-in-charge until such time as he/she is relieved from this responsibility by an investigator or other appropriate senior officer.

A superior officer shall be notified and shall assume overall command of the incident. This duty may be assumed by the Chief of Police.

A supervisor from the Criminal Investigations Division (C.I.D.) shall respond to supervise the agency's investigative efforts and coordinate with outside investigative entities, i.e. District Attorney's Office, Massachusetts State Police, Medical Examiner, etc.

A patrol supervisor shall coordinate patrol support of the investigation.

Immediate Actions

The supervisor shall;

- 1) Ensure that the scene is safe and secure from hostile persons.
- 2) Determine the condition of officers and others at the scene.

3) Ensure that emergency medical care has been summoned if necessary and emergency first aid is being provided if needed in the interim.

4) Ensure that the crime scene has been protected and, to the degree possible, that it is kept intact and undisturbed until criminal investigators arrive.

5) Ensure that staffing is adequate to handle the incident and conduct the investigation. The O.I.C shall coordinate through the Patrol Division Commander any need to call in off-duty personnel or request mutual aid.

6) Direct Dispatch to broadcast suspect information via radio to available units and surrounding communities.

7) Request additional resources and equipment as necessary.

8) Identify persons who may have been at or within close proximity to the scene, as well as identify any witnesses and request their cooperation.

Notifications

- The on-scene supervisor shall ensure that the Officer in Charge is notified as appropriate.

- The O.I.C. shall make notifications to the following individuals in the order listed:

1. Chief
2. C.I.D. Division Commander
3. Patrol Division Commander
4. Officer in charge of Internal Affairs

Care of Involved Officers

If an officer has been shot or severely injured, ensure that another officer accompanies the injured officer to the hospital and remains with the officer until relieved.

The accompanying officer shall be responsible for ensuring that the clothing and other personal effects of the injured officer are recovered and then secured back at the police station.

Upon arrival at either the hospital or the station, these officers should be taken to a quiet, secure setting where the officer involved in the shooting should be given some physical space so that he/she may regain their composure and attempt to relax. The second officer should be reassuring and supporting without being unrealistic. It is highly recommended that only one individual accompany the involved officer at this time so that the officer has sufficient time alone to process what had just occurred.

When practical, the officer involved in the shooting should be advised not to discuss the incident with anyone except a personal attorney, union representative, department supervisor or investigator until the conclusion of the investigation.

After being evaluated at the hospital, the officer is advised to follow doctor's recommendations.

Preliminary Interview of Involved Officer(s)

The scene supervisor and/or a designated detective shall meet with the involved officer(s) to obtain a brief verbal report regarding the incident. This pertinent initial inquiry shall be intentionally limited to those matters of immediate urgency and shall be followed up by a complete and thorough interview at a later time.

The officer(s) may have the opportunity to speak with counsel before providing said verbal report but such opportunity shall not unduly delay obtaining the pertinent initial information.

The Department recognizes the rights of officers to invoke their privilege against self-incrimination under the 5th Amendment to the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.

The investigative procedure concerning the incident should be discussed with the officer as well as the timetable for a more detailed interview as defined later in this policy.

Securing of Firearms Used

If an officer has fired his duty weapon, the supervisor, after consultation with the Commanding Officer, shall secure the weapon from the officer as evidence. When the duty weapon is taken, the supervisor shall:

- 1) Take custody of the weapon in a safe and discrete manner.
- 2) Officers should not be left unarmed in a public setting where their safety may be at risk and;
- 3) Replace it with another weapon as soon as possible unless circumstances dictate otherwise.

Notification to Families

Involved officers should notify their families about the incident as soon as possible.

If an officer is unable to do so, the Chief or in their absence the Commanding Officer, shall designate a Department representative

to officially notify the family and arrange for their transportation to the hospital.

Investigation Supervisor's Responsibilities

Agency-in-Charge

In those incidents where the use of deadly force results in a death or life threatening injuries, pursuant to the terms of M.G.L. c 38, s4, the Essex County District Attorney's Office will assume control of the investigation.

In all instances where a Salem Police Officer discharges a firearm resulting in other personal injury, the Chief of Police, at his discretion, may request the assistance of the Essex County District Attorney's Office, if warranted.

In both of the above scenarios, the Commander of Criminal Investigations Division (CID) will oversee the Department's efforts in the investigation.

General Responsibilities

Upon arrival at the scene, the Commander of CID, or their designee, shall meet with the Officer-in-Charge of the scene to obtain a full briefing of the facts as known at that time.

The Commander of CID, or their designee, shall be responsible for:

- 1) Keeping the Chief apprised of all developments and providing periodic updates, particularly during the early stages of the investigation.
- 2) Ensuring that the investigation is conducted in a careful and methodical manner according to current protocols and procedures.
- 3) Requesting adequate investigative resources including, as deemed necessary or required by law:
- 4) Additional Department investigators
- 5) District Attorney's Office including Massachusetts State Police Detectives
- 6) Office of the Medical Examiner
- 7) Crime Scene Services including Forensic Chemists and Ballisticians
- 8) Develop a statement of preliminary basis facts for the media to be delivered by the Chief or their designee in conformance with the Department's policy on media relations. *SPD policy #51.0*
- 9) Locate and secure evidence, to include but not limited to, any clothes or effects that may have been removed from the Officer or suspect by EMS.

10) Obtain search warrants as necessary for searches of vehicles, containers and homes.

Officer Interviews by Investigative Personnel

If on-scene investigative personnel need to obtain additional information from officers directly involved, they should meet with the officer(s) to obtain a brief verbal report regarding their needs.

The officer(s) may have the opportunity to speak with counsel before providing said verbal report but such opportunity shall not unduly delay obtaining any pertinent initial information.

The Department recognizes the rights of officers to invoke their privilege against self-incrimination under the 5th Amendment to the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.

The officer(s) should be advised that a more detailed debriefing will be conducted later at an arranged time. This debriefing shall be audio and/or video recorded and shall occur no sooner than twenty-four (24) hours nor later than forty-eight (48) hours after the incident unless approved by the Chief or the Commander in charge of CID.

Separate, audio and/or video recorded interviews should be conducted with each officer present at the scene who was not immediately involved in the deadly force encounter.

Post Incident Procedures

Involved Employees

Although the investigation of police involved deadly force incidents is essential, for the employees directly involved, the investigation can be one of the more stress-provoking activities following such an incident.

Officers involved in these situations can be sensitive of how they are perceived and the manner in which such investigations are conducted can heighten or diminish feeling of alienation and isolation.

Complete and professional investigations can be conducted while also showing consideration for an employee's emotional well-being.

Post-Traumatic Stress Disorder

Employees who have been placed in a frightening or life threatening situation may experience emotional, physical, or behavioral signs of trauma related to Post-Traumatic Stress Disorder.

All Officers shall be cognizant of symptoms of post-traumatic stress. Some of these symptoms are time and space distortions, confusion, hearing and visual distortion, emotional impairment and shock. This list is not all inclusive and each Officer will react differently.

Employee Assistance Program**Defusings**

Defusings should be conducted as soon as practical following the incident and generally within 72 hours. Defusings are intended to give all parties involved in the incident reminders about possible emotional and psychological reactions. They generally last no more than one hour.

Defusings should include all persons immediately involved in the deadly force incident as well as support personnel to include:

- Officers involved in the encounter;
- Officers who immediately responded to the incident;
- Dispatchers directly involved in the incident;
- Supervisors who responded to the incident;
- Investigators who responded to the incident.

While not mandatory, officers involved are encouraged to attend.

Debriefings

Debriefings should occur within 1- 10 days after an incident and are automatic for all employees directly involved. A Debriefing is an educational stress intervention and is not an operational critique. A Critical Incident Stress Management (CISM) certified professional and CISM certified first responder peer representatives will conduct the debriefing. These generally last 2 - 4 hours.

Confidentiality

Information provided by officers participating in a defusing or a debriefing will, for Department administrative proceedings, be considered privileged and shall be kept strictly confidential in

accordance with the provisions of M.G.L. C 112 § 134, 135A and 135B, which govern privileged communication.

Other Employees

The Department shall brief other officers and staff concerning the incident as best it can so that rumors are kept to a minimum.

Department members are encouraged to show the involved officers their concerns.

Administrative Relief from Duty due to the use of deadly force

In every instance in which any employee (sworn or civilian) uses deadly physical force, or by their actions or use of force results in death or serious bodily injury to another person, the following steps should be taken: (1.3.8)

1. The employee will be placed on administrative leave after completing all initial internal investigative requirements, and until it is determined by a mental health professional that the Police Officer is ready to return to work.
2. Assignment to administrative leave status shall be with no loss of pay or benefits.
3. Relief of duty with no loss of pay or benefits is intended to serve two purposes:
 - a. To address the personal and emotional needs of the officer involved in the use of deadly force which results in serious bodily injury or death; and
 - b. To assure the community that verification of all the facts surrounding such incidents are fully and professionally explored.
4. An employee so relieved from regular line duty status and assigned to administrative leave status shall remain on leave until the investigation is concluded and his/her emotional needs have been met. Officers on administrative leave shall assure their availability to the department and/or State Police investigators to assist, when necessary, in the investigation of the incident.

Media

Officers should expect a media presence at the scene and should expect extensive coverage of the incident.

Media representatives are likely to attempt to make contact with individual employees, their families, and friends.

All personnel are reminded that they are not permitted to speak with the media about the incident unless authorized by current policy. Officers shall refer inquiries from the media to the designated spokesperson unless otherwise authorized by the Department.

Use of Force Reporting and Investigation: Non-Deadly Force

The following procedures shall govern the proper reporting and investigation of any use of non-deadly force by both on-duty and off-duty members of the department.

1. Officers shall note all the facts and circumstances involving any use of non-deadly force in the relevant arrest or incident report.
2. When the application of non-deadly force results in obvious physical injury to the suspect, the suspect requests medical treatment for an injury, whether obvious or not, or the suspect complains of injury, a separate use of force report will be completed in addition to the arrest or incident report. This report shall contain the names and addresses of victims and witnesses, the extent of treatment of injuries, if any, the name of the treatment facility and doctor who administered treatment, and the reason and circumstances that required the use of force.
3. Upon notification of the use of non-deadly physical force by subordinate personnel, the Officer in Charge of the Police Station shall review the incident. He/She shall review the report(s) describing the use of force, and all other related reports.
4. All reports concerning the use of force incident shall be forwarded to the Patrol Division Commander and the Chief of Police, who, after reviewing these reports, along with any accompanying comments or recommendations, shall take appropriate action.

Reporting and Investigation of Firearms Discharge

The manner in which police officers use deadly force and firearms is an extremely critical issue to the department, whether on or off duty, other than for training, ballistics identification or weapons maintenance, legal hunting, legitimate competition, destroying a dangerous or badly injured animal, or target practice at an approved range, he/she will immediately notify the Officer in Charge of the Police Station. The officer shall complete a written report of the incident. (1.3.6a)

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