



# TIVERTON POLICE DEPARTMENT GENERAL ORDERS

<b>Subject:</b> Deadly Force Incidents	<b>General Order Number:</b> 390.12	
<b>Section:</b> 300- Law Enforcement Operations	<b>Subsection:</b> 90- Use of Force/Weapons	
<b>Amends/Supersedes:</b> 3-1, 300.30, 390.12 (09/22/2017)		
<b>Effective Date:</b> 09/22/2017	<b>Revised Date:</b> 01/03/2020	<b>Review Date:</b> As Needed
<b>Per Order Of:</b> Patrick W. Jones, Chief of Police		
<b>RIPAC:</b> 2.23		
<b>Distribution:</b> Sworn Department Members		

NOTE: This written directive is for the internal governance of the Tiverton Police Department, and is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

## I. PURPOSE

The purpose of this policy is to provide guidelines for the investigation of officer-involved shootings and other serious incidents, as defined herein.

## II. POLICY

It is the policy of the Tiverton Police Department that officer-involved shootings and other serious incidents be investigated to determine whether the actions of involved officers conform to applicable law and agency rules, policies, procedures, and training.

## III. DEFINITIONS

**Incident Commander (IC):** The individual responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources. The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all operations at the incident site.

**Involved Officer(s):** Unless otherwise indicated, those sworn officers in on-duty or off-duty status who are involved in a serious incident or are direct witnesses to such an event.

**Qualified Mental Health Professional (QMHP):** An individual who is licensed as a mental health professional and has an in-depth understanding of trauma-related disorders and the law enforcement culture.

**Serious Incident:** For the purposes of this document, a serious incident includes, but is not limited to, the following:

- Any use of deadly force, regardless of whether the employee's actions resulted in injury or death, except as provided below
- Any death or serious injury resulting from, or that occurs during, the course of an agency operation
- Pursuits resulting in serious injury or death
- Employee-involved collisions resulting in death or serious injury

- Matters of an unusually serious nature involving agency employees, to include large-scale event response

Serious Injury: Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

#### IV. PROCEDURES

The following procedures are tailored to address an officer-involved shooting. However, the general guidelines and principles can be used when investigating any serious incident.

- A. Officers involved in an officer-involved shooting shall, to the degree reasonably possible, take initial steps to ensure that any threat from the subject has been eliminated, protect the safety of themselves and others, render first aid where necessary, and preserve evidence.
- B. Notification of Rhode Island Attorney General and Rhode Island State Police  
The department will comply with the current Rhode Island Attorney General's Protocols Regarding use of lethal force incidents, in custody deaths and vehicular pursuits resulting in serious bodily injury. The Attorney General's office has developed investigative protocols regarding the use of lethal force by police officers. These protocols advise that a police agency involved in a lethal force incident promptly notify the Rhode Island State Police and the Rhode Island Attorney General's office of the incident. Both agencies will work with local law enforcement to "conduct the most informed and efficient review [of the incident] as possible. (See Attachment A).
- C. On Scene Supervisor/Officer in Charge (OIC) Responsibilities  
The Supervisor/OIC shall be responsible for ensuring that standard incident response protocols have been implemented. In addition, the Supervisor/OIC shall ensure that the following tasks are addressed, if not previously completed.
  1. Any remaining threats are identified and necessary action is taken.
  2. The physical condition of the involved officer(s), subject(s), and third parties is determined, emergency first aid is provided, if necessary, and emergency medical assistance is summoned.
  3. An adequate inner perimeter is established.
  4. An outer perimeter is established to prevent anyone from entering except those who have a specific function to perform.
  5. All necessary notifications are made, such as those to the
    - a. Chief of Police;
    - b. Patrol Division Commander (Captain);
    - c. Detective Lieutenant;
    - d. On call Detective;
    - e. Rhode Island Office of Attorney General.
    - f. Rhode Island State Police.
  6. A brief public safety statement is taken, preferably by a supervisor, individually from the involved officer(s), covering only information necessary to focus initial law enforcement response and direct the preliminary investigation into the officer-involved shooting. Information obtained should include, where appropriate,
    - a. type of force and weapons used;
    - b. direction and approximate number of shots fired by involved officer(s) and subjects;

- c. location of injured persons;
- d. description of at-large subjects and their direction of travel, time elapsed since the subjects were last seen, and any weapons;
- e. description and location of any known victims or witnesses;
- f. description and location of any known evidence; and
- g. any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large subjects.

D. Incident Commander Responsibilities

The Chief of Police or his/her designee, as soon as practical, shall assign a ranking officer as the Incident Commander (IC). The IC shall meet with the on scene Supervisor/OIC and ensure incident command protocols are in place and all tasks required by the Supervisor/OIC have been completed. The IC shall ensure that the following tasks are addressed, if not previously completed.

1. A command post is established when it appears that an extended on-site investigation will be necessary.
2. An officer is appointed to serve as a “recorder,” with responsibility for making a chronological record of activities at the scene, to include persons present and those who have been at the scene and actions taken by law enforcement or other official personnel.
3. Photographs are taken as soon as possible of the involved officer(s) as they appear at the scene, to include any injuries sustained.
4. A media staging area is identified beyond the outer perimeter and that it is appropriately staffed.
5. Involved officer(s) are directed not to discuss any aspects of the shooting among themselves or with others, with the exception of their attorney, a qualified mental health professional, or authorized investigative personnel.
6. Involved officer(s) are separated and removed from the immediate scene and assigned a companion officer to ensure the physical needs of the involved officer(s) are met and that no statements regarding the incident are made.
7. All potential witnesses are identified and separated and asked to remain on hand to provide a statement. If witnesses wish to leave and there is no legal obligation to detain them, officers should obtain their contact information for future communications.
8. If equipment is available, video recordings are made of the entire incident scene and those present, including witnesses and bystanders.
9. Determinations are made whether video recordings were made by in-car cameras; body-worn cameras; electronic control weapons; and agency, business or private surveillance cameras and that they have been secured as evidence as soon as reasonably possible.
10. Available information is collected about the subject and law enforcement actions from witnesses at the scene.
11. Any clothing or other personal items that may have been discarded or removed from subjects or involved officer(s) by medical personnel are located and secured as evidence.
12. The involved officer(s) weapon(s) is located and secured—or secured in place—and expended ammunition casings are marked.
13. The firearms and other weapons of involved officer(s) are physically checked for evidence of a discharge. Weapons that were fired shall be

secured as evidence, and primary service firearms shall be replaced by a similar firearm as soon as reasonably possible.

14. Where applicable, weapons, ammunition, and expended cartridges used by the subject are located and secured in place.
15. The position(s) of the involved officer(s) and the subject at the time of the shooting are determined and marked.
16. All expended bullets are accounted for. This may include examining walls or other structures and determining if there are any additional victims who may require medical treatment.
17. If an involved officer is transported to the hospital, someone, such as a companion officer or peer support personnel, accompanies or meets them there.
18. If the involved officer is incapable of calling, another agency member notifies the involved officer's immediate family as soon as possible and in person, when reasonably possible. The notification should provide the family members with basic information on the status of the involved officer and when and where they will be able to see the officer.

E. Lead Investigator Responsibilities

The Chief of Police or his/her designee shall assign a lead investigator. The Chief of Police or his/her designee may request that the investigation be conducted by an outside law enforcement agency (i.e. Rhode Island State Police). In the event an outside agency is conducting the investigation, a member of this agency will be assigned to assist. This member will be considered the lead investigator for this agency.

Whenever possible, the lead investigator shall do the following:

1. Receive a briefing from the IC.
2. Confirm that the public safety statement has been collected.
3. Confirm that all items of potential evidentiary value are identified and properly collected.
4. Obtain audio- and/or video-recorded preliminary statements from subjects and witnesses.
5. Canvas the immediate area for potential witnesses who have not come forth and obtain information or statements as available.
6. Obtain search warrants for any vehicles, containers, homes, or vehicles as may be necessary.
7. Where possible, audio- or video-record interviews with emergency medical personnel, fire department personnel, and first responding officers regarding conditions at the incident scene when they arrived to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.
8. Collect information regarding the subject, where appropriate, to include
  - a. information provided by the reporting party;
  - b. involved officer observations of the subject's behavior in the course of the interaction;
  - c. whether others indicated that the subject had been consuming alcohol, using drugs, or both;
  - d. whether the subject had been involved with law enforcement on prior occasions;

- e. the subject's proximity to weapons and whether or not the subject was threatening to use them; and
  - f. whether the subject was visibly injured in any way when law enforcement arrived and what, if any injuries were sustained during the interaction with officers.
9. Gather information regarding the response to the call, to include, where applicable,
- a. the number of involved officer(s) present;
  - b. the relative age, size, strength, and physical ability of the involved officer(s) compared to the subject(s) involved;
  - c. experience and training of the involved officer(s);
  - d. force options available to the involved officer(s);
  - e. basis for subject contact, to include seriousness of offense, if any;
  - f. potential for injury to the public, involved officer(s), or subject(s);
  - g. risk of escape of the subject;
  - h. degree and length of time of subject resistance;
  - i. means used to control or restrain subject;
  - j. legal basis for use of force or custody;
  - k. the behaviors and reactions of the subject once detained or in custody;
  - l. whether emergency medical services was called and, if so, at what point;
  - m. If the subject was seriously injured or admitted to a medical facility:
    - (1) What were the nature and severity of the injuries?
    - (2) Were the injuries consistent with the incident as described by the involved officer(s)?
10. In the event of death, consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy.
11. Prepare a summary report regarding the nature of the officer-involved shooting and include the involved officers' use-of-force reports, where applicable, for submission to the Chief of Police.

F. Administrative Investigation

The goal of the administrative investigation is to determine whether violations of agency policy, procedures, rules, or training occurred and, if so, whether disciplinary action should be recommended or modifications to policy, procedures, or training considered.

- 1. Criminal investigators shall not be present during administrative questioning, and any information gained as a result of administrative interviews cannot be shared with criminal investigators.
- 2. All interviews should be audio- and preferably video-recorded.
- 3. Investigators shall take into account symptoms of post-traumatic stress during involved officer interviews, such as time and space distortions, confusion, and hearing and visual distortions associated with recalling details of the incident, as well as emotional impairment during questioning.
- 4. As appropriate, involved officers who discharged their weapons or used deadly force should be placed on mandatory leave with pay or on administrative assignment.

G. Training

All officers should receive initial and regular training regarding

1. agency policy and applicable laws regarding the investigation of officer-involved shootings;
2. potential negative emotional, psychological, and physical reactions following officer-involved shootings and related available resources; and
3. what to expect following an officer-involved shooting.

V. **ATTACHMENTS**

- A. Rhode Island Attorney General's protocols regarding use of lethal force incidents

**ATTACHMENT A**

# **The Attorney General's Protocol Regarding Use of Deadly Force Incidents and Custodial Deaths**

## **Background**

Two of the most sensitive investigations that law enforcement agencies are called upon to conduct are the investigation of the use of deadly force by a police officer, or the investigation of the death of person in police custody. Experience has shown that these investigations frequently pose complex factual and legal issues, and are closely followed by the public we serve. This model protocol publishes existing policies and practices of the Office of Attorney General in such investigations.

## **When the Protocol should be utilized:**

- This Protocol should be used whenever the use of deadly force by police results in the death or injury of any person.
- This Protocol should be used whenever any person dies while in police custody, or during the apprehension or attempted apprehension of any person.
- It is recommended that Protocol be used whenever deadly force is used that does not result in any injury.
- The Protocol may be used to review any incident in which the action or conduct of police has resulted, directly or indirectly , in the injury to any civilian whose conduct was not the focus of police activity.
- Whenever deadly force is used, whether or not a person is injured, the police department utilizing the force should immediate ly notify the Attorney General and either the Rhode Island State Police (if deadly force was used by a municipal Jaw enforcement agency) or the appropriate municipal law enforcement agency (if deadly force was used by the Rhode Island State Police). This notification should occur regardless of whether a multi-agency investigative team is utilized.

## **What the Office of Attorney General will do:**

- As a general rule, present to a grand jury every police-involved deadly force incident resulting in a fatality. Our review of non-fatal incidents and custodial deaths may be concluded without a formal grand jury presentation.
- Utilize multi-agency investigative teams to review officer-involved deadly force and custodial death incidents. Ordinarily, the Rhode Island State Police and the

police department in whose jurisdiction the incident took place will comprise the investigative team.

- Assign a senior prosecutor (or prosecutors) to work with your investigators and to provide legal advice throughout the course of your investigation .
- Make available . other office resources including assistance with public information and public records requests.

**What the law enforcement agency should do when an officer involved deadly force incident occurs:**

- Promptly notify the Rhode Island State Police (444-1000) and the Office of Attorney General. (After hours, a prosecutor may be reached through the Attorney General' s BCI Unit at 421-5268.) In the case of incidents involving the Rhode Island State Police, they will notify the municipal law enforcement agency having jurisdiction over the location of the incident.
- Keeping in mind the value of a multi-agency investigation, investigative steps taken prior to assembly of the multi-agency team should be limited to those necessary to preserve evidence or those required due to other exigent circumstances.
- The Chief of law enforcement agency whose officer utilized deadly force should normally serve as the primary point of contact for media inquiries, and coordinate responses with the investigative team.

**What the Investigative Team will do:**

- The Investigative Team will be made up of experienced investigators working together to conduct the most informed and efficient review possible, and will work with the Office of Attorney General to review the circumstances of the incident. For grand jury investigations, the investigators will be sworn as grand jury investigators subject to the rules governing grand jury investigations.

(Revised February, 2007)