
Officer-Involved Shootings and Deaths

302.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of another action of an officer.

In other incidents not covered by this policy, the Chief Probation Officer may decide that the investigation will follow the process provided in this policy.

302.2 POLICY

The policy of the Humboldt County Probation Department (HCPD) is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair, and impartial manner.

302.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation into policy compliance by involved officers.
- A civil investigation to determine potential liability.

302.3.1 CRIMINAL INVESTIGATIONS

The Chief Probation Officer should request that the law enforcement agency in whose jurisdiction the conduct occurred perform a criminal investigation into both the involved officer and the suspect.

The HCPD is a signatory of the Humboldt County Critical Incident Response Team (HCCIRT) protocol. In the event of an officer-involved shooting, the Chief Probation Officer or designee should initiate the protocol as outlined in the HCIRT Memorandum of Understanding.

302.3.2 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the HCPD should conduct an administrative and civil investigation of each involved officer.

302.4 INVESTIGATION PROCESS

These procedures are guidelines used in the investigation of an officer-involved shooting or death.

302.4.1 OFFICER RESPONSIBILITIES

The officer should, as appropriate:

- (a) Notify a supervisor.
- (b) Notify the appropriate local law enforcement agency.
- (c) Request appropriate emergency medical services.

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- (d) Request additional resources from the Department or other law enforcement agencies.

302.4.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the HCPD supervisor should ensure completion of the duties outlined above, plus:

- (a) In the event a law enforcement investigator has not arrived, attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from the involved officer.
- (b) Each involved HCPD officer should be given an administrative order not to discuss the incident with other involved officers or HCPD members pending further direction from a supervisor.
- (c) As soon as practicable, in coordination with the supervising officer of the law enforcement investigator in charge of the criminal investigation, request that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 1. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that the officer is provided with appropriate security.

302.4.3 NOTIFICATIONS

The supervisor is responsible for notification to the following persons as soon as practicable:

- Chief Probation Officer

The Chief Probation Officer or designee is responsible for notification of the following persons as soon as practicable:

- District Attorney
- County Attorney
- Outside agency investigators
- Psychological/peer support personnel
- Clergy, if requested
- Presiding judge
- *Involved officer's agency representative, if requested*

302.4.4 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated.

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1. Involved HCPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
 - (c) Discussions with employee groups will be privileged only as to the discussion of non-criminal information.
 - (d) A licensed psychotherapist should be provided by the Department to each involved HCPD officer. A licensed psychotherapist may also be provided to any other affected HCPD members, upon request.
 1. Interviews with a licensed psychotherapist will be considered privileged.
 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, the involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
 - (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until law enforcement investigators or lab personnel can properly retrieve it.

Each involved HCPD officer should be given reasonable paid administrative leave after an officer-involved shooting or death. It shall be the responsibility of the Chief Probation Officer to make schedule adjustments to accommodate such leave.

302.5 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the determination as to whether criminal charges are filed as a result of any officer-involved shooting involving injury or death.

Criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) HCPD supervisors should not participate directly in any voluntary interview of HCPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) Any voluntary statement provided by an involved officer will be made available for any related investigation, including administrative investigations. However, no

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administratively coerced statement will be provided to any criminal investigators unless the officer consents.

302.5.1 REPORTS BY INVOLVED HCPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved HCPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved HCPD officer may write the report, it is generally preferred that such reports be limited to the report completed by the criminal investigators.

Nothing in this section shall be construed to deprive an involved HCPD officer of the right to consult with legal counsel prior to completing any such criminal report.

302.6 ADMINISTRATIVE INVESTIGATIONS

In addition to all other investigations associated with the incident, this department will conduct an internal administrative investigation of involved HCPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Chief Probation Officer or the authorized designee and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws.

- (a) Any involved officer may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 1. If 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 duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of the prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 1. 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.
 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, to maintain the integrity of each individual officer's statement, involved officers shall not consult

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or meet with a representative collectively or in groups prior to being interviewed (Government Code § 3303(i)).

3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, the officer should be given *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
5. The assigned investigator shall compile all relevant information and reports necessary for the Chief Probation Officer to determine compliance with policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

302.7 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review any video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-department witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available video or audio recordings with the approval of assigned investigators or a supervisor.

Any video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or County Attorney, as appropriate.

302.8 DEBRIEFING

The HCPD should conduct both a critical incident stress debriefing and a tactical debriefing.

302.8.1 CRITICAL INCIDENT STRESS DEBRIEFING

A critical incident stress debriefing should occur as soon as practicable. The Division Director is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing should only include those members of the Department directly involved in the incident. Family or other support personnel may attend with the concurrence of

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those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory personnel and personnel assigned to conduct administrative investigations of this incident.

302.8.2 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief Probation Officer should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to the criminal and/or administrative investigators.

302.9 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the investigating law enforcement agencies. Releases will be available to the Chief Probation Officer and assigned investigators in the event of inquiries from the media.

No involved HCPD officer shall comment to the media unless authorized by the Chief Probation Officer and the assigned law enforcement agency.

302.10 REPORTING

If the death, or shooting, of an individual occurs in any incident involving an officer of the HCPD and qualifies to be reported to the state, the Chief Probation Officer will ensure that the Legal Office Service Manager is provided with enough information to meet the reporting requirements (Government Code § 12525.2; Government Code § 12525).