DAYTON POLICE DEPARTMENT
GENERAL ORDER
OFFICER INVOLVED SHOOTING

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POLICY STATEMENT

It is the policy of the Dayton Police Department that officer-involved shootings, whether on or off duty, be investigated so as to determine whether officer actions conform to applicable laws and this department's policy, procedures, rules, and training.

Rapidly evolving situations and exigent circumstances may require an officer to respond using force options readily at hand, in addition to or in place of firearms, other tools or other means. Any reference to firearms use in this policy is to be construed to include any means of deadly force response. Response to resistance or aggression will be in accordance with the objective reasonableness standard established in the Supreme Court case of *Graham v. Conner 490 U.S. 386, 109 S. Ct. 1865* and the criteria established in the Supreme Court case of *Tennessee v. Garner, 471 U.S. 1 (1985)*. These court cases are outlined in greater detail in General Order 3.03-2 Citizen Resistance/Non-Compliance.

It is recognized that in unique circumstances, exceptions to the following procedures may be approved by the Chief of Police or his designee. Every use of Deadly Force will be reviewed on a case-by-case basis to determine the reasonableness of the officer's actions.

DEFINITIONS

Critical Incident - An incident that is unusual, is violent, and involves perceived threat to, or actual loss of, human life. The incident is a significant emotional event that breaks through an individual's normal coping mechanisms and may cause extreme psychological distress.

Involved Officers - Unless otherwise indicated, refers to those sworn personnel in on-duty or off-duty status who discharge their firearm in a hostile situation or by accident; arrest or are in the process of arresting an individual who subsequently dies; engage in other serious uses of force; and are direct witnesses to such events.

Officer-Involved Shooting - Anytime an officer discharges a firearm at another person, regardless of whether that person is struck by the projectile, and regardless of whether the officer is on or off duty.

Accidental Discharge – Any unintentional discharge of an officer's firearm. See General Order 3.03-2 Section II.A.2.

Firearms Discharge Involving Animals - Anytime an officer discharges a firearm to kill a dangerous animal or one so badly injured that humaneness requires an immediate end its suffering. See General Order 3.03-6.

I. PROCEDURES

A. Officers shall be thoroughly familiar with General Order 3.03-7 Post-Critical Incident Personnel Support. Efforts to mitigate the potential effects of critical incident stress, combined with professionally accepted investigative procedures, provide the best opportunity for establishing an accurate record of events surrounding officer-involved shootings.

B. Officers involved in a shooting incident shall, to the degree reasonably possible, take initial steps to protect their safety and to preserve evidence.

C. Incident Command Responsibilities - The ranking officer at the scene shall serve as incident commander (IC) and brief supervisors of the investigation status when turning over IC responsibility. The IC shall assign responsibility for completion of the following tasks as appropriate and in the order deemed necessary.

1. Identify any remaining threats and take necessary action.

2. Determine the physical condition of officers, suspects, and third parties; provide emergency first aid if necessary; and ensure that emergency medical assistance has been summoned.

3. Ensure that a brief Public Safety Statement is collected individually from the involved officer(s), covering only information necessary to focus initial police response and direct the preliminary investigation. This includes information on:

   a. type of force used;
   b. direction and approximate number of shots fired by officers and suspects;
   c. location of injured persons;
   d. description of at-large suspects and their direction of travel, time elapsed since the suspects were last seen, and any suspect 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 suspects.

4. Ensure the adequacy of the inner perimeter (Crime Scene). Direct that an outer perimeter be established to prevent all from entering except those who have a specific function to perform. Ensure the names of all those who enter the inner perimeter are recorded.

5. Locate and secure-or secure in place-the officers' weapon(s) and mark expended ammunition casings. Physically check the firearms and other weapons of all officers who were present during the incident for evidence of a discharge. Weapons that were fired shall be secured as evidence, and primary service firearms shall be immediately replaced by a similar firearm.

6. Locate and secure in place weapons, ammunition, and expended cartridges used by the suspect.

7. Collect information available about the suspect from anyone at the scene.

8. Ensure that all potential witnesses have been identified and separated and ask that they remain on hand to provide a statement. If witnesses wish to leave, obtain their contact information for future communications, and attempt to obtain a written statement.

9. Locate and secure as evidence any clothing or other personal items that may have been discarded or removed from suspects or officers by medical personnel.

10. Determine and mark the position(s) of the officers and the suspects at the time of the shooting.

11. Separate and remove all involved officers from the immediate scene. One designated supervisor or their designee should remain with the involved officer. Contact with those not directly involved in the investigation should be avoided. The supervisor should explain the investigative and post-shooting process to the involved officer.

12. Direct all involved officers 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. FOP and Peer Support representatives may offer support to the involved officer(s); however, they may not discuss the incident and the designated supervisor shall remain with the involved officer.

13. If an officer is transported to the hospital, ensure that a designated supervisor accompanies or meets them there.

    a. The designated supervisor should provide all reasonable support to the involved officer and act as liaison between the officer and the hospital.

    b. If the officer is incapable of calling, the designated supervisor shall notify or ensure that another department member notifies his or her immediate family as soon as possible and in person, whenever reasonably possible. The notification shall provide the family members with basic information on the status of the officer and when and where they will be able to see him or her. At this time the designated supervisor shall arrange for their transportation to the hospital or other location as required. In the case of serious injury or death, notifications shall be conducted in conformance with the department's Death Notification policy.

14. Whenever possible, photograph officers as they appear at the scene, to include any injuries sustained.

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15. Offer a peer support counselor to the involved officer's family for security, support, and management of media inquiries and visitors.

16. Ensure all necessary department notifications have been made, such as those to the following (See General Order 1.07-1 Section X.A):

    - Chief, Assistant Chief, and Chief of Operations
    - Division Commander
    - Homicide Squad
    - Professional Standards
    - Crime Scene Investigator
    - Police Information Specialist
    - Coroner or medical examiner
    - Law Department
    - PACT chaplain, FOP representative, qualified mental health professional, or peer support program coordinator

17. Establish a command post when it appears that an extended on-site investigation will be necessary.

18. Appoint an officer 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 police, EMTs, or other personnel.

19. If equipment is available, ensure that video recordings are made of the entire crime scene and those present, including witnesses and bystanders. Determine if video recordings were made by in-car cameras, electronic control weapons, or surveillance cameras and secure them as evidence as soon as reasonably possible.

20. Ensure that a media staging area is established beyond the outer perimeter and that it is appropriately staffed.

21. After participating in the criminal and initial administrative investigations, place officers who discharged their weapons on administrative leave with pay.

22. The agency shall facilitate contact with, and involved officers will make themselves available to meet with, the department's designated qualified mental health provider within 24 hours of the incident, as prescribed by this department's policies on Post-Shooting Personnel Support.

II. ON-DUTY OFFICER'S RESPONSIBILITIES

A. Whenever an on-duty officer discharges a firearm, except on an approved target, or becomes aware of information concerning a firearms discharge by another officer or allegations that they or another officer have discharged a firearm under such circumstances, they must immediately notify an on-duty supervisor. In the event that a supervisory officer is involved in a use of firearms incident, a supervisor of higher rank will be notified of the incident.

B. Unless hostile conditions or serious injuries dictate otherwise, officers should remain on the scene of the discharge of firearms with suspects and witnesses until the arrival of the investigating supervisor.

C. As soon as safely possible, officers must assess the scene to determine the extent of injuries to officers and/or others, and immediately request appropriate medical assistance.

D. When the investigating supervisor arrives, the officer(s) involved in the incident will provide a public safety statement regarding the incident.

E. Unless a person has received a gunshot wound or other serious injury requiring removal, all suspects and witnesses should be detained at the scene until arrival of the investigating supervisor. Witnesses and suspects should be separated to prevent them from discussing the incident. If that is not immediately possible,

responding officers should maintain visual and auditory contact and instruct all persons that they are not to discuss the incident other than with identified investigatory personnel.

1. In the event that immediate medical attention is required, removal of a person shot by an officer to a hospital should be made by conveyance other than the involved officer(s), if possible.

2. Every attempt should be made to contact and identify witnesses to the incident and to request that they remain on the scene until the investigating supervisor arrives.

F. Any on-duty officer who witnesses a discharge of firearms by another officer, has knowledge concerning or becomes aware of allegations of discharge of firearms by another officer will ensure that an on-duty supervisor is aware of the incident.

III. OFF-DUTY OFFICERS' RESPONSIBILITIES

A. Whenever an off-duty officer discharges a firearm in the performance of police duty or becomes aware of allegations of discharge of firearms against them in the performance of police duty, they must notify the Regional Dispatch Center (RDC) of the incident as soon as possible and also request contact with an on-duty supervisor as specified in Section II. of this policy to respond to the scene to investigate the incident. Investigating supervisors will follow the procedures established in section II. A-D.

B. If an off-duty officer discharges a firearm in the performance of police duty outside the corporate limits of the City of Dayton, the officer involved will ensure the appropriate local police jurisdiction is notified and requested to respond to the scene in addition to contacting the RDC and an on-duty supervisor. The on-duty supervisor will contact Professional Standards immediately. After consideration of the circumstances, the Professional Standards Commander may request that the on-duty supervisor be dispatched to the scene to initiate the investigation pending the response of Professional Standards personnel.

C. Off-duty officers that have an accidental firearms discharge will refer to General Order 3.03-2 Section II.A.3.

D. Off-duty officers that have a firearms discharge involving animals will refer to General Order 3.03-6.

IV. INVESTIGATION BY SUPERVISORS, SPECIALIZED UNITS, OR OTHER COMMAND OFFICERS

A. Supervisors who are notified of a discharge of firearms have particular responsibilities to protect the scene, secure evidence, identify and isolate witnesses and involved police personnel. No one is to have communication with any witness or involved police personnel without permission of the ranking Homicide or PSB supervisor at the scene or the ranking Command Officer at the scene.

B. Professional Standards will be immediately contacted. Professional Standards will conduct an independent investigation of **ALL** instances where an officer discharges a weapon other than under circumstances described in General Order 3.03-2 Sections II.A.1.b.(4). or II.A.1.d. or accidental discharges where recklessness or risk of injury to another person did not occur.

Homicide Unit detectives will be immediately contacted to investigate any incident within the corporate limits of the City of Dayton in which an officer has shot or intentionally shot at another person or has been shot by another person.

C. In addition to making appropriate assignments to assure care for injured persons and to secure the scene of the incident, the initial responding supervisor has special responsibilities relating to discharge of firearms by officers:

1. The first responding supervisor(s) must immediately determine if anyone is in need of medical assistance. If needed, appropriate medical assistance will be rendered or requested.

2. The supervisor(s) must then immediately identify police personnel who discharged a firearm or who witnessed this happen. The supervisor should then ask questions to establish the public safety statement:

   a. The location of first contact with the subject(s) against whom the force was used.

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b. The path of the subject(s) from the point of first contact to arrest or conclusion of the contact.
c. The description of outstanding suspect(s) and their direction of travel, time elapsed since the suspect was last seen, and any suspect weapon(s).
d. The approximate location(s) of the discharge of firearm(s) and the number of shots fired by the involved officer(s) and suspect(s).
e. The location of any injured persons.
f. Description and location of any known victims or witnesses.
g. Description and location of any known evidence.
h. Information of any existing threat or any information immediately necessary to apprehend the subject, preserve evidence and protect the public.

3. If the situation remains hostile as a result of the shooting, the officer involved will be removed from the immediate scene, preferably to a nearby cruiser, pending the arrival of Professional Standards.

4. No officer will remain at a shooting scene with an empty holster or unloaded firearm. The Supervisor will exchange their weapon for the officer's. Professional Standards will count the rounds in the chamber and magazine(s), attempt to locate and secure any spent shell casing from the area and supply replacement weapons and ammunition for the officer.

5. Once a Homicide supervisor arrives on scene, the Homicide supervisor will assume command of the scene and maintain the integrity of the incident scene. No one will be permitted within the incident scene without the permission of the Homicide supervisor and without being escorted by the supervisor or their designee. The Homicide supervisor will also confirm the Public Safety Statement from the involved officer(s).

6. Professional Standards will transport the involved officer to the designated medical provider for the required administrative test as soon as possible after the public safety statement is obtained. The officer will then be transported to the Homicide Unit prior to being released.

7. Homicide investigators will conduct a formal interview with the involved officer(s). Interviews beyond the Public Safety Statement may be affected by the ability of Homicide Investigators to be properly prepared to conduct the interview. Factors influencing the timing of the formal interview could include the investigators need to interview other witnesses, the officer's functional ability to participate in the interview, and the specific circumstances of the incident being investigated.

   The involved officer may be afforded the opportunity to review the scene with homicide investigators as well as the officer's cruiser camera video recording of the incident prior to the interview as determined by the IAS Commander. Once completed, the involved officer will obtain a new duty firearm from the Police Academy.

D. PROFESSIONAL STANDARDS INVESTIGATOR'S RESPONSIBILITIES

1. Auxiliary Glock ammunition and Glock firearms are retained by Professional Standards. The Investigating Professional Standards Team will be responsible for supplying replacement weapons and ammunition to officers involved in a shooting.

2. Professional Standards will conduct their investigation concurrently but separately from any criminal investigation which is required by the Homicide or other investigative unit, or another law enforcement agency. Completion of the criminal investigation will necessarily take precedence over the administrative investigation.

3. Professional Standards may collect uniform items and/or equipment from an officer involved in a shooting or other serious incident. When the officer returns to duty, the range and the property room may have some replacement items available. The Professional Standards Bureau Commander must approve the purchase of any other replacement items.

E. FIREARMS DISCHARGES RESULTING IN INJURY OR DEATH OR OTHER CRITICAL INCIDENTS

1. Any officer whose discharge of a firearm results in the injury or death of another person will be placed on short-term Administrative Leave with full pay and benefits for a period of up to three work days. Other incidents may necessitate the use of Administrative Leave, and should be evaluated on a case-by-case basis by the Chief or his designee.

2. Placing the officer on Administrative Leave is intended to serve two purposes:

   a. Give the Command Staff enough time to conduct an administrative review of the incident based on briefings from Professional Standards and/or other units assigned to investigate the incident.

   b. To insure that no psychological trauma exists, from the incident, sufficient to impair the officer's ability to exercise normal police duties.

3. The length of this leave will be determined, in part, by incident circumstances revealed in the administrative review and, in part, by the initial evaluation of the officer's psychological condition as determined by the counselor provided under the Stress Counseling Program, by subsequent counseling help, either through the city sponsored program or of the officer's own choosing, and by the Assistant Chief of Police. The Assistant Chief of Police may authorize Administrative Leave for up to 80 work hours if deemed necessary. Any leave beyond that period would be subject to the sick leave policy and contractual restrictions to personal leave.

4. It will be the responsibility of the officer's commander to schedule, within 24 hours, one initial and one follow up counseling session with a professional counselor as provided in the Stress Counseling policy **General Order 1.02-17**. Attendance at this session is mandatory. Officers seeking private counsel may do so subsequent to the initial session, but may bear the expense. Officers are encouraged to consult a Peer Counselor for individual details.

5. Should additional counseling be necessary, it will be provided as part or all of the officer's regular tour of duty. The officer's work time is to be adjusted to allow the counseling process to take place.

6. Pending court appearances may be rescheduled at the discretion of the Division Commander while the officer is on Administrative Leave.

7. When an officer receives approval to return to duty, the Assistant Chief will consider assignment of the officer using the following criteria:

   a. Community attitudes are such that confrontations are likely. Therefore, assignment to another Division/Bureau or assignment to a function in the department where contact with the public is minimal may be necessary.

   b. The Firearms Committee has recommended disciplinary action and the officer may face criminal and/or administrative action.

   c. The incident was of such a nature that no special assignment of the officer is necessary.

V. FIREARMS REVIEW COMMITTEE

A. The Firearms Review Committee reviews the circumstances surrounding each incident where an officer has discharged a weapon except at a target range, certain discharges involving animals and when non-lethal munitions when the projectile does not penetrate the body. Unique circumstances may negate the necessity of a Firearms Committee. The Chief of Police will determine whether a Firearms Committee is necessary. Members of the Firearms Committee are chosen to enable an objective ruling.

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The voting members of the Firearms Committee are:

- The Assistant Chief, or their designee, as Chairperson.
- One Division Commander from a division other than that of the involved officer.
- One Lieutenant of a higher rank, from a unit other than that of the involved officer.

Non-voting members of the Firearms Committee are:

- The Supervisor of Firearms Training will be notified and may attend as a non-voting member to clarify firearm related issues.
- The Department Advocate will attend all Firearms Hearings in an advisory capacity but will be a non-voting member.
- The involved officer's Division Commander, Watch Commander, or immediate supervisor may testify at the hearing; however, they do **not** have voting privileges.

The members of the Firearms Review Committee might be altered if the involved officer has a rank of Lieutenant or above. The Assistant Chief will determine the members of any Firearms Committee with the approval of the Chief of Police.

B. The majority vote will be the rule in determining the outcome of the hearing. Dissenting views may be presented in separate reports.

C. Professional Standards will make the necessary notifications of the date, time and location of the hearing.

D. The Chairperson will convene the committee when they have **all** available investigative reports.

E. Firearms Hearing

1. The Professional Standards Bureau Commander will open the hearing by identifying those persons present and giving a short statement concerning the shooting incident. The duties of the voting members will also be explained.

2. The assigned case detective from Professional Standards will prepare and present the case to the Committee.

F. Authority of the Committee

1. The Committee is authorized to review the circumstances involved in each discharge of a firearm for which it is convened.

2. The purpose of this review is to determine if any of the following recommendations are to be made to the Chief of Police:

   a. A violation of any portion of this policy has occurred.

   b. There is a need for a change in the procedural or legal wording of the policy.

   c. There is a need for a change in the current method of Firearms training.

   d. There is a need for additional individual training of the officers who are the subject of the review.

   e. The committee will also make any recommendations necessary for violations of this policy.

G. The recommendations and conclusions of the Firearms Review Committee will be forwarded to the Chief of Police for their review and disposition. They will be submitted in the form of a Special Report and will become a part of the record of the Firearms Hearing.