

POLICIES, PROCEDURES, AND RULES

Subject: 1.3.6 Officer-involved Shooting	Effective Date: July 28, 2020
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CALEA: 4.1.5, 4.2.1, 4.2.3	No. Pages 8

I. PURPOSE

The intent of this policy is to establish procedures for the response and investigation of officer-involved shootings, on duty or off duty, and to ensure that such incidents be investigated in a thorough, fair and impartial manner.

II. DISCUSSION

It is important employees know what to expect before a shooting occurs. This policy will outline the steps to be taken when:

- An officer fires his/her weapon at any person; or
- An officer fires his/her weapon and strikes any person.

An officer firing his/her weapon in training, practice, or for the humane termination of a critically wounded animal is not applicable to this policy.

III. DEFINITIONS

Deadly Force: Deadly force is force which may cause death or grave injury or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or grave injury.

Reasonable Belief: Reasonable belief is fact or circumstances an officer knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

Officer-Involved Shooting: For the purpose of this policy, an officer-involved shooting is defined as any shooting where an officer fires his/her weapon at any person, or an officer fires his/her weapon and strikes any person. This includes officer-involved shootings on-duty, off-duty, and the unintentional discharge of a firearm resulting in injury to another person.

Internal/Office of Professional Standards (OPS) Investigation: An investigation conducted to evaluate adherence to department policies, procedures, and rules.

Shooting team: Investigators assigned by the Chief of Police or his designee to conduct an internal investigation into the events of an officer-involved shooting.

Criminal Investigation: A criminal investigation is an investigation conducted by Fayetteville Police Department investigators and/or investigators from an outside agency. The purpose of the criminal investigation is to determine if any laws were violated by employees and/or other involved subjects.

Critical Stress Debriefing: Is a supportive, crisis focused discussion of a traumatic event. It is used exclusively for small groups who have encountered a powerful traumatic event. It aims at reduction of distress and a restoration of group cohesion and unit performance. A debriefing will be led by the peer to peer support program, the Chaplain or an equally trained organization.

Employee Assistance Program: The City of Fayetteville Employee Assistance Program is a benefit provided to City of Fayetteville employees that allows employees and/or their family members to receive counseling sessions.

IV. POLICY

- A. The Fayetteville Police Department recognizes officer-involved shootings involve serious decisions and actions, and shooting incidents deserve immediate and objective review. Incidents shall be critically examined in order to protect both the interests of the public and involved employees. The Fayetteville Police Department is responsible for the completion of criminal and internal investigations related to officer-involved shootings within their jurisdiction; however, this responsibility will be relinquished in criminal investigations to another agency in most situations involving injury or death.

V. PROCEDURE

A. Crime Scene

For the purpose of this policy, the below listed steps shall be taken after the crime scene has been secured and there is no longer an immediate threat to officer safety. The Fayetteville Police Department recognizes that an officer who has been involved in a shooting may have memory loss and other physiological reactions caused by the shooting incident. For that reason, the following listed procedures shall be followed:

1. Digital Mobile Video Recorders (DMVR) and/or body worn cameras shall not be turned off by any officer until he/she has been instructed to do so by a supervisor, or until the officer leaves the scene(s) of the incident. Supervisors should make exceptions for officers having private conversations with their legal representatives and/or family members.
2. Immediately after the scene has been determined to be safe, officers shall provide first aid to the extent possible to any person who has been injured [CALEA 4.1.5].

3. Officers shall advise Central Dispatch Center (CDC) to request an ambulance to treat anyone who is in need of medical care.
4. The officer(s) shall request an on-duty supervisor respond to officer-involved shooting scenes.
5. The officer(s) on the scene of a shooting shall secure the crime scene to the extent possible so as not to destroy any evidence that may be of importance to the investigation.
6. An on-duty supervisor shall immediately respond to the scene of the shooting and ensure:
 - a. All medical needs have been addressed;
 - b. The crime scene has been adequately secured;
 - c. The Chief of Police shall be notified through the chain of command immediately;
 - d. Additional personnel or resources have been requested through CDC; and
 - e. CDC has contacted the Public Information Officer to respond to the scene to manage media inquiries.
7. The first responding on-duty supervisor shall maintain control of the shooting scene until he/she is relieved of that duty by appropriate personnel. The supervisor in charge of the scene shall cause a shooting scene log to be kept documenting any and all individuals entering the scene.
8. The on-duty supervisor shall specifically ask each officer at the scene of a shooting if they have been injured. Any injuries shall be documented and photographed, and the supervisor shall ensure injured officers receive medical treatment. The on-duty supervisor shall ensure appropriate worker's compensation paperwork is completed.
9. The officer(s) involved in the shooting who fires his/her weapon shall give a brief account to the first responding supervisor of the sequence of events. This shall include the nature of the initial call or encounter, the number of subjects and/or witnesses who were involved, and any information the officer feels is critical for the initial report, investigation, or public safety.
10. The officer's supervisor at the time of the incident will be responsible for ensuring that personnel involved in the shooting file reports in a timely manner [CALEA 4.2.1a].
11. All officers involved in the incident, regardless if they fired their weapon, shall return to the police department as soon as released by a supervisor. When necessary, officers will be driven from the scene to the police department.

B. Upon Return to the Police Department

1. Officers who were involved in the shooting shall be given time to contact family members, legal representatives, pastors, peers, and/or other support personnel the officer deems necessary.
2. The involved officer(s) who fired his/her weapon shall not be isolated. A peer to peer support team member, neutral peer and/or supervisor shall be assigned to accompany and support the officer until the officer has been released to leave the department. The support officer shall not question the involved officer about the shooting.
3. In a private setting at the police department, a supervisor shall retrieve the involved officer's fired weapon for investigation and immediately exchange it with a replacement handgun. If a long gun was fired, it shall be at the discretion of the Chief of Police, or his designee, if the long gun is to be replaced, dependent on the availability of weapons.
4. The immediate supervisor shall collect discharged firearms and maintain strict custody of the firearms until released to the criminal investigation team or submitted to the Property and Evidence Division. Appropriate paperwork will be completed to document the exchange.
5. All officers who were present at the scene of a shooting shall have their weapons inspected, photographed and documented to verify shots were or were not fired. This shall be done in a private setting at the police department by a supervisor or the criminal investigators.
6. As soon as possible following a shooting, the shooting team shall inform the involved officer(s) of the administrative and investigative process that will follow. The officer shall be given a point of contact at the police department so that any questions or concerns the officer has can be addressed.
7. When the involved officer is released by the shooting team to go home, he/she will be provided transportation as needed.
8. The officer(s) shall be kept informed of the status of the internal and criminal investigations as is practicable.

C. Internal Investigation

1. The Chief of Police or his designee will select members for a shooting team immediately following an officer-involved shooting. The shooting team shall answer directly to the Chief of Police.
2. The shooting team's internal investigation shall focus on Fayetteville Police Department policies, procedures and rules. This investigation will be separate from the independent criminal investigation.

3. All internal shooting team investigations shall be conducted in a thorough and efficient manner. Shooting team investigations shall take priority over other assignments and shall be completed as timely as possible.
4. All employees shall cooperate with the shooting team, and no employee shall interfere in any way with the investigation.
5. The officer involved in the shooting will be given a chance to recover from the traumatic event before he / she will be required to give a formal interview with the shooting team.
 - a. The involved officer(s) shall be afforded the opportunity to have legal representation present during internal interviews conducted by the shooting team.
 - b. Prior to an internal investigation interview, the officer/s shall be afforded the review of his/her Garrity Warning.
 - c. All interviews shall be audio recorded.
 - d. The involved officer(s) will be compensated for time spent participating in the internal and criminal investigation.
 - e. If an officer refuses to answer questions during an internal investigation, he/she will be given a direct order to answer the questions. If the officer refuses, he/she will face discipline up to and including termination.
6. An employee's compelled statements made during an internal investigation shall not be used against that employee in any criminal investigation.
7. Once the internal investigation is complete, it shall be submitted to and reviewed by the head of the Office of Professional Standards (OPS). The investigation findings shall then be delivered to the Chief of Police. The Chief of Police shall determine what actions are to be taken.

D. Criminal Investigation

1. When an officer fires his/her weapon, the Chief of Police may request an independent criminal investigation by an outside police agency to determine if any law was broken by the officer(s) and/or the other involved subject(s). If an officer fires his/her weapon and causes injury or death of another person, the Chief of Police shall request an independent criminal investigation by an outside police agency to determine if any law was broken by the officer(s) and/or the other involved subject(s). It shall be the Chief of Police or his designee's discretion as to which, if any, outside agency shall be utilized.
2. The Chief of Police or his designee shall notify the Washington County Prosecuting Attorney about the shooting as soon as possible to allow the prosecutor the opportunity to visit and examine the crime scene.
3. The criminal investigators shall have priority to the crime scene, and they will allow the shooting team access once critical evidence has been identified and preserved.

4. During criminal investigation interviews of police department personnel, all constitutional guarantees shall be afforded to personnel as would be afforded to any citizen.
5. When circumstances dictate the criminal investigation is to be conducted by the Fayetteville Police Department Criminal Investigation Division, the supervisor in charge of the investigation shall keep the Chief of Police or his designee informed of the progress of the investigation.
 - a. When the investigation has concluded, the Chief of Police shall review the findings.
 - b. After a review of the findings, the Chief of Police shall direct the supervisor in charge of the investigation to forward the case file to the Washington County Prosecuting Attorney's Office for review.
 - c. The criminal investigation shall not be considered complete and/or closed until the investigation and findings have been reviewed by the prosecutor.
 - d. It is recognized the prosecutor may request additional interviews or investigation, and therefore the criminal investigation shall not be released to anyone other than the prosecutor and/or Fayetteville City Attorney, until the investigation has been reviewed and is officially completed and closed.

E. Administrative Leave

1. It shall be the policy of the Fayetteville Police Department that any officer who fires his/her weapon at any person, or who fires his/her weapon and strikes any person, shall be removed from line-duty assignment [CALEA 4.2.3] and placed on paid administrative leave. The Chief of Police is the ultimate authority and may deem it necessary to place other employees on paid administrative leave.
2. Paid administrative leave is a matter of policy and should not be interpreted to imply or indicate the officer(s) has acted properly or improperly. Administrative leave is not a disciplinary action.
3. At all times while on administrative leave, the officer(s) shall remain available to investigators.
4. The Chief of Police is the ultimate authority who shall decide when an officer is to return to work and in what capacity.
5. An officer who has been on leave pursuant to this policy shall qualify with his/her duty weapon(s) prior to returning to his/her regular duty assignment.

F. Return of Weapons

1. The examination and testing of firearms may take several weeks and/or months to complete. When an officer's weapon is returned to the police

department, and it is no longer needed by the Washington County or Fayetteville City Prosecutor, the firearm shall be inspected by a certified armorer to determine if the weapon is safe to reissue.

G. Employee Assistance

1. When an officer is involved in a shooting, it shall be the policy of the Fayetteville Police Department to provide services to the officer, including but not limited to, critical stress debriefing involving a professionally recognized counselor, chaplain, medical doctor, and/or peer group. The Chief of Police shall be responsible for selecting who is to be used for the critical stress debriefing. Critical stress debriefing should normally be held within the first seventy-two hours following the incident.
2. It shall be mandatory for officers who discharge their weapon at any person, or who has been shot, to attend the Employee Assistance Program and follow the treatment plan given.
3. The Chief of Police may choose to refer employees to an alternate mental healthcare professional who specializes in counseling for law enforcement personnel in place of the Employee Assistance Program.
4. An employee who was present during a shooting, but did not fire his/her weapon, or at whom a weapon was fired, shall be offered the option of the Employee Assistance Program.
5. An officer(s) involved in a shooting shall be given adequate time from work deemed necessary by the employee and the Chief of Police.
6. The Chief of Police has the discretion to require an employee to participate in an independent fitness for duty evaluation. If the Chief of Police determines there is a question about an employee's fitness for duty, the evaluation will not be conducted by any healthcare professional that provided post-shooting intervention and/or counseling.

H. Employee Injury

1. All police department employees shall complete a Line of Duty Death/Serious Injury Personal Information Sheet (LODD form) annually.
2. The Administrative Captain will distribute LODD forms for completion and revision annually.
3. Completed LODD forms shall be maintained in each employee's administrative file at the police department.
4. In most cases, notification shall be made by a member of the department's administration with assistance of the department's chaplain anytime there is an on-duty employee death, serious injury or serious illness. Depending on

the situation, a member of the department's administration may assign or allow another sworn member of the department to make the notification or accompany during the notification (FPD GO 21). Every effort will be made to honor the employee's wishes, based on his/her completed LODD form.

5. Fayetteville Police Department employees are absolutely forbidden to release information concerning an employee's line of duty injury or death, unless given express permission to do so by the Chief of Police.

I. Social Media

1. Social media postings by police department employees of any kind concerning Fayetteville police officer involved shootings are absolutely forbidden, unless given express permission to do so by the Chief of Police.