

	HARRISONBURG POLICE DEPARTMENT General Orders	Policy Number: 304
	Chapter: General Operations	Total Pages: 11
	Section: Response to the Use of Deadly Force	Issue Date: 02/14/2022
	Issued By: Kelley Warner, Chief of Police	Effective Date: 02/14/2022
	Replaces: All General Orders Previously Issued Relative to Subject	
VALEAC Standards: ADM.02.02 (c), ADM.05.03 (a), ADM.22.01 (a), ADM.22.01 (c), ADM.22.01 (f), ADM.22.01 (g), ADM.22.01 (h)		

A. POLICY AND PURPOSE

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 the use of deadly force by an officer, or when a person dies in police custody.

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

The policy of the Harrisonburg Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

B. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

C. DEFINITIONS

Forensic Evidence Team (FET)- helps investigate crimes by collecting and analyzing physical evidence.

Force Investigation Team (FIT)- An investigative body under the direction of the Criminal Investigations Division Commander of the Harrisonburg Police Department whose objective is to provide a standard, comprehensive and neutral investigative response to deadly force incidents, in custody deaths and other serious incidents as directed by the Chief of Police. The FIT is comprised of specially trained detectives and supervisors from the Criminal Investigations Division, Professional Standards and/or others as directed by the Chief of Police or his designee.

In-Custody - When law enforcement is in control of a person's movement.

Involved -Any officer that uses force against another that is likely to cause serious bodily injury or death. Any officer that has a subject in custody and results in an in-custody death.

Officer-Involved Shooting - Any time an employee of the Department discharges any firearm at another person as a use of deadly force. An administrative and criminal investigation shall be conducted for all officer-involved shootings.

Uninvolved - Any officer present at the scene that did not use deadly force

D. PROCESS

The following procedures are guidelines used in the initial response and investigation of an officer-involved shooting or death.

a. UNINVOLVED OFFICER RESPONSIBILITIES – ON SCENE

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved Harrisonburg Police Department officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- a. Secure the scene and identify and eliminate hazards for all those involved.
- b. Take reasonable steps to obtain emergency medical attention for injured individuals.
- c. Request additional resources from the Department or other agencies.
- d. Coordinate a perimeter or search of suspects.
- e. Check for injured persons and evacuate as needed.
- f. Remain with involved officer until relieved by peer counselor or command level supervisor.
- g. Brief the supervisor upon arrival.

b. FIRST RESPONDING SUPERVISOR RESPONSIBILITIES

The first Responding Supervisor shall:

- a. Ensure that all officers who were on the scene at the time of the use of force shall be accounted for and held at a secure location to have their firearms, magazines and

- ammunition inspected by a Forensics Detective/Technician and monitored by Professional Standards Unit Personnel.
- b. Confirm that appropriate medical assistance has been summoned/provided, if necessary.
 - c. Ensure that Emergency Communications Center has notified the Chief of Police and Command staff. The CID Commander will be responsible for notifying the FIT team and Chaplain.
 - d. Ensure that the scene has been protected and witnesses identified, separated and detained.
 - e. Coordinate the activities of responding back-up units.
 - f. Separate all involved officers.
 - g. Ensure that a Incident Report/supplement is completed prior to marking out of service.
 - h. Submit all reports, as required by the Department, through channels, to the Chief of Police, prior to marking out of service.
 - i. Establish crime scene log (inner/outer perimeter).
 - j. Advise when to turn off involved officer(s) BWC(s)
 - k. Start Blue Team/Use of Force Report

Whether voluntary or ordered, the pertinent questions to be asked by a supervisor for public safety information are listed below:

- a. Are you injured?
- b. If you know of anyone who was injured, what is his or her location?
- c. Did you fire your weapon(s) and if so what direction did you fire?
- d. If any suspects are at large, what are their descriptions?
- e. What was their direction of travel?
- f. How long ago did they flee?
- g. For what crimes are they wanted?
- h. Did the suspect(s) have a weapon?
- i. Does any evidence need to be preserved?
- j. Where is it located?
- k. Did you observe any witness (es)?
- l. Where are they?
- m. "Officer, in order to preserve the integrity of your statement, I order you not to discuss this incident with anyone, including other supervisors or staff officers without the permission of the Chief of Police. You are advised to speak to your legal representative prior to making any further statements regarding this incident."

c. FIT COMMANDER RESPONSIBILITIES

FIT Commander shall:

Upon learning of an officer-involved shooting or death, the Criminal Investigations Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or another Commander.

All outside inquiries about the incident shall be directed to the Special Operations Bureau Commander.

d. INVOLVED OFFICERS - ON SCENE

Any officer that has discharged a firearm in a deadly force encounter, regardless of rank, shall follow the listed procedures to the best of their ability with exception for personal medical emergencies that keep the officers from being able to do so.

- a. Notify ECC by radio that a shooting has occurred and request additional resources (to include requesting the supervisor to respond).
- b. After assuring no active threat still exists, provide by radio as much public safety information as possible about the suspect(s), weapons used by suspects, direction of travel, vehicles, etc.
- c. Request EMS for any apparently injured parties.
- d. Make any weapons used during the shooting safe for handling by engaging any safeties and holstering (pistols) or securing in vehicle (long guns).

Do not alter the condition of any fired weapons by removing magazines, ejecting casings, or any other procedures.

e. INVOLVED OFFICERS – FOLLOW ON ACTIONS

The following shall be considered for the involved officer:

- a. Any request for legal representation will be accommodated.
- b. Discussions with licensed attorneys will be considered privileged as attorney-client communications (Va. Code § 8.01-420.7).
- c. See policy Incident Support Services (707), section Confidentiality.

E. INVESTIGATIONS

Disclaimer: The Department reserves the right to investigate and control authority over criminal investigation in its jurisdiction. All administrative investigations will be handled by the Harrisonburg Police Department.

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

- a. A criminal investigation of the suspect's actions.
- b. A criminal investigation of the involved officer's actions.
- c. An administrative investigation as to policy compliance by involved officers.

F. CRIMINAL INVESTIGATION

a. WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take

reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- a. Identification of all persons present at the scene and in the immediate area.
 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- b. Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
 1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- c. Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

G. FORCE INVESTIGATION TEAM (FIT)

In all cases of deadly force, the Department will conduct an administrative and a criminal investigation of the incident(s). The Force Investigation Team (FIT) will conduct a purely criminal investigation, which will be forwarded to the Commonwealth's Attorney office for a criminal review. At the conclusion of the criminal investigation or as determined by the Chief of Police, Professional Standards will conduct an administrative investigation to determine if there are violations of Department policy or procedures.

Any employee who is involved in the use of deadly force involving department personnel, while on-duty or in the performance of his/her duties, will be mandated to attend a minimum of three (3) sessions with one of the Department's behavioral health services providers. At least one of these sessions must occur before returning to work. If an employee is a witness, they will be mandated to attend one (1) session, with other sessions available as needed. The Professional Standards Unit will contact the behavioral health services provider.

Any officer upon being recalled to duty claiming an inability to return to work due to psychological trauma that resulted from the deadly force incident shall be required to attend a secondary/follow-up fitness for duty examination.

Any employee who is a direct witness to the use of force but does not have their police powers revoked may be granted administrative leave.

Reference See attachment: 217B - Force Investigation Team Incident Checklist

a. **CID SUPERVISOR AT HEADQUARTERS RESPONSIBILITIES**

The CID Supervisor shall:

- a. Coordinate with incident scene supervisor and FIT supervisor and exchange relevant information.
- b. Ensure all involved/witness officer's body worn cameras are collected and downloaded.
- c. See that all officers that used force have a supervisor assigned and that their weapons have been recovered by the supervisor. Facilitate the handing over of evidence to Forensic Evidence Technician (FET) members.
- d. Ensure a FIT Detective or FET member and a CID supervisor check the firearms involved (round count, magazine count, etc.).
- e. Ensure interview rooms are available and all audio/video recording is working and on.
- f. Ensure the security of any in custody subjects at headquarters.
- g. Ensure separation of witnesses/victims at headquarters.

b. **FIT LEAD DETECTIVE RESPONSIBILITIES**

The FIT Lead Detective shall:

- a. Respond to incident scene and conduct an initial scene assessment.
- b. Brief other FIT Detectives as needed.
- c. Ensure the victim's next of kin is notified.
- d. Ensure that involved officers have been separated and are not discussing the incident with one another.
- e. Respond to headquarters to coordinate and conduct interviews.
- f. Review every involved body worn camera video.
- g. Ensure that involved officers are advised of the "Officer Legal Protection Advisory Statement" and their Miranda Rights (217- FIT advisory statement).
- h. Interview each officer involved, witness officers and civilian witnesses/victims.
- i. In any case, involved officers should be given 48 hours prior to taking any detailed statement.
- j. Only the Chief of Police or his designee may alter this time period upon notice of an extenuating circumstance that may affect the officer's ability to be interviewed after the required time frame.
- k. Ensure that an audio and/or video recording is made of all interviews.
- l. Meet with all relevant FIT team members/Detectives/Supervisors to exchange information.
- m. At the hospital, obtain all available medical documents, photographs of any injuries and recover any physical evidence.
- n. Ensure next of kin is notified once positive identification is made and interview next of kin.
- o. Prepare a FIT preliminary report before the end of tour.

c. **FORENSICS DETECTIVE/TECHNICIAN RESPONSIBILITIES**

The Forensics Detective/Technician shall:

- a. Complete crime scene processing, evidence collection, photography, and diagramming.
- b. Take possession of and inspect the firearm, magazines and ammunition of the involved officer(s) with either the FIT detective, FIT supervisor or CID supervisor. Count the remaining rounds in the weapon and magazine.
- c. Inspect the firearms, magazines and ammunition of all officers who were on the scene at the time that the use of force occurred.
- d. Place the weapon and associated magazines and ammunition in evidence or retain or forward for analysis as appropriate.

d. **CID DIVISION COMMANDER RESPONSIBILITIES**

CID Division Commander shall:

- a. Coordinate interviews and collaborate with FIT supervisor to determine which FIT Detectives will interview which involved officers and witnesses. (Interview all civilian witnesses first and ensure that the lead FIT Detective interviews all officers who used force)
- b. See that any incidental criminal investigations (non-police suspects) are assigned to appropriate Detectives.
- c. Designate a CID Supervisor to respond to police headquarters to coordinate activities there.
- d. See that the supervisor in charge of the scene is securing the scene and begins a crime scene log. (inner and outer perimeter established)
- e. Determine if, when and who obtains any underlying criminal charges involving the original incident.

e. **FIT SUPERVISOR/MAJOR CRIMES SERGEANT**

The FIT Supervisor/Major Crimes Sergeant will:

- a. Notify Forensic Evidence Team (FET).
- b. Notify and call out all Detectives necessary for investigation.
- c. Assign and coordinate Detectives responsibilities as appropriate.
- d. Exchanging relevant information to the CID Supervisor. Provide information about the location of evidence found at the scene and tell the coordinator if there are any specific questions that the FIT investigators need to ask the involved officers or witnesses.
- e. Get a briefing from the patrol supervisor.
- f. Conduct an initial scene assessment, and brief other FIT Detectives/Detectives as needed.
- g. Advise field supervisors to instruct patrol officers to document their observations regarding any comments, statements, and information provided by officers, subjects, or witnesses.
- h. Ensure the patrol supervisor begins the IBR report leaving initial narrative for FIT supervisor to complete.
- i. Ensure all witness/supplemental officers present complete supplements before end of tour.

- j. Ensure that officer's firearms and any other evidence be turned over to FET members.
 - k. Ensure that all officers present during the event and subjects are photographed by FET members, to include photographs of any injuries.
 - l. Coordinate police/Detective's response to offsite locations (hospital, etc.) to interview all involved subjects to include EMS/medical personnel.
 - m. Ensure an investigative canvas is conducted.
 - n. Ensure that the FIT preliminary report is completed before the end of tour.
- f. **SPECIAL OPERATIONS BUREAU COMMANDER**

The Special Operations Bureau Commander will:

- a. Personally ensure prompt notification of the involved officer(s) emergency contact
- b. Notify Commonwealth Attorney
- c. Notify the Chief of Police or designee of incident and brief Command Staff members as they arrive.
- d. Call Command Post vehicle to scene if needed, Assume Incident Scene Command if appropriate.
- e. Notify and be a liaison for the Public Information Officer.
- f. Notify and liaison as appropriate to other department heads (ECC, Fire, EMS, Public Works, etc.).

H. INTERNAL AFFAIRS INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this Department will conduct an internal administrative investigation of involved Harrisonburg Police Department officers to determine conformance with Department policy. This investigation will be conducted by the Professional Standards Unit and will be considered a confidential officer personnel file. The assigned Internal Affairs investigator will conduct all phases of the internal investigation, while providing for all legal protections of the officer and ensuring all responsibilities are met by the officer and the Department's under said policy and the Virginia Peace Officer's Bill of Rights ([VA Code § 9.1-501](#), [VA Code § 9.1-502](#), [VA Code §9.1-503](#), [VA Code §9.1-504](#), [VA Code §9.1-505](#), [VA Code §9.1-506](#), [VA Code §9.1-507](#))

The Internal Affairs investigator will:

- a. Conduct a walkthrough of the incident scene as soon as practical following the incident, to be coordinated with the lead criminal detective.
- b. Ensure BWC and in-car camera footage is secured and accessible only to internal affairs.
- c. Ensure involved officer(s) have had reasonable opportunity to contact a legal representative (if requested) and spouse or significant other prior to media release regarding the incident. Upon determination of the criminal investigation, the Professional Standards Office will provide the involved officer with their Garrity Warnings, at which time the officer will be compelled to give a statement.
- d. Provide any involved officer with a copy of this policy and walk them through the steps of the investigation as well as their rights and responsibilities.

1. Involved officers shall be ordered to not discuss the facts of the case with any person other than legal counsel, peer support personnel, or licensed psychological clinicians prior to the time of detailed interview.
 2. Involved officers shall be suggested to refrain from consuming alcohol, sleep aids, or other chemicals that can affect judgment or interfere with normal brain and body processes that occur after a high stress encounter.
- e. Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening are requirements of VA Code 9.1-501. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- f. 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 a 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, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
 2. 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. The IA Investigator will coordinate with the primary criminal detective prior to conducting any interviews with involved officers.
- g. Coordinate with the primary criminal detective prior to conducting any interviews of involved officers.
1. Detectives shall at a minimum obtain audio recordings of detailed interviews with involved officer(s).
 2. All efforts shall be made to limit the number of interviews conducted with involved officer(s). For this reason, the lead criminal detective shall conduct the first interview. The Internal Affairs Investigator may be present but not participate in this interview.
 3. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.
 4. Prepare a final report for the Chief of Police at the conclusion of the administrative investigation. The Internal Investigation will be documented in the designated tracking software database by the IA personnel.

I. AUDIO AND VIDEO RECORDINGS

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

Any video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the Chief of Police and City Attorney's Office, as appropriate.

J. DEBRIEFING

Following an officer-involved shooting or death, the Harrisonburg Police Department should conduct both a critical incident stress debriefing and a tactical debriefing.

a. **CRITICAL INCIDENT STRESS DEBRIEFING**

A critical incident stress debriefing should occur as soon as practicable. The Peer Support Coordinator 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 ([VA Code § 19.2-271.4](#)).

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., communicators, civilian personnel). Family or other support personnel may attend with the concurrence of 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 and Professional Standards personnel.

b. **TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police 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.

K. MEDIA RELATIONS

Any media release shall be prepared by the Public Information Officer with input and concurrence from the supervisor and the Department representative responsible for each phase of the investigation. Releases will be available to the Patrol Commander, Criminal Investigation Division Commander, Public Information Officer, Deputy Chief and Chief of Police in the event of inquiries from the media.

No involved Harrisonburg Police Department officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Commander.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

Involved officers' information will be released upon the determination of the Chief of Police.

L. REPORTING

If the death of an individual occurs in the Harrisonburg Police Department jurisdiction and qualifies to be reported to the Virginia Violent Death Reporting System, the Special Operations Commander will ensure that the Records Supervisor is provided with enough information to meet the reporting requirements.

The Records Supervisor and the Criminal Investigation Division should also ensure that information related to any officer-involved shooting resulting in death or serious bodily injury is forwarded to the Virginia Department of State Police as soon as practicable ([VA Code § 52-28.2](#)).

All related Department reports, except administrative and/or privileged reports, will be forwarded to the designated Criminal Investigation Division supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the Chief of Police or their designee.