

	<p style="text-align: center;">ITHACA POLICE DEPARTMENT</p> <p style="text-align: center;">POLICY AND PROCEDURE GENERAL ORDER</p>	<p style="text-align: center;">Distribution</p> <p style="text-align: center;">ALL PERSONNEL</p>	<p style="text-align: center;">General Order Number</p> <p style="text-align: center;">3.10</p>
		<p style="text-align: center;">Original Issue Date</p> <p style="text-align: center;">07/15/2019</p>	<p style="text-align: center;">Reissue/Effective Date</p> <p style="text-align: center;">MM/DD/YY</p>
<p>Order Title:</p> <p>OFFICER-INVOLVED SHOOTING</p>	<p>Accreditation Standard:</p> <p style="text-align: center;">NY</p>	<p style="text-align: center;">Section</p> <p style="text-align: center;">3</p>	
	<p>Section Title</p> <p>RULES OF CONDUCT</p>		
<p>Rescinds:</p>	<p>Dennis Naylor, Acting Chief of Police</p>		

This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting

I. PURPOSE

It is the purpose of this policy to provide guidelines for the investigation of officer-involved shootings. The policy also provides guidance for investigation of in-custody deaths and other serious uses of force, in addition to the procedures outlined in the *Reporting and Investigating Force Policy*, General Order 3.05.

II. PURPOSE

It is the policy of the Ithaca Department (“Department”) that officer-involved shootings, whether on or off duty, be investigated with the utmost thoroughness, professionalism, and impartiality so as to determine whether the officer’s actions conform with applicable law and this Department’s policy, procedures, rules, and training. This policy may also apply to the investigation of situations in which a person dies while in police custody or while an officer is attempting to effect custody, and other serious uses of force.

III. DEFINITION

Companion Officer: An officer assigned to another officer to provide emotional support and assistance following a critical incident, such as an officer-involved shooting. The assigned officer is normally a member of the Department’s peer support program but may also be another officer who has had a similar experience, a close friend, or both.

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.

Critical Firearm Discharge: A discharge of a firearm by an Ithaca Police Officer. Range and training discharges, and discharges at animals are not included under this policy.

Deadly Force: Any physical force that can reasonably be expected to cause death or serious physical injury.

In-Custody Death: The death of an individual while in custody or while an attempt to effect custody is being made.

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; engages in other serious uses of force; and are direct witnesses to such events.

Secondary Involved Officers: Those officers who are present during a deadly physical force encounter but do not discharge their weapons.

Officer: All sworn law enforcement personnel employed by the Ithaca Police Department.

Officer-Involved Shooting: A discharge of a service weapon by an officer during a hostile encounter or an accidental discharge, while on-duty or off-duty, irrespective of injuries to suspects, officers, or third parties.

Serious Use of Force: Any action by an officer that involves: (1) the use of deadly force, including all critical firearm discharges; and/or (2) a use of force in which the person suffers serious physical injury.

IV. PROCEDURE

A. Officer On-Scene Responsibilities

Officers involved at the scene of a shooting incident shall take all measures that are reasonably possible and appropriate to protect their safety and to preserve evidence essential to the investigation.

This includes the following actions, undertaken in the order deemed appropriate:

1. Identify any remaining threats and take necessary action;
2. Secure and separate suspects;
3. Notify the Communications Center of the incident and location;
4. Relay information on fleeing suspects to communications and other field units and work with them to establish a containment area;
5. Request a supervisor and additional backup, emergency medical services, if necessary, and any other assistance required immediately;

6. Unless injured, the officer will remain at the scene until the arrival of the appropriate investigators. However, if the circumstances are such that the continued presence of the officer at the scene might cause a more hazardous situation to develop (e.g. crowd violence), the shift supervisor at the scene shall have the authority to instruct the officer to move to another, more appropriate location.
7. If injured, administer emergency first aid to oneself first if possible;
8. Determine the physical condition of any injured person(s) and administer basic first aid, as necessary, pending arrival of emergency medical assistance;
9. Holster any involved handguns or secure them in place as evidence. Secure long guns in the prescribed manner or in place as evidence. Do not open, reload, remove shell casings, or in any other manner tamper with involved firearms;
10. Take note of the time, survey the entire area for relevant facts, individuals who are present and who departed the scene, witnesses, potential suspects, and suspect vehicles; and
11. As time and capabilities permit before supervisory and other assistance arrives:
 - a. Secure the area, establish a perimeter with crime scene tape and limit access to authorized persons necessary to investigate the shooting and assist the injured;
 - b. Protect evidence from loss, destruction, or damage that is likely to occur before backup can arrive. Ensure that evidentiary items are not moved or, if moved, note the original location and position of persons, weapons, and other relevant objects and evidence; and
 - c. Record the names, addresses, and phone numbers of all witnesses and other persons present at the shooting scene and request that they remain on hand in order to make a brief statement whether or not they say they saw the incident.

B. Initial Supervisor Response / Incident Command Responsibilities

1. Upon notification of the incident, the shift supervisor shall proceed immediately to the scene.
2. The ranking officer at the scene shall take control of the scene and serve as Incident Commander (IC). As superior officers and investigators respond to the scene, and the officer is relieved of supervision responsibility, he/she shall

brief superior officers on investigation status when turning over IC responsibility. The IC shall assign responsibility for completion of the tasks provided in paragraph 3 below, as appropriate, and in the order deemed necessary.

3. In addition to the IC/Supervisor's responsibilities identified and required for a Level 3 use of force incident in the *Reporting and Investigating Force Policy*, General Order 3.05. The following actions should be taken:
 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. the number of suspects involved;
 - d. location of injured persons;
 - e. description of at-large suspects and their direction of travel, time elapsed since the suspects were last seen, and any suspect weapons;
 - f. description and location of any known victims or witnesses;
 - g. description and location of any known evidence; and
 - h. any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects.

An Ithaca Police Department Public Safety Statement is attached to this policy as [Appendix A](#).

4. Ensure the adequacy of the inner perimeter. Direct that an outer perimeter be established to prevent anyone from entering, except those who have a specific function to perform.
5. Ensure a Crime Scene Security Log is maintained to record the time and identifying information of all persons entering and exiting the perimeter
6. Locate and secure, or secure in place, the officer's 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 replaced by a similar firearm as soon as reasonably possible.

7. Locate and secure in place weapons, ammunition, and expended cartridges used by the suspect.
8. Collect information available about the suspect from anyone at the scene.
9. 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.
10. 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.
11. Determine and mark the position(s) of the officers and the suspects at the time of the shooting.
12. Secure, separate, and remove all involved officers from the immediate scene. Ensure that a companion officer is assigned to each.
13. 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.
14. If an officer is transported to the hospital, ensure that the companion officer accompanies or meets him or her there.
 - a. The companion officer 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 companion officer 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 companion officer 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*, General Order 6.16.

15. Whenever possible, photograph officer(s) as they appear at the scene, to include any injuries sustained.
16. Offer a peer support counselor to the involved officer's family for security, support, and management of media inquiries and visitors.
17. Ensure all necessary Department notifications have been made to the following:
 - 1) Chief of Police (shall be notified as soon as possible)
 - 2) Patrol Commander
 - 3) Criminal Investigation Unit
 - 4) Internal Affairs
 - 5) NYSP FIU
 - 6) Public Information Officer
 - 7) Coroner or Medical Examiner (if necessary)
 - 8) The Mayor
 - 9) Department chaplain, police advocate, qualified mental health professional, or peer support program coordinator
 - 10) The Tompkins County District Attorney.
18. Establish a command post when it appears that an extended on-site investigation will be necessary.
19. 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.
20. 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.
21. Ensure that a media staging area is established beyond the outer perimeter and that it is appropriately staffed.
22. Ensure all officers complete necessary reports.
23. Place officers who discharged their weapons on paid administrative leave per Department collective bargaining agreement.

24. The agency shall facilitate contact with and involved officers will make themselves available to meet with, the Department's designated qualified mental health provider (EAP) within 48 hours of the incident, as prescribed by this Department's policies on Post-Shooting Personnel Support and Critical Incident Stress Management.

C. Treatment of Officer(s)

1. In every instance in which an officer used deadly force, where such use results in death or serious bodily injury to another person, the officer will be immediately relieved of normal duty. At the discretion of the Chief of Police or his/her designee, Secondary Involved Officers may be placed on paid administrative leave and will make themselves available within 24 hours after the incident to meet with the Department's designated qualified mental health provider (EAP) as prescribed by this department's policies on Post Shooting Personnel Support and Critical Incident Stress Management.
2. The officer shall be available 72 hours after the incident and available for official interviews and statements regarding the case. The officer shall be subject to return to normal duty at any time after the preliminary investigation.
3. Assignment to a "relieved of normal duty" status shall be non-disciplinary, with no loss of pay or benefits.
4. Relief from normal duty, during which the officer may be assigned administrative duties, serves two purposes:
 - a. To address the personal and emotional needs of an officer involved in the use of deadly force in which injury or death occurs; and
 - b. To assure the community that all the facts surrounding such incidents are fully and professionally explored and verified.
5. If the preliminary investigation discloses a question about the officer's actions regarding the incident, then the appropriate guidelines regarding the rights of the officer will be followed.

D. Post-Shooting Trauma

1. Supervisory, investigative, and other sworn and non-sworn employees shall be familiar with and follow the provisions established by this Department in its policy on dealing with post-shooting emotional trauma in police personnel.
2. Awareness of and attempts 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.

3. All personnel shall be familiar with the provisions of this Department's policy on employee mental health services and should avail themselves of these services following officer-involved shooting incidents where appropriate.

E. In-Custody Death Investigations

Facts that are germane to investigations of in-custody deaths include, but are not limited to, the following:

1. Information noted by the dispatcher from background noises during the call, as well as information provided by the reporting party that may be related to the subject's behavior, use of drugs or alcohol, previous law enforcement encounters, presence of weapons, and mental health concerns.
2. Officer observations of the subject's behavior in the course of making the arrest. For example, was the person:
 - a. calm or emotionally charged;
 - b. rational or confused;
 - c. able to communicate or difficult to engage in conversation;
 - d. experiencing hallucinations or delusions;
 - e. perspiring heavily;
 - f. wearing inappropriate clothing or in a state of undress;
 - g. exhibiting a high tolerance for pain; or
 - h. engaging in a protracted physical encounter with officers?
3. Whether family or friends indicate that the subject had been drinking heavily, using drugs, or both; whether the subject had been involved with the police on prior occasions; any other relevant information provided; and whether the subject was threatening anyone or in possession of a weapon.
4. Whether the subject was visibly injured in any way when the police arrived and what, if any injuries were sustained prior to death.
5. What measures the officer(s) took to gain control and custody, such as:
 - a. attempting to calmly "talk the person down;"
 - b. maintaining distance;
 - c. reducing noise by turning off sirens;
 - d. reassuring the subject;
 - e. buying time;
 - f. asking simple questions to determine the subject's level of coherence;
 - g. attempting to deescalate the situation or other actions; and

- h. directing others at the scene to move away?
6. Whether custody was required.
7. The length of time it took to gain control of the subject. Whether there was a protracted struggle or the subject was subdued quickly.
8. The means used to restrain the subject.
9. When in custody, where and how the individual was situated (e.g., placed face down on the ground, in a seated position, in a police vehicle sitting, or lying down).
10. The physical reactions of the subject once arrested. For example, did he or she become calm or continue to struggle and act physically and verbally combative?
11. Whether EMS was called and, if so, at what point during the confrontation.
12. Whether the subject's condition (such as breathing and consciousness) was monitored after arrest. Whether the subject became unresponsive, who was present at the time, and what steps were taken by the officer(s).
13. When death was pronounced and by whom and the results of the autopsy.
14. Require that the Medical Examiner's Office or responding medical officials take a core body temperature as soon as possible after the subject is confirmed deceased.
15. The information provided in the subject's medical history and lifestyle.
16. If the subject is not deceased, but was seriously injured or admitted to a medical facility, discover the answers to these questions:
 - a. What was the nature and severity of the injuries?
 - b. Were the injuries consistent with the use of force described by the officer(s)?

F. Serious Injury

Where serious injury is reported, investigators shall gather relevant information and take actions deemed appropriate from the foregoing section of this policy and the Reporting and Investigating Force Policy 3.05, specifically level 1 investigation. The following information will be necessary to collect to assist the supervisor in assessing the level of force used that resulted in the serious injury:

1. Conduct and behavior of the subject being confronted as perceived by the officer at the time of the incident;
2. The relative age, size, strength, and physical ability of the officer to the subject;
3. Experience of the officer;
4. The number of officers present;
5. Potential influence of alcohol or drugs;
6. Subject's proximity to weapons;
7. Weapons used or threatened to be used by the subject;
8. Force options available to the officer;
9. Seriousness of the offense, basis for subject contact, and information known about the subject by the officer;
10. Potential for injury to the public, officer, or subject;
11. Risk of escape;
12. Degree of subject resistance;
13. Use of restraints; and
14. Other exigent circumstances.

G. Investigator's Responsibilities

1. Investigations of deadly force incident in which injury or death occurs will require a Tompkins County Major Crimes Task Force Investigation. The Task Force will consist of Ithaca Police Department police officers and investigators, the Tompkins County Sheriff's Department, the New York State Police and other local, county or state law enforcement agencies as authorized by the Chief of Police. The Deputy Chief of Operations or his designee will manage the Investigation with oversight provided by the Tompkins County District Attorney's Office. The Chief of Police will initiate an Internal Affairs investigation that have oversight by the Deputy Chief of Professional Standards. Both the Deadly Force Investigation and the Internal Investigation must be kept separate and run independantly.
 - a. In conjunction with [New York State Executive Order 147](#), the Attorney General is required to investigate, and if warranted, prosecute certain matters involving the death of an unarmed civilian, whether or not in custody, caused by a law enforcement officer. The Attorney General may also investigate and prosecute in such instances where there is significant question as to whether the civilian was armed and dangerous at the time of his or her death. The Chief of Police, or designee, shall be responsible for notification to the District Attorney and coordinating notification to the Attorney General's Office.

2. The State Police Forensic Identification Unit will be notified in accordance with requirements and will process the scene and all evidence related to the investigation.
3. The lead Criminal Investigator whenever possible shall do the following:
 - a. Receive a briefing from the IC including details of the incident, as available, a summary of all actions completed or in progress as noted in sections B and E of this policy and conduct a walk-through of the incident scene.
 - b. Ensure that all items of potential evidentiary value are identified and properly collected.
 - c. Obtain audio-taped preliminary statements from suspects and witnesses.
 - d. Ensure that efforts are under way to collect and compile information on the suspect(s).
 - e. Consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy, and compile information as available, such as, entrance and exit wounds, estimates of shooters' positions, the presence of alcohol or controlled substances in the suspect's body, and any other facts that may be deemed relevant.
 - f. Canvas the immediate area for potential witnesses who have not come forth and obtain information or statements as available.
 - g. Obtain search warrants for any vehicles, containers, homes, vehicles, or other items of evidentiary value as may be necessary.
 - h. Where possible, tape record interviews with EMTs, fire department personnel, and first responding officers regarding conditions at the shooting 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.
 - i. Develop a summary of preliminary information concerning the shooting for the Chief of Police.

H. Responsibilities of the Chief of Police or his/her Designee

1. Shall respond to the scene and take command of the incident.

2. Monitor the incident to ensure good scene management and ensure the assigned supervisor coordinates and assists with a thorough and proper preliminary investigation.

I. Investigative Process

The investigation of officer-involved shootings shall normally be conducted in two separate parts and by separate authorities; a criminal investigation and an internal investigation. The criminal investigation is normally completed by criminal investigators prior to and concurrent with the administrative investigation, which is conducted by the Department's internal affairs authority. During the criminal investigation, the Office of the District Attorney will be regularly consulted and kept apprised of the status of all aspects of the investigation.

1. Criminal Investigation Phase

The Deputy Chief of Operation or his designee shall oversee the criminal investigation unless, by interagency agreement, this is passed to another investigative authority. Parallel or sequential criminal investigations, one investigation related to state offenses and the other by federal authorities relating to offenses under federal law, may be undertaken but are not typical. Upon completion of the criminal investigation, findings shall be submitted to the Department's chief executive officers and the office of the district attorney or the appropriate prosecuting agency.

2. Administrative Investigation Phase

This investigation, undertaken by the Department's Internal Affairs Division, must be kept separate and apart from the criminal investigation. It is intended to determine whether violations of Departmental policy, procedures, rules, or training have occurred and, if so, whether disciplinary action should be recommended or modifications to policy, procedures, or training considered.

3. Criminal investigators may not be present during internal affairs questioning nor may information gained as a result of administrative interviews be shared with criminal investigators.
4. All interviews shall be audio and videotaped in order to provide evidentiary record of statements.
5. Investigators shall be cognizant of symptoms of post-traumatic stress during officer interviews, such as time and space distortions, confusion, hearing and visual distortions associated with recalling details of the incident, as well as emotional impairment during questioning.

6. Officers shall file individual use of force reports. The on-scene Supervisor shall prepare a separate overall use of force report and attach the individual reports for submission to the Chief of Police and the office of the district attorney.

Appendix A

ITHACA POLICE DEPARTMENT

PUBLIC SAFETY STATEMENT

“Officer, I am ordering you to give me a Public Safety Statement. Due to the immediate need to take action, you do not have the right to wait for representation to answer these limited questions.”

- Were you involved in an officer-involved shooting?
- Approximately how many rounds did you fire and in what direction did you fire them?
- Do you know if any other officers fired any rounds?
- Is it possible the suspect fired rounds at you?
- Is anyone injured? If so, where are they located?
- Are you aware of any witnesses? If so, what is their location?
- Approximately where were you when you fired the rounds?
- Are there any outstanding suspects? If so, what is the description, direction, and mode of travel?
- How long have they been gone? What crime(s) are they wanted for? What weapons are they armed with?
- Are there any weapons or evidence that need to be secured/protected? Where are they located?

Additionally, supervisors should obtain the public safety statements of all substantially involved personnel *before* they are transported from the scene. The supervisor, absent exigent circumstances, *shall remain* at the scene to provide the Public Safety Statement to responding investigators. The information shall be provided, either voluntarily or with representation, to the investigators upon their request.

These questions should be followed by an order *not to discuss the incident with anyone*, prior to the arrival of the assigned Investigators, with the exception of legal representatives.