


SOLANO COUNTY CALIFORNIA PROBATION DEPARTMENT	POLICY NUMBER: 604	EFFECTIVE DATE: April 3, 2016
	SUPERSEDES: N/A	
APPROVED BY:  CHIEF PROBATION OFFICER	TITLE: OFFICER-INVOLVED SHOOTING	

1. **Policy** To establish policy and procedures for the investigation of an incident in which a person is injured or killed as the result of a probation officer shooting. The intent of this policy is to ensure that such incidents be investigated in a fair and impartial manner. This policy is only intended as a guide. The Solano County Officer Involved Fatal Incident Protocol (**Attachment A**) will be the guiding document for all officer involved shootings.

Nothing in this policy is intended to increase, modify, or in any way affect the current legal standards nor shall any deviation from these guidelines be considered a breach of any legal standard.

2. **Definitions**

- A. Probation Officer includes all sworn peace officer classifications, including Supervising Deputy Probation Officer, and Probation Services Manager.
- B. Department refers to the Solano County Probation Department.
- C. Subject officer is any probation officer who discharges their weapon, resulting in injury or death to a person.
- D. Witness officer is any probation officer who is a witness to another officer discharging their weapon.

3. **Types of Investigations**

- A. Probation officer-involved shootings involve several investigations. The investigations may include:
 - (1) A criminal investigation of the incident per the Solano County Officer Involved Fatal Incident Protocol.
 - (2) An administrative investigation conducted by the Department through the Solano County Sheriff or other agency as may be designated by the Department.

4. **Jurisdiction**

- A. Per the Solano County Officer Involved Fatal Incident Protocol (page 5, Section III. A. Criminal Investigation), the criminal investigation “is performed by Criminal Investigators from the Venue Agency(cies), the Employer Agency(cies), the California Highway patrol (when applicable), and the District Attorney’s Office, formed into an Investigative Team for each incident. The participating agencies are co-equal within the investigation, but the agency within whose geographical jurisdiction the incident occurred has the ultimate authority to decide irreconcilable investigative issues.”

5. **The Investigation Procedures**

The following procedures are guidelines used in the investigation of a probation officer-involved shooting.

A. **Duties of Initial On-Scene Supervisor**

Upon arrival at the scene of a probation officer-involved shooting, the first uninvolved supervisor should:

- (1) Take all reasonable steps to obtain emergency medical attention for all injured individuals, if not previously requested.
- (2) Secure the scene with non-involved personnel until relieved by the law enforcement agency with jurisdiction.
- (3) Take all readily available measures to preserve the integrity of any physical evidence present on any involved probation officers’ equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve the evidence.
- (4) Attempt to obtain a brief overview of the situation from any witness officers. In the event that there are no witness officers, the supervisor should attempt to obtain a brief public safety statement of the situation from the subject probation officer(s), limited to outstanding suspect information, number and direction of shots fired, boundaries of the incident scene, identity of known witnesses and suspects.
- (5) Refrain from asking the subject officer any questions or otherwise engaging in any conversation, which would elicit information beyond the public safety statement as described above.
- (6) Order all probation officers present, both who witnessed and were involved in the shooting to not discuss the incident with each other.

- (7) Provide all available information to the law enforcement agency with jurisdiction and the Probation Services Manager. If feasible, sensitive information should be communicated over secure networks.
- (8) Contact available psychological "peer support" aid, so such persons are available when any probation officers requests their services.
- (9) Arrange for transport of any witness officers separately from any subject officers, to the facility designated by the law enforcement agency with jurisdiction.

B. Probation Services Manager Duties

- (1) Upon learning of an officer-involved shooting, the Probation Services Manager shall be responsible for coordinating all aspects of the incident until relieved by the Chief Probation Officer or Chief Deputy Probation Officer, and/or the law enforcement agency with jurisdiction.

C. Notifications

- (1) The following person(s) shall be notified as soon as practical by the on-scene supervisor or manager:
 - a. Chief Probation Officer
 - b. Chief Deputy Probation Officer
 - c. Probation Services Manager
 - d. Assigned Supervisor
 - e. Psychological/Peer support personnel (if requested)
 - f. Solano Probation Peace Officer Association representative (if requested)

- (2) All outside inquiries about the incident shall be directed to the Chief Probation Officer.

D. Media Relations

- (1) It will be the policy of this Department to not release the identities of involved probation officers absent their consent or as required by law. Moreover, no involved probation officers shall be subjected to contact from the media (Government Code § 3303(e)). Subject and witness probation officer shall refer all inquiries from the press to the Chief Probation Officer or Chief Deputy Probation Officer.

E. Involved Officers

- (1) Once the involved probation officer(s) have arrived at the Probation office or other designated location, the supervisor or Probation Services Manager shall remind staff not to discuss the incident pending further direction from the supervisor, with the exception that they may speak with authorized personnel or representatives. The following shall be considered for the involved officers:
 - a. Ensure that the probation officer involved weapon is unloaded and secured for evidence, if trained to do so. The supervisor shall also arrange for that officer to be issued a replacement weapon.
 - b. Any request for Department or legal representation will be accommodated; however, no involved officer shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report (Government Code § 3303(i)).
 - c. Discussions with licensed attorneys will be considered privileged as attorney-client communications. No Department agent or representative shall inhibit confidential attorney-client communications.
 - d. Discussions with Union/Associations representatives will be privileged; however, only as to the discussion of non-criminal information.
 - e. A Mental Health professional shall be provided by the Department to each involved officer, or any other officer, upon request.
 - i. Interviews with a health professional will be considered privileged and will not be disclosed unless required by law.
 - ii. An interview or session with a mental health professional may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a mental health professional prior to providing a formal interview or report.
 - f. Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such. Peer counselors are cautioned against discussing the facts of any incident with a subject or witness officer.
- (2) Each involved probation officer may be placed on paid administrative leave following an officer-involved shooting. It shall be the responsibility of the supervisor to make schedule adjustments to accommodate such leave.

6. The Shooting Incident Criminal Investigation

A. Criminal Investigation

- (1) The Solano County Officer Involved Fatal Incident Protocol outlines the investigative process of a criminal investigation.
- (2) Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved probation officers in order to provide them with an opportunity to give a voluntary statement. The following shall be considered for the involved officer:
 - a. The involved probation officers' direct supervisors should not participate directly in any voluntary interview of the probation officers by the criminal investigators. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.
 - b. If requested, any involved probation officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney, prior to speaking with criminal investigators. However, in order to maintain the integrity of each individual probation officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 - c. Any voluntary statement provided by the probation officer(s) will be made available for inclusion in the administrative or other related investigations.
 - d. Absent consent from the involved probation officer or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators.
 - e. Involved officers shall be given the opportunity to review all available recordings (video or audio) pictures, and scene prior to providing a statement. This includes any body worn cameras or recording devices, in car camera recordings, or any other audio or video recordings gathered at the scene.

B. Reports by Involved Probation Officers

- (1) In the event that suspects remain outstanding or subject to prosecution for related offenses, this Department shall retain the authority to require involved probation officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals, except that no probation officer shall be ordered to provide information in violation of the officer's right against self-incrimination.

- (2) The involved probation officer will provide a statement to law enforcement officers having jurisdiction. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports.
- (3) Nothing in this section shall be construed to deprive an involved probation officer of the right to consult with legal counsel prior to completing any such criminal report.
- (4) Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

7. **Administrative Investigation**

A. **Procedures**

- (1) In addition to all other investigations associated with an officer-involved shooting, this Department will conduct an internal administrative investigation to determine compliance with Department policy. This investigation will be conducted by the Probation Services Manager or designee and will be considered a confidential peace officer personnel file.
 - a. Any subject officer may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the probation officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency for any purpose other than an internal probation officer-involved shooting investigation.
 - b. If any subject or witness 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 the involved probation officer.
 - i. If a further interview of the subject or witness 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 subject or witness officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s).
 - c. In the event a subject or witness 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.

- i. Although this interview should not be unreasonably delayed, care should be taken to ensure the probation officers physical and psychological needs including sufficient rest, have been addressed, before commencing the interview.
- ii. The subject or witness officer may view any available video or audio evidence prior to providing their statement regardless of whether that statement is voluntary or involuntary.
- iii. If requested, the subject or witness officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, subject and witness officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- iv. Administrative interview(s) should be recorded by the investigator and the probation officer and his or her representative (or attorney) may also record the interview.
- v. If prior to or during the interview of the subject officer, it is deemed that he or she will be charged with a criminal offense; the officer shall be immediately informed of all Constitutional rights and, assuming no voluntary waiver, will be given an administrative order to provide full and truthful answers to all questions. The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Lybarger* or *Garrity* admonishment).
- vi. The administrative interview shall be considered part of the probation officer's confidential personnel file.
- vii. The Probation Services Manager (or designee) assigned to investigate shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
- viii. The completed administrative investigation may be submitted to the Field Officer Safety Review Committee, which will restrict its findings as to whether there was compliance with the Department Use of Force policy (Policy #602).
- ix. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

8. **Civil Liability Response**

- A. A member of this Department may be assigned to work exclusively under the direction of the Department's legal counsel to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.
- B. All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation, but shall be given reasonable access to all other investigations.

9. **Exceptions** Any exceptions to the provisions set forth in this policy shall require prior written approval from the Chief Probation Officer.