

**FIRST AMENDED WASHOE COUNTY
OFFICER INVOLVED SHOOTING PROTOCOL
2007**

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OIS NOTIFICATION CHECKLIST

Upon the occurrence of an OIS, the following are to be notified as soon as the tactical situation permits:

DISPATCH. Notification by Involved Officer or other Law Enforcement Officer. See Section II.

AGENCY SUPERVISORS. Notification by Dispatch. See Section VI.

OIS INVESTIGATIONS TEAM. Notification by Dispatch. See Section IV.

FORENSIC INVESTIGATORS. Notification by Dispatch. See Section V.

DISTRICT ATTORNEY NOTIFICATION. Notification by Dispatch. See Section VIII.

I.
DEFINITIONS:

OFFICER INVOLVED SHOOTING: For the purposes of this protocol, an "officer involved shooting" (hereinafter "OIS") is defined as:

- 1) any event in Washoe County wherein an on-duty officer discharges a firearm, and one or more of the bullets fired make contact, however slight, with any human being, or
- 2) any event in Washoe County wherein any person discharges a firearm, and one or more of the bullets fired make contact, however slight, with an officer.

OFFICER: For the purposes of this protocol, an "officer" is defined as any police officer, deputy, or other law enforcement officer, employed by any local, state or federal law enforcement agency, who discharges a firearm in an OIS in Washoe County.

ON DUTY: For the purposes of this protocol, "on duty" refers to any period of time wherein the officer:

- 1) is working during his normally assigned shift hours or during any supervisory-approved overtime hours; or
- 2) identifies himself as a police officer in the presence of the civilian; or
- 3) utilizes any tools of the police trade including, but not limited to, handcuffs, firearms, or badges, in the presence of the civilian.

CIVILIAN: For the purposes of this protocol, "civilian" is defined as the human being who is struck by one or more bullets fired by the officer, or the human being who fires at the officer and strikes the officer with one or more bullets.

ATTENDANT: For the purposes of this protocol, an "attendant" is defined as any police officer or other law enforcement officer who is employed by the same agency as the officer involved in the OIS, who is assigned by supervisors to remain with the officer.

ESCORT: For the purposes of this protocol, an "escort" is defined as any police officer or other law enforcement officer who is assigned by supervisors to remain with the civilian.

SUPERVISOR: For the purposes of this protocol, "supervisor", "supervisors" or "supervisory personnel," are defined as supervisory personnel from any of the agencies who are signatories to this Protocol.

OIS INVESTIGATION TEAM: For the purposes of this protocol, "OIS investigation team" refers to the investigators who conduct an OIS criminal investigation.

CRIMINAL INVESTIGATION: For the purposes of this protocol, a "criminal investigation" is defined as an investigation of an OIS to ascertain all the relevant evidence so that a decision can be made as to whether or not any criminal laws were violated. The criminal investigation

is separate from, and takes precedence over, any administrative, internal and/or civil investigation.

FORENSIC INVESTIGATOR: For the purposes of this protocol, a "forensic investigator" is defined as an employee of the Washoe County Sheriffs Office who, under appropriate supervision, preserves and processes crime scenes, documents said scenes with photography, diagrams and field notes, collects and packages evidence, and assists laboratory personnel with analysis of collected evidence.

CRIMINALIST: For the purposes of this protocol, a "criminalist" is defined as an employee of the Washoe County Sheriffs Office who, under appropriate supervision, performs professional laboratory analysis of physical evidence in a general or specialized field of forensic science.

II. **PROCEDURE: OFFICER.**

1. Unless it is impossible to do so because of imminent safety concerns, or because the officer is injured, the officer, or any other law enforcement personnel at the scene, shall immediately notify dispatch of an OIS event, including location, and request that medical personnel be immediately dispatched to the scene.

2. After the notification and request set forth in the above paragraph have been completed, and assuming the scene is secure, the officer shall take the steps set forth below to preserve the scene, pending the arrival of other law enforcement officers, OIS Investigation Team members, or forensic investigators.

3. The firearm is evidence in the case. The officer shall not reload or unload the firearm that the officer discharged. The officer shall not alter or manipulate the firearm in any fashion. If the officer holstered his or her weapon at the conclusion of the OIS, then the firearm should remain in the holster, unless an imminent safety concern requires otherwise. If the firearm ended up on the ground or some other location then the firearm should remain there, unless an imminent safety concern requires otherwise.

4. If the civilian was armed with a weapon, then the officer shall not touch or move the weapon, unless an imminent safety concern requires otherwise, or unless it is absolutely necessary in order for emergency medical personnel to access the civilian. If other law enforcement officers are present, and the weapon must be moved per the previous sentence, then they shall do so. They should not attempt to alter or manipulate the weapon in any fashion. If the officer must move the weapon, because no other law enforcement officers are present, then the officer should not attempt to alter or manipulate the weapon in any fashion. Unless emergency circumstances dictate otherwise, the officer or other law enforcement officers should wear gloves when moving the weapon.

5. If for any reason the officer or other law enforcement officers had to move, alter or manipulate any weapon, then they shall notify Supervisors and forensic investigators as soon as they arrive.

6. If other law enforcement officers are present, they shall secure the perimeter of the scene with crime tape. If no other law enforcement officers are present, the officer shall secure the perimeter of the scene with crime tape. The officer or other law enforcement officer shall not allow entry into the scene by any unauthorized personnel.

7. As soon as other law enforcement officers, OIS Investigation Team Members or forensic investigators arrive, they shall take over preservation of the scene. The officer shall cease all efforts re preservation of the scene as soon as other law enforcement officers, OIS Investigation Team Members or forensic investigators arrive at the scene.

8. Upon request, the officer shall surrender all firearms or other weapons used in the OIS, as more fully set forth in Section VI, infra. Every effort will be made to ensure the surrender occurs in a discreet fashion, as discussed in Section VI infra.

9. The officer will be asked to take part in an interview by OIS Investigation Team Members. The officer has the same right to refuse to answer questions by OIS Investigation Team Members as does any citizen. The officer also has the right to have counsel present during questioning as does any citizen. The officer shall not talk to anyone other than counsel or a representative from the officer's bargaining unit, about the facts of the OIS, prior to being interviewed by OIS Investigation Team Members, except as set forth in paragraph 10 immediately below, and section VI, paragraph 4, infra. The officer, the civilian, and any witnesses, are to be segregated from one another pending the completion of the interviews, as will be discussed more fully in Section III infra. This section does not apply to privileged communications between the officer and counsel, and does not bar the officer from consulting with counsel at any stage of the investigation. This section does not bar the officer from speaking with a representative from the officer's bargaining unit at any stage of the investigation.

10. The officer may be asked to provide initial details of the shooting incident to on-scene supervisors. Any questioning of the officer by supervisors shall be limited as follows: to obtain critical information relating to public safety, exigent circumstances, or identifying or locating outstanding suspects.

11. Officers have the same rights and privileges that civilians have regarding chemical testing. If OIS team investigators determine through observations of involved personnel that they have articulable suspicion of alcohol or narcotics use they have the following options:

1. Obtain blood or urine samples through valid consent given by the officer;
2. Obtain blood or urine samples incident to arrest;
3. Obtain seizure orders if they have probable cause to do so.

III.
PROCEDURE: ATTENDANT AND ESCORT.
SEGREGATION OF OFFICER, CIVILIAN AND WITNESSES.

1. An attendant, who was not a witness to the OIS, shall be assigned by supervisory personnel to remain with the officer at all times until relieved by OIS Investigation Team Members. The term "attendant" is defined at the beginning of this protocol.
2. The attendant shall not discuss the facts of the OIS with the officer. If the officer attempts to initiate a discussion about the facts of the OIS with the attendant, then the attendant shall take immediate steps to terminate said discussion. If the officer nonetheless chooses to make statements about the facts of the case then the attendant shall subsequently document the officer's statements in a report. Any spontaneous statements made by the officer to the attendant are not privileged and may be admissible in any subsequent court proceeding. The attendant may be a representative from the officer's bargaining unit, so long as all other terms of this Section and the "Definitions" section are complied with.
3. The attendant shall ensure that no third parties, including witnesses to the OIS, attempt to discuss the facts of the OIS with the officer. If any third parties attempt to discuss the facts of the OIS with the officer, then the attendant shall take immediate steps to terminate said discussion. This paragraph does not apply to communications between the officer and his or her counsel.
4. If the civilian survives the shooting, an escort should be assigned to remain with the civilian at all times, until relieved by OIS Investigation Team Members. The term "escort" is defined at the beginning of this protocol. If the evidence suggests that the civilian may have discharged a firearm, then the person's hands shall be bagged by the escort, in order to facilitate the later swabbing of the hands for possible gunshot primer residue analysis.
5. The escort shall not initiate a discussion of the facts of the OIS with the civilian. If the civilian spontaneously speaks about the facts of the OIS with the escort, then the escort shall note what statements the civilian made, and later document those statements in a report. However, the escort shall not attempt to ask follow-up questions of the civilian. The civilian will be formally interviewed by OIS Investigation Team Members, as set forth in Section IV, infra.
6. The escort shall ensure that no third parties, including witnesses to the OIS, attempt to discuss the facts of the OIS with the civilian. If any third parties attempt to discuss the facts of the OIS with the civilian, then the escort shall take immediate steps to terminate said discussion.
7. Ordinarily, once the interviews of the officer and civilian are commenced by the OIS Investigation Team members, the attendant and escort should be relieved by OIS Investigation Team members. Under exceptional circumstances, the OIS Investigation Team

members may request that the attendant and escort shall continue their duties for an additional period of time.

8. The initial responding patrol officers should promptly transport all witnesses to the police station or sheriff's office, so that the witnesses may be interviewed by OIS Investigation Team members. The initial responders should not attempt to conduct interviews of the witnesses, nor attempt to obtain written statements from them, except in emergency circumstances. Supervisors shall determine where witness interviews shall take place, using their discretion, based upon the unique facts of each individual OIS. Every effort should be made to interview the officer, and any law enforcement witnesses, at the agency where said officer and witnesses are employed. The officer shall be transported for an interview by the attendant. Arrangements to transport the civilian for an interview shall be made by a supervisor and the escort, once any necessary medical treatment has been obtained. All interviews are to be conducted by OIS Investigation Team members, as more fully set forth in Section IV, *infra*.

IV.
PROCEDURE: OIS INVESTIGATION TEAM.

1. The OIS Investigation Team shall be composed of 12 members from the Reno Police Department, 8 members from the Washoe County Sheriffs Office, and 6 members from the Sparks Police Department. All OIS Investigation Team members shall have current or former detective experience. The selection of OIS Investigation Team members shall be made by supervisory or administrative personnel at each respective agency. However, it is strongly recommended that supervisory personnel select members who have significant experience in investigations of homicide or other violent felonies. Supervisory personnel are encouraged to select the "best and the brightest" for assignment to the OIS Investigation Team, because of the importance of the subject matter being investigated, and to ensure the integrity of the investigative conclusions made by the OIS Investigation Team. Financial payment to OIS Investigation Team members shall be made pursuant to each respective agency's policies and practices.

2. The number of OIS Investigation Team members who respond to a particular OIS will be determined by supervisory personnel, depending upon the unique circumstances of each case. However, it is strongly recommended that at least six OIS Investigation Team members be dispatched to a fatal OIS, and at least four OIS Investigation Team members be dispatched to a non-fatal OIS.

3. The OIS Investigation Team members shall attempt to conduct tape recorded interviews of the officer (if he survives), the civilian (if he survives), and all witnesses, as soon as is reasonably practicable. If witnesses have left the scene of the OIS then all efforts should be made to immediately locate and interview them. Whenever possible the interviews should occur at the police station or sheriffs office, rather than in the field. A witness should never be interviewed in the presence of another witness. The officer, civilian and witnesses have the same right to refuse an interview, as would the victim, suspect and witnesses in a criminal investigation.

4. If there is evidence that the civilian may have discharged a firearm, and the person's hands have not already been bagged, then the person's hands should be bagged by forensic investigators or OIS Investigation Team members.

5. The OIS Investigation Team members shall request crime laboratory testing on various items of physical evidence collected in the case, as necessary, based upon the unique facts and circumstances of each individual case.

6. The OIS Investigation Team members shall perform all additional investigation necessary to obtain a complete understanding of the facts of the OIS, based upon the unique facts and circumstances of each case.

7. The OIS Investigation Team members, and any other law enforcement officers who take part in the OIS criminal investigation, shall comply with the rules of law that apply in criminal proceedings, including constitutional, statutory and case law.

V.

PROCEDURE: FORENSIC INVESTIGATORS.

1. Forensic investigation support in all OIS cases shall be provided shall be provided by the Forensic Investigation Section of the Washoe County Crime Lab.
2. The number of forensic investigators who respond to a particular OIS will be determined by the forensic investigators' supervisor, depending upon the unique circumstances of each case. However, it is strongly recommended that at least two forensic investigators be dispatched to any fatal OIS.
3. Forensic investigators shall respond to the OIS scene immediately upon notification.
4. If not already surrendered, forensic investigators shall take possession of the firearm discharged by the officer, any other weapons possessed by the officer at the time of the OIS, and the officer's duty belt. Re the specifics of the surrender of these items, see Section VI, infra. If the officer's clothing is deemed to have evidentiary value, then forensic investigators shall collect said clothing, upon consultation with OIS Investigation Team Members and Supervisors, once the officer has reached a police station or other appropriate location.
5. Forensic investigators shall note the condition of the officer's firearm, including performing a "countdown" of the weapon, and document said information. Forensic investigators shall also note the condition of any related components, including magazines or loose ammunition, and document said information. Forensic investigators shall also take all necessary photographs of the firearm and any related components to document their condition.
6. Forensic investigators shall take photographs of the officer. The number of photographs to be taken, and a determination as to whether full body photographs are necessary, shall be made in consultation with the OIS Investigation Team members, based upon the unique circumstances of each case. For example, if the officer or civilian claim that a violent fight or struggle occurred prior to the shooting, then full body photographs should be obtained to document any injuries to the parties.
7. Forensic investigators shall take possession of any firearm discharged by the civilian, any other weapons possessed by the civilian, and the clothing of the civilian, as soon as is reasonably practicable. If the civilian refuses to turn over any of said items then a search warrant or seizure order may be applied for.
8. If the civilian possessed a firearm, investigators shall note the condition of the firearm, including performing a "countdown" of the weapon, and document said information. Forensic investigators shall also note the condition of any related components, including magazines or loose ammunition, and document said information. Forensic investigators shall

also take all necessary photographs of the firearm and related components to document their condition.

9. Forensic investigators shall take photographs of the civilian. The number of photographs to be taken, and a determination as to whether full body photographs are necessary, shall be made in consultation with the OIS Investigation Team members, based upon the unique circumstances of each case. If the civilian dies autopsy photographs shall be taken as directed in Section VII, *infra*.

10. If there is evidence that the civilian may have discharged a firearm, and the person's hands have not already been bagged, then the person's hands should be bagged by forensic investigators. If the hands of the civilian are bagged, then the hands shall later be swabbed by forensic investigators. In any case where the person's hands are bagged and swabbed OIS Investigation Team members shall subsequently request that gun primer residue analysis be performed on the swabs. Note: the Washoe County Crime Lab does not perform this test. The swabs should be forwarded to the Tarrant County Medical Examiner's Office, or other appropriate laboratory, for this testing.

11. Forensic investigators shall photograph, document and collect any spent shell casings, spent projectiles, or other evidence.

12. Unless emergency circumstances require otherwise, all photograph taken in the case are to be taken by forensic investigators. Examples of emergency circumstances would include severe weather concerns which arise prior to the arrival of forensic investigators, safety concerns which arise prior to the arrival of forensic investigators, or situations where the officer or other law enforcement officers take emergency photographs per Section II, *supra*. All photographs taken, whether they be in standard film format or digital format, shall be promptly forwarded to the Washoe County Sheriffs Office.

13. The photographs taken by forensic investigators shall be developed by the Washoe County Crime Lab, within 14 days, without the need for a request to develop. Two sets of 8 x 10 color prints shall be developed by the Crime Lab, one for the District Attorneys Office and one for the OIS Investigation Team members who investigated the particular OIS. If photographs are taken by OIS Investigation Team members or other law enforcement personnel due to emergency circumstances, then it shall be the responsibility of the OIS Investigation Team members to request that the police photographs be developed, and prints forwarded to the entities noted in the last sentence.

14. The forensic investigators shall collect measurements and other information to enable them to later prepare a detailed diagram of the crime scene

15. The forensic investigators shall perform additional forensic investigation work, as necessary, to fully document the primary scene, any secondary scenes, and any persons associated with those scenes, after consultation with the OIS Investigation Team members, and based upon the unique facts and circumstances of each case.

16. As needed, and based upon the unique circumstances of each case, criminalists from the Washoe County Crime Lab may be dispatched to the scene of the OIS to assist in the investigation. The OIS Investigation Team Members shall consult with the Commander of the Crime Lab, or other appropriate supervisory personnel from the Crime Lab, in making this determination.

VI.
PROCEDURE: SUPERVISORS.

1. Upon the occurrence of an OIS, a minimum of 2 supervisors shall be immediately dispatched to the scene, at least 1 of whom is employed by the same agency as the officer, and at least 1 of whom is not employed by the same agency as the officer. If there are more than two supervisors at the scene, one supervisor shall be designated by the group as the supervisor in overall charge of the OIS investigation. However, under no circumstance shall the supervisor in overall charge be employed by the same agency as the officer.
2. Upon arrival at the scene Supervisors shall first take steps to ensure that any necessary medical treatment is rendered to the officer or the civilian. If the officer or civilian needs transport to a hospital, then Supervisors shall take steps to ensure that the transport occurs promptly.
3. After the above paragraph has been complied with, the Supervisor employed by the same agency as the officer shall have the authority, if deemed necessary, to direct the officer to surrender the firearm the officer discharged in the OIS. Said supervisor shall also direct the officer to surrender his duty belt. The surrender shall occur discreetly, out of the view of other law enforcement officers and third parties. The firearm and the duty belt shall be surrendered. If the officer's clothing is deemed to have evidentiary value, then forensic investigators shall collect said clothing, upon consultation with OIS Investigation Team Members and Supervisors, once the officer has reached a police station or other appropriate location.
4. Supervisors shall take all steps necessary to ensure that the directives of this protocol are carried out, including the assignment of attendants and escorts, and a prompt request that forensic investigators respond to the scene. Supervisors may receive information re the investigation from OIS Investigation Team members, but Supervisors should not conduct interviews of the officer, civilian or witnesses, except in emergency circumstances, where it appears reasonably likely that the officer, civilian or witness is about to lose consciousness or die, or except as otherwise set forth in Section II, paragraph 10, supra. The interviews of these individuals should ordinarily be performed by OIS Investigation Team members, as more fully set forth in Section IV, supra.
5. Supervisors shall ensure personnel are assigned to secure and protect the perimeter of the scene. Supervisors shall take steps to ensure that forensic investigators, and all other necessary personnel, have access to the scene to

perform their duties. As in any criminal investigation, media representatives should never be allowed access inside the crime scene perimeter, until the forensic investigation has been completed and the scene has been released. Supervisors should confer with OIS Investigation Team members prior to making a decision to release the scene.

6. Supervisors may give the families of injured or deceased parties information about the condition of the party to the same extent, and subject to the same limitations, as in any criminal investigation.
7. Supervisors shall notify their Chain of Command pursuant to their agency's policies and practices.
8. Supervisors shall ensure that no evidence items are moved prior to collection by forensic investigators, unless it is absolutely necessary to do so for the safety of personnel or preservation of evidence.

VII.
PROCEDURE: AUTOPSY.

1. If the civilian or the officer dies, then an autopsy shall be performed as soon as is reasonably practicable. The Coroners Office shall be responsible for informing the OIS Investigation Team of the date and time of the autopsy. The OIS Investigation Team shall notify forensic investigator personnel and District Attorney personnel of the date and time of the autopsy.

2. An OIS resulting in a death is a homicide and shall be treated accordingly. The same autopsy procedures that are utilized in a homicide case shall be utilized in an OIS case where the civilian or the officer dies. All evidence recovered at the autopsy, including the decedent's clothing, spent projectiles, and blood reference standards, shall be collected and booked into evidence by forensic investigators. Complete photographs of the body shall be taken by forensic investigators, including multiple photographs of any gunshot injuries or other injuries. The photographs of the gunshot injuries should include multiple intermediate distance photographs, as well as multiple close-up photographs, with and without scales. At least one photograph of the decedent's face shall be taken for identification purposes. No law enforcement officers, other than forensic investigators, shall take photographs at the autopsy. Medical Examiner personnel shall be free to take whatever photographs they deem necessary, for purposes of carrying out their job responsibilities.

VIII.

PROCEDURE: NOTIFICATION TO DISTRICT ATTORNEY STAFF.

1. Upon the occurrence of an OIS (as defined in the first paragraph of this Protocol), law enforcement personnel shall immediately notify the prosecutor in possession of the murder pager at (775) 250-4210. If no response is received at said number, then law enforcement personnel shall notify the prosecutor in possession of the on-call pager at (775) 250-4210. Once notified, the prosecutor contacted shall notify the District Attorney, or the Assistant District Attorney, if the District Attorney is not available.
2. The District Attorneys Office shall advise and assist the OIS Investigation Team members on any legal issues that may arise, including, but not limited to, issues regarding Miranda, voluntariness, physical evidence, search and seizure, and possible defenses. As in any criminal case, District Attorney personnel shall not give advice regarding whether sufficient evidence exists to make a probable cause arrest; that is strictly a law enforcement function. However, the District Attorneys Office may give advice regarding the elements of a particular crime.
3. There shall be at least one investigative staffing, and one crime lab staffing, for each OIS investigation. District Attorney personnel shall be notified in advance so that they may attend the staffings when appropriate.
4. Upon request of the District Attorney or Assistant District Attorney, all OIS Investigation Team reports, and all other related reports and materials, shall be forwarded to the District Attorney for his or her review. The District Attorney will evaluate the reports to determine if the shooting was justifiable pursuant to NRS 200.120 – 200.200, and all other applicable provisions of law.

IX.
INVOCATION OF PROTOCOL

1. This protocol shall automatically be invoked upon the occurrence of an OIS, as defined in the "Definitions" section, supra, so long as the officer is employed by an agency which is a signator to this Protocol.

2. This protocol may be invoked by the head of any agency which is a signator to this protocol, re any shooting in Washoe County involving an officer, even if the officer is not employed by an agency which is a signator to this Protocol, and/or even if no one is struck by a bullet. In other words, the agency heads shall have the ability to invoke the terms and procedures of this Protocol in special circumstances at their discretion.

The Agency Heads, on behalf of their respective agencies, agree to be bound by this Protocol and comply with the terms outlined herein.

DATED this 13th day of August, 2007.

Richard A. Gammick, District Attorney, Washoe County

Michael Haley, Sheriff, Washoe County Sheriffs Office

Michael Poehlman, Chief of Police, Reno Police Department

John Dotson, Chief of Police, Sparks Police Department

John Douglas, Chief, Nevada Department of Public Safety (NHP & NDI),
Investigations Division

Adam Garcia, Chief of Police, University of Nevada-Reno Police Department

Mike Mieras, Chief of Police, Washoe County School District Police

Carlisle DeWitt, Chief of Airport Police, Reno Tahoe International Airport

djg 8/13/07