PROVIDENCE POLICE DEPARTMENT

HEADQUARTERS

COLONEL OSCAR L. PEREZ

CHIEF OF POLICE

TYPE OF ORDER	NUMBER/SERIES	ISSUE DATE	EFFECTIVE DATE
General Order	330.02	8/13/2026	8/13/2026
SUBJECT TITLE		**PREVIOUSLY ISSUED DATES**	
Vehicular Pursuits		6/25/2025: 4/26/24; 1/5/2022; 3/18/2021; 2/25/2020; 1/17/2019; 3/9/2017; 2/6/2017; 1/15/2016; 11/28/2014; 3/28/2014;	
REFERENCE		**RE-EVALUATION DATE**	
CALEA 41.2.2; 41.2.3		2/25/2027	
SUBJECT AREA		**DISTRIBUTION**	
Law Enforcement Operations		All Personnel	

PURPOSE

The purpose of this policy is to establish procedures governing vehicular pursuit situations within and beyond the jurisdictional boundaries of the City of Providence. This General Order is designed to complement the standards of care in emergency vehicle operations and pursuits that are mandated by the statutes of the State of Rhode Island.

POLICY

It is the policy of the Providence Police Department to apprehend all violators of the law while exercising due regard for safety and the dangers posed to officers and others. The primary goal of this Department is, and will continue to be, the protection of life and property. Therefore, officers engaged in vehicle pursuits must continually balance the need to pursue against all known risks posed to the general public, the officer, and in some circumstances, the suspect.

NOTE: The procedures set forth in this General Order pertain to ALL vehicle pursuits, including those that are not high-speed pursuits as defined by RI General Law 31-27-4.2(c).

DISCUSSION

All pursuit situations cannot be anticipated, and it is recognized that emergencies or unusual circumstances may require a departure from the procedures set forth in this General Order. The validity of any such departure must be evaluated by taking into account the nature of such circumstances, and with full recognition of the need for officers to exercise sound judgment, common sense and discretion, unless no deviation from the procedures is permitted, or if State Statute, City Ordinance, or other applicable law mandates a specific procedure.

For the purpose of this General Order, the following definitions shall apply:

Authorized Emergency Vehicle: A law enforcement vehicle, operated by a sworn law enforcement officer, which is authorized to respond to an actual or apparent emergency. The authorized emergency vehicle must be equipped with emergency lights and siren, and that equipment must be activated at the time of the emergency response.

Pursuit: An active attempt by an officer in an authorized emergency vehicle to stop a moving motor vehicle through the activation of emergency lights and siren, and the driver of that vehicle fails to stop and engages in evasive actions.

Tire Deflation Device: A generic term used to identify devices specifically designed to disable motor vehicles via the puncturing of tires.

Primary Unit: The police unit immediately behind the suspect vehicle that engages in a pursuit, or any unit that assumes control of the pursuit.

Terminate: The term used by a supervisor, or by officer(s) in the primary unit engaged in a pursuit, to clearly direct the pursuit to cease immediately. The use of this term directs all officers involved in a pursuit to immediately comply by either slowing down to the posted speed limit or stopping completely, and deactivating all emergency equipment.

Assisting Unit: Any patrol unit actively engaged in the pursuit or that has been authorized by a supervisor to assist in a pursuit.

Uncommitted Unit: Any patrol unit not actively engaged in the pursuit or authorized by a supervisor to assist.

Stationary Roadblock: Any method, restriction or obstruction of a stationary nature, knowingly utilized for the purpose of preventing free passage of a moving motor vehicle, in order to cause the apprehension of a suspect in that motor vehicle.

Rolling Roadblock: A tactic in which either of the pursuing vehicles pull in front of a fleeing vehicle and reduces speed in an effort to slow or stop the fleeing vehicle.

Boxing-In: A tactic in which the escape route of a slowly moving vehicle is blocked by the use of moving police vehicles.

Parallel Pursuit: Occurs when an uncommitted unit operating emergency equipment or outside of traffic laws travels on a roadway different from the one on which the pursuit is occurring, in such a manner as to maintain close proximity and similar direction to the active pursuit.

Caravanning: Occurs when an uncommitted unit follows the route of the pursuit utilizing emergency equipment in such a manner as to close with or maintain close proximity to the pursuit.

Marked Unit: Any vehicle operated by a sworn member of the Providence Police Department that is marked with PPD decals on its exterior and is equipped with an audible siren and a roof-mounted blue light.

Unmarked Unit: Any vehicle operated by a sworn member of the Providence Police Department that is not marked with PPD decals on its exterior but is equipped with sirens and emergency lighting.

Vehicular Intervention: The deliberate striking or actions which threaten the striking of a suspect vehicle by an officer with an authorized emergency vehicle, including the use of a vehicle to forcibly stop or disable a suspect vehicle.

PROCEDURE

I. PREVENTING A PURSUIT

A. Officers should take every reasonable opportunity to prevent a pursuit when possible. Officers anticipating that a suspect will flee upon activation of emergency lights and siren are encouraged to utilize techniques and strategies which may reduce the likelihood of a pursuit occurring. In all cases, the utilization of such techniques and strategies should be used *if and only if they do not constitute a greater risk to officer and/or public safety.* Examples of possible techniques and strategies include:

1. The use of undercover vehicles to follow a suspect vehicle until the suspect stops, exits the vehicle, and can be approached on foot.

2. The blocking of a stopped or parked vehicle prior to the activation of emergency lights and sirens.

3. The following of a suspect vehicle at a distance in order to enable additional units to either obtain a closer proximity to the area or arrive at strategic locations, prior to the activation of emergency lights and sirens.

B. Officers may not engage in vehicular intervention, boxing-in, rolling roadblocks, stationary roadblocks, or the use of tire deflation devices in order to prevent a pursuit.

II. INITIATING A PURSUIT

A. Pursuits are limited to those situations which involve:

1. The attempted apprehension of persons wanted for the commission of felonious and/or misdemeanor acts that have threatened, threaten, or will threaten the health, life or safety of a person or persons; OR

2. The pursuit of a motor vehicle operator who has committed flagrant moving motor vehicle violations which have endangered the lives and safety of others, and who was operating in a reckless manner before the pursuit was initiated, and continues to operate in a manner that recklessly endangers the lives and safety of others, including, but not limited to, driving under the influence of liquor or drugs.

B. No police vehicle is permitted to initiate or participate in a pursuit unless it is an authorized emergency vehicle equipped with functioning emergency lights and siren which are activated during the pursuit.

1. In the event that an officer operating a motorcycle, unmarked vehicle, or other special use vehicle initiates a pursuit:

a. The officer shall cease to be the primary unit and act as the secondary unit when a marked patrol vehicle is in position to assume the pursuit.

b. Upon the arrival of a second marked patrol vehicle, the initiating officer will cease participation in the pursuit.

2. An officer will not engage in a pursuit while transporting a prisoner, any civilian, or any non-sworn PPD personnel.

C. Prior to initiating or becoming involved in a pursuit, the following factors should be considered:

1. Nature and seriousness of the suspected offense.

2. Geographic location.

3. Time of day.

4. Road conditions.

5. Weather conditions.

6. Visibility.

7. Other vehicle and/or pedestrian traffic.

8. The officer's knowledge of the road and surrounding area.

9. The performance capabilities of the pursuit vehicle and the suspect vehicle.

10. Any other conditions known to the officer that may be potentially hazardous.

11. Balancing the pursuit's danger to the public and the officer with allowing the suspect to escape.

D. Prior to initiating a pursuit, an officer shall first attempt to conduct a traffic stop by assuming a position near the suspect vehicle and activating the emergency lights and siren of the police vehicle.

1. In the event that the suspect submits by stopping his vehicle, the officer conducts a traffic stop under the conditions warranted by his observation of the situation.

2. In the event that the suspect resists by maintaining or increasing the vehicle's speed or by ignoring the officer's signal/order to stop the vehicle, AND when the parameters established within this General Order have been met, a pursuit may be initiated.

E. Upon initiating a pursuit, the officer shall perform the following steps:

1. Activate and maintain all emergency audio and visual warning devices of the police vehicle, including sirens and emergency lights, until the pursuit is terminated.

2. Immediately notify the Public Safety Communications Center (PSCC) of the initiating unit's call sign and that a vehicle pursuit has been initiated. In addition, the officer shall provide the following information:

a. The location, direction, and speed of the pursuit.

b. The registration number of the suspect vehicle, if known.

c. The description of the suspect vehicle and occupant(s).

d. The reason for the pursuit, including the offense(s) or suspected offense(s) committed by the suspect.

e. The number of occupants in the vehicle and if weapons are involved.

f. The identity of suspect(s) and a description, if known.

g. Any other information that may be necessary or requested.

III. PERSONNEL RESPONSIBILITIES DURING A PURSUIT

A. <u>All units participating in a pursuit shall adhere to the following provisions:</u>

1. *RI GENERAL LAW 31-12-6 - Emergency Vehicles-Times when entitled to special privileges:*

The driver of an authorized emergency vehicle, when responding to an emergency call, when in the pursuit of an alleged violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in section 31-12-7, but subject to the conditions stated in this section and 31-12-8 and in 31-12-9.

Upon establishment of the law enforcement agency accreditation council, the council shall adopt uniform rules and regulations governing high speed pursuits in the state in accordance with the standards established by the national law enforcement accreditation agency. Until the rules are adopted, all police department within the state shall submit to the department of the attorney general a copy of their high speed pursuit policies, which shall be available to the public.

2. *RI GENERAL LAW 31-12-7 - Privileges allowed emergency vehicles:*

The driver of an authorized emergency vehicle may:

a. Park or stand, irrespective of the provisions of any law;

b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

c. Exceed the prima facie speed limits so long as not endangering life or property;

d. Disregard regulations governing direction of movement or turning in specified directions.

<u>(NOTE: See Section V, paragraph G, for further discussion.)</u>

3. *RI GENERAL LAW 31-12-8 - Warning signals given by emergency vehicles:*

The exemptions granted under this chapter to an authorized emergency vehicle shall apply only when the driver of the vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

4. *RI GENERAL LAW 31-12-9 - Due care by emergency vehicles:*

The foregoing provisions in this chapter shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall the provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.

B. Primary Unit Responsibilities

1. The primary unit shall communicate the ongoing status of the pursuit at regular intervals, including any significant change of circumstances which might affect the decision to continue or terminate the pursuit.

   a. Failure to provide the above information shall be cause for the Patrol Bureau Shift Commander or district sergeant to order termination of the pursuit.

   b. The decision by the primary unit to terminate a pursuit may be the most prudent course of action. Officers must continually question whether the seriousness of the crime and the risks to public and officer safety justify continuing the pursuit. An officer will not be censured when, in the officer's opinion, continued pursuit constitutes an unreasonable risk.

C. Assisting Unit Responsibilities

1. Assistance will be coordinated by the Public Safety Communications Center (PSCC) under the direction of the Patrol Bureau Shift Commander or the district sergeant. A vehicle pursuit will normally involve no more than two units: the primary unit and one assisting unit.

2. If more assistance is specifically requested, the amount granted will be determined by:

   a. The nature of the offense.

   b. The number of suspects in the fleeing vehicle.

   c. Whether any of the participating police units have more than one officer in the vehicle.

   d. Any other clear and articulated facts that would warrant an increased hazard thereby dictating the necessity for additional assisting units.

   e. Only the Patrol Bureau Shift Commander or district sergeant may authorize more than two units to be in active pursuit. All other units will remain aware of the direction and progress of the pursuit but shall not actively participate, and shall not respond or engage in parallel pursuits unless specifically authorized to do so.

3. The assisting unit, upon joining the pursuit shall:

   a. Notify the communications center of its identity.

   b. If the primary unit is a one-man unit, assume radio communications responsibility, allowing the primary unit to devote full attention to the pursuit.

   c. Maintain a safe distance behind the primary unit but remain close enough to render assistance if and when required.

   d. Avoid intersecting the path of an oncoming vehicle.

4. If the primary unit becomes disabled, the assisting unit will become the primary unit. If this should occur, the PSCC will advise the Patrol Bureau Shift Commander or district sergeant and other units that a new backup unit is required and the next unit to join the pursuit will become the backup unit.

D. Uncommitted Unit Responsibilities

1. Uncommitted units may not engage in any pursuit that already has a primary and assisting unit unless authorized by the Patrol Bureau Shift Commander or district sergeant to become a committed unit in the pursuit. Uncommitted units are not authorized to make an emergency response towards an active pursuit unless approved by the Patrol Bureau Shift Commander or district sergeant.

2. Uncommitted units in the area of a pursuit may move toward the vicinity of the pursuit while obeying all traffic laws and not engaging emergency equipment.

3. Uncommitted units will not leave their assigned patrol district without the Patrol Bureau Shift Commander's or district sergeant's authorization.

4. At no time will uncommitted units engage in caravanning unless authorized by the Patrol Bureau Shift Commander or district sergeant.

5. Uncommitted units will remain aware of the direction and progress of the pursuit, but will not participate unless otherwise directed by the Patrol Bureau Shift Commander or district sergeant.

6. Uncommitted units will make every effort to avoid crossing the path of an oncoming pursuit.

E. Accidents

1. If a pursuing unit is involved in a motor vehicle accident during a pursuit, that unit will immediately notify the PSCC, Patrol Bureau Shift Commander, and district sergeant by issuing a broadcast of the incident over the police radio.

   a. If the accident involves the collision of a pursuing unit with an attended vehicle other than the suspect vehicle, or with any person, the unit involved will immediately cease participation in the pursuit. The unit will remain at the location of the accident and request or render aid as necessary.

   b. If the accident involves the collision of a pursuing unit with either the suspect vehicle or with any object other than an attended vehicle or any person, the involved unit may continue participation in the pursuit if in the officer's opinion it is safe and practicable to do so, subject to the discretion of the Patrol Bureau Shift Commander or district sergeant.

F. Supervisory Responsibilities

1. Unless an officer who is superior to the Patrol Bureau Shift Commander issues a statement over the police radio that he/she is assuming command authority over the pursuit, command authority shall rest with the Patrol Bureau Shift Commander in all pursuit situations. Furthermore, it shall be the duty of the supervisor having command authority over the pursuit to provide adequate supervision to the officers involved in the pursuit and to:

a. Track the location and monitor the status of the pursuit.

b. Review and consider as many facts relating to the pursuit as are available.

c. Direct units into or out of the pursuit.

d. Re-designate primary unit and assisting unit roles as necessary.

e. Deny, or approve and coordinate, the use of pursuit tactics.

f. Deny, or approve and coordinate, the continuation of the pursuit into another jurisdiction.

g. Consider the potential and real dangers of the continuation of the pursuit.

h. Order the termination of the pursuit when the dangers created by the pursuit appear to outweigh the need for immediate apprehension.

2. The supervisor having command authority may exercise control over the pursuit through subordinate supervisory personnel, but shall be in command of the pursuit and shall maintain overall responsibility for all involved department personnel.

3. Any supervisor who is actively participating in a pursuit shall neither assume command authority nor exercise control over the pursuit.

G. Public Safety Communications Center Responsibilities

1. Upon being notified that a pursuit is in progress, the PSCC shall record all incoming information pertaining to the pursuit. Additionally, the PSCC shall:

a. Immediately notify the Patrol Bureau Shift Commander and district sergeant of the existence of and circumstances pertaining to the pursuit.

b. Monitor and maintain control over all radio communications during the pursuit, including the designation of the radio channel to be used solely for communications pertaining to the pursuit and the reallocation of unrelated radio transmissions to other channels.

c. Inform all other police units of information relevant to the status of the pursuit.

d. Coordinate and dispatch assisting units under the direction of the Patrol Bureau Shift Commander or district sergeant.

e. Perform all relevant MVD or NCIC checks.

f. Notify other police departments when it appears that a pursuit may extend into their jurisdiction(s).

IV. TERMINATING A PURSUIT

A. The primary unit may maintain pursuit as long as it is reasonable and prudent to do so. However, a decision to terminate a pursuit may become the most appropriate course of action. Officers must continually question whether the seriousness of the offense justifies continuation of the pursuit.

1. Any doubt concerning the reasonableness of a pursuit should be resolved in favor of the safety of officers and the public. A pursuit will be terminated whenever:

a. There is an unreasonable danger to the officer(s) or the public which is created by the pursuit.

b. The prevailing traffic, roadway, and environmental conditions create an unreasonable danger if the pursuit is continued.

c. The pursued vehicle's location is no longer known; or it becomes futile to continue the pursuit because the suspect vehicle is traveling a substantial or increasing distance ahead of the pursuing police vehicle(s).

d. Communication between the pursuing units and the PSCC is lost or unreadable.

2. When the identity of the operator of the pursued vehicle is known and the violator is not presenting an immediate danger to other persons, officers and supervisors will consider terminating the pursuit.

3. Officers must immediately notify PSCC personnel when a pursuit has been terminated. Officers must give the last known direction of travel of the suspect vehicle and all known descriptions.

4. The termination of a pursuit does not prohibit an officer from continuing to follow a vehicle in a non-emergency capacity and manner, and while complying with all traffic laws that do not pertain to the operation of emergency vehicles, as long as permission to continue following the vehicle is granted by the Patrol Bureau Shift Commander or district sergeant.

B. The Patrol Bureau Shift Commander, district sergeant, primary unit, or any officer superior to the Patrol Bureau Shift Commander may terminate the pursuit at any time, and for any reason.

C. When a pursuit is terminated due to the halting of the suspect vehicle, the Patrol Bureau Shift Commander or district sergeant shall respond under Code 2 conditions to the location of the conclusion of the pursuit and take charge of the incident.

V. PURSUIT TACTICS

A. In the course of a pursuit, tactics such as the use of vehicular intervention/forcible stopping, boxing in, rolling roadblocks, parallel pursuits, or driving alongside the pursued vehicle while it is in motion, are prohibited.

B. Reckless or hazardous driving maneuvers by a suspect vehicle shall not be duplicated by any pursuing vehicles.

C. Passing: There shall be no attempt by officers to pass other field units involved in the pursuit unless the passing officer receives specific permission from the primary unit, Patrol Bureau Shift Commander, or district sergeant.

D. Spacing: All units in a pursuit, whether the vehicle in front of the unit is the suspect vehicle or another police vehicle, shall space themselves at a distance that will ensure proper braking and reaction time.

E. Controlled Access Highways: Officers shall not pursue suspects the wrong way on interstate or other controlled access highways or divided roadways unless specifically authorized by the Patrol Bureau Shift Commander or district sergeant.

F. Traffic Control Devices: Although *RI GENERAL LAW 31-12-7* specifically states that the operator of an emergency vehicle may "*proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation*", extreme caution must be used when officers disregard traffic signs or signals during a pursuit. Officers may disregard traffic control devices after first slowing down and confirming that they have been given the right of way and safe passage exists before proceeding.

G. Stationary roadblocks and Tire Deflation Devices are prohibited.

H. Officers shall avoid tactics that place them in a position where a vehicle could be used as a weapon against them. Escape from the path of an oncoming vehicle should be the first priority and, whenever practicable, the first course of action.

VI. USE OF LETHAL FORCE DURING A PURSUIT

A. An officer is authorized to use lethal force during a pursuit in the following scenarios:

1. When any suspect in the vehicle being pursued poses what the officer reasonably believes to be an imminent threat of death or serious physical injury to the officer or any another person through the use or threatened use of a weapon, including the vehicle itself.

2. When the officer is effecting the capture of, or preventing the escape of, a suspect whose freedom represents an imminent threat of death or serious physical injury to the officer or any other person.

B. In all cases, the use of lethal force must be the most reasonable course of action and must not constitute a greater safety hazard to the public. The officer must have a reasonable belief that as a result of using lethal force:

1. The lives of innocent people will not be endangered; and

2. The threat posed by the suspect will be neutralized.

C. Officers shall not discharge firearms at a moving vehicle:

1. For the purpose of puncturing its tires or otherwise disabling the vehicle.

2. When there is no reasonable expectation of striking the suspect inside the vehicle who poses the threat.

VII. INTER-JURISDICTIONAL PURSUITS

A. Whenever there is the possibility that a pursuit will extend into another jurisdiction, the Patrol Bureau Shift Commander shall notify the surrounding jurisdictions of the pursuit and of its potential for extending into their jurisdictions via the PSCC. If the pursuit enters a jurisdiction different from that in which it began, then the pursuit policy of the entered jurisdiction shall apply and control the pursuit. The entered jurisdiction shall have the authority consistent with its policies to terminate the pursuit. The only exception pertains to the Rhode Island State Police (RISP), which exercises state-wide jurisdiction.

B. Officers of this Department shall not become involved in another agency's pursuit unless specifically authorized by the Patrol Bureau Shift Commander or district sergeant, or unless it is clearly demonstrated that a unit from an outside agency is unable to request or receive timely assistance from its own agency, or when the emergency nature of the situation dictates the need for assistance. In these instances, all of this department's policies are controlling and will determine the continuation and procedure of the pursuit.

C. In cases where this Department is notified by an outside agency that a pursuit may enter the City of Providence, the Patrol Bureau Shift Commander and/or district sergeant shall be immediately notified by the PSCC, which shall obtain all relevant information regarding the pursuit and relay that information to the Patrol Bureau Shift Commander or district sergeant.

D. The Patrol Bureau Shift Commander or district sergeant will assume command authority over the pursuit of any outside agency, other than the RISP, and shall have the authority to order compliance with this Department's pursuit policy. This authority shall extend to a decision to terminate the pursuit.

E. Requests by other agencies for pursuit assistance will be communicated by the PSCC to the Patrol Bureau Shift Commander and district sergeant. The Patrol Bureau Shift Commander or district sergeant may authorize one departmental unit to join the pursuit as an assisting unit. Any additional assistance by this Department will be specifically authorized by the Patrol Bureau Shift Commander or district sergeant, and the procedures previously established will be in effect.

VIII. POST-PURSUIT REPORTING REQUIREMENTS

A. All officers directly involved shall submit a written report to the Patrol Bureau Shift Commander detailing the officer's participation in the pursuit and providing the facts and circumstances which led to the officer's participation in the pursuit. All reports are to be completed by the end of the shift.

B. All pursuits require a written Incident Report and Pursuit Reports within Blue Team as necessary, based on the particulars of the incident (i.e., an accident report will be required in cases where an accident occurred.)

C. The Patrol Bureau Shift Commander shall also file a written report giving a complete account of the pursuit, including the justification for continuing or terminating the pursuit; compile all original reports and documentation and forward them to the Commanding Officer of the Uniformed Division within Blue Team Software.

D. The Commanding Officer of the Uniformed Division shall perform an Administrative review of the pursuit to determine:

1. Whether or not the pursuit was conducted according to policy and state statute.

2. Any training issues raised by the pursuit.

3. Whether or not additional equipment or procedures may aid in the apprehension of suspects in future pursuits and/or increase officer and citizen safety.

E. All original reports and documentation shall then be forwarded to the Office of Professional Responsibility for further review within seventy-two (72) hours of the incident via Blue Team Software.

F. Notwithstanding the above, and in accordance with "The Attorney General's Protocol Regarding Use of Deadly Force Incidents and Custodial Deaths" (attached):

1. The RI Attorney General's Office and the Rhode Island State Police will be notified immediately whenever a vehicular pursuit results in the death of or serious bodily injury to any person.

2. Keeping in mind the value of a multi-agency investigation, investigative steps taken prior to assembly of the multi-agency onsite investigative team should be limited to those necessary to preserve evidence or those required due to other exigent circumstances.

3. All other applicable portions of the protocol shall be followed.

IX. PROVISIONS

A. The Office of Professional Responsibility (OPR) shall perform a documented annual analysis of all pursuit data compiled from the previous year's incidents and reports.

B. The Command Staff shall conduct a documented annual review of pursuit policies and reporting procedures.

C. A documented review of the pursuit policy by all sworn personnel shall be conducted annually.

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APPROVED:



COLONEL OSCAR L. PEREZ
CHIEF OF POLICE

State of Rhode Island and Providence Plantations
OFFICE OF THE ATTORNEY GENERAL
Peter F. Neronha, Attorney General

THE ATTORNEY GENERAL'S PROTOCOL FOR THE REVIEW OF INCIDENTS INVOLVING THE USE OF DEADLY FORCE, EXCESSIVE FORCE AND CUSTODIAL DEATHS

June 17, 2020

BACKGROUND

It has been the long-standing practice in this State that when a police officer uses deadly force, or where there has been a custodial death, the law enforcement agency reports the incident to the Office of the Attorney General for review and joint investigation. This Protocol updates and expands upon the Attorney General's Protocol Regarding The Review Of Incidents Involving The Use of Deadly Force and Custodial Death (last revised in 2007). It is designed to promote greater uniformity, accountability and impartiality in the investigation of police use-of-force incidents where deadly force was employed, where there has been an allegation of excessive use of force by police, and where a custodial death occurs. **It is applicable to all Rhode Island state and municipal law enforcement agencies.** For convenience, the terms "police officer" and "police department" are used in this Protocol.

A police officer's use of deadly force, alleged use of excessive force and the death of a person in police custody are some of the most sensitive matters that law enforcement agencies investigate. These investigations frequently pose complex factual and legal issues and are closely followed by the public we serve. It is critical that the public have confidence that when police use force, and deadly force in particular, that that use of force was reasonable and lawful. This Protocol sets forth the policies and practices of the Office of the Attorney General for the investigation of deadly force and custodial death incidents and for the investigation of allegations of the use of excessive force. It also provides guidance on potential *Garrity* issues.

USE OF THE PROTOCOL

The Protocol shall be followed whenever:

A police officer uses deadly force, whether or not death or injury of any person results.

A person dies while in police custody or dies during the apprehension or attempted apprehension of a person.

A police officer uses less than deadly force that results in serious bodily injury to any person.[1]

A police department receives a complaint alleging that a police officer used excessive force during his/her interaction with a person, and there is evidence, including but not limited to video or other electronic evidence, to warrant additional investigation.

This Protocol may also be followed:

Whenever a person dies or is injured as a result of a police interaction even if the police did not intentionally use force or deadly force. For example, motor vehicle accidents involving the police where there is a fatality or serious injury.

In any situation, not explicitly addressed above, where the police department and the Attorney General jointly agree that review by the Attorney General would be in the public interest.

OBLIGATIONS OF THE EMPLOYING POLICE DEPARTMENT

The police department employing the police officer whose action prompts the application of this Protocol ("Employing Police Department") shall immediately notify the Office of the Attorney General (after hours, an Assistant Attorney General may be reached through the Bureau of Criminal Identification at 401-732-7629) and, in situations involving the use of deadly force or a custodial death, the Rhode Island State Police (401-444-1000). Where the action of a member of the Rhode Island State Police prompts the application of this Protocol, notification shall include the police department of the city or town where the action occurred.

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[1] Serious bodily injury" means physical injury that: (1) creates a substantial risk of death; (2) causes protracted loss or impairment of the function of any bodily part, member, or organ; or (3) causes serious permanent disfigurement

The Employing Police Department shall limit the investigative steps taken prior to assembly of the multi-agency investigative team (see "Investigative Team" section below) to those measures necessary to secure the scene, preserve evidence, identify witnesses, and any other measures necessary to address exigent circumstances.

The Employing Police Department shall immediately collect, preserve, and turn over to the multi-agency investigative team all video and audio recordings that pertain to the incident in question. Any public release of video and audio recordings in the possession of law enforcement shall be done in accordance with the law and in a manner that preserves the integrity of the criminal investigation, protects the rights of the accused, and respects the privacy of civilians captured on the recording. Absent extraordinary circumstances, video and audio recordings should not be released until all witness statements have been collected and the criminal investigation has concluded.

The Chief of Police of the Employing Police Department, or, where the matter involves the conduct of a member of the Rhode Island State Police, the Colonel of the State Police, shall serve as the primary point of contact for media inquiries, coordinating all responses with the Attorney General and other members of the multi-agency investigative team. The Chief of Police, or, where applicable, the Colonel of the State Police, may also refer such inquiries to the Attorney General.

ROLE OF THE ATTORNEY GENERAL

The Attorney General shall assign a senior prosecutor (or prosecutors) to work with and provide legal advice to investigators throughout the course of the investigation.

As a general rule, the Attorney General will present every police-involved use of force incident resulting in death or serious bodily injury to a grand jury for its review and consideration.

Incidents involving use of force that did not result in death or serious bodily injury and where the undisputed facts indicate that the use of force was objectively reasonable under the law may be concluded without a formal grand jury presentation.

The Attorney General may, however, present any matter to a grand jury where doing so is necessary to obtain evidence, develop the testimony of witnesses, and otherwise conduct a full and complete investigation.

INVESTIGATIVE TEAM

Matters Involving the Use of Deadly Force and Custodial Death

Where a police officer uses deadly force, regardless of whether death or injury results, or where a person dies in police custody or during apprehension or attempted apprehension by police, the investigative team will be comprised of members of the Attorney General's Office, the Rhode Island State Police and the Employing Police Department.

Where a member of the Rhode Island State Police uses deadly force, regardless of whether death or injury results, or where a person dies in State Police custody or during apprehension or attempted apprehension by the State Police, the investigative team will be comprised of the Attorney General's Office, the Rhode Island State Police, and the municipal police department of the city or town where the incident occurred.

The investigative team will respond to the scene immediately after notification of the incident initiating application of this Protocol.

Matters Involving Less than Deadly Force and Allegations of Excessive Use of Force

Whenever a police officer uses less than deadly force that results in serious bodily injury to a person, or is alleged to have used excessive force and the evidence supporting such allegation, including but not limited to video or other electronic evidence is sufficient to warrant additional investigation, the Employing Police Department shall:

- Promptly notify the Attorney General; and
- Provide the Office of the Attorney General with copies of all non- compelled statements and any other evidence pertaining to the matter.

The Attorney General and the Employing Police Department will jointly review the evidence pertaining to the matter and pursue any follow up investigation as necessary. It is strongly preferable that members of the Employing Police Department's Professional Standards Unit or equivalent be assigned to the investigation.

The Attorney General will determine whether criminal charges are appropriate, and, if charges are appropriate, the nature of such charges, including whether the appropriate charge or charges constitute a misdemeanor or felony or

both. The Attorney General will determine whether presentation to a grand jury is necessary to obtain additional evidence or develop the testimony of witnesses.

GARRITY ISSUES

Pursuant to the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967), when a police officer is compelled by a supervisor to make a statement in the course of an administrative or internal investigation or face termination, such statement and any evidence derived from that statement cannot be used in any subsequent criminal investigation or prosecution of that officer.

If a police officer agrees to provide a voluntary statement, the officer's statement may be shared with all investigators and prosecutors assigned to the matter.

If an officer is not willing to provide a voluntary statement, the investigative team, in consultation with the Attorney General, must determine whether a statement should be compelled by a supervisor. If the decision is to compel a statement, under *Garrity,* his or her statement and evidence derived from that statement cannot be used in any subsequent prosecution. Accordingly, under these circumstances, the investigative and prosecution team must be divided into two groups. The first group will be allowed access to the compelled statement and any evidence obtained as a result. The second group must be walled off from the contents of any compelled statement and the evidence derived from such statement.

The first group will be assigned to investigate any administrative and departmental violations allegedly committed by the police officer providing the compelled statement. They may also participate in the criminal investigation and/or prosecution of any other individual, including a police officer, whose statement was not compelled.

The second group will be assigned to pursue the criminal investigation and/or prosecution of any officer whose statement was compelled.



PETER F. NERONHA
ATTORNEY GENERAL