

# COLUMBIA POLICE DEPARTMENT

Policy and Procedure Manual

## OFFICER-INVOLVED SHOOTING/CRITICAL INCIDENTS

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**CALEA 6<sup>th</sup> Edition Standard:** 11.3.3; 41.2.4

### 310 OFFICER-INVOLVED SHOOTING/CRITICAL INCIDENTS

#### 310.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an officer-involved shooting or an incident where a person dies as a result of the actions of an officer.

#### 310.2 POLICY

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

#### 310.3 TYPES OF INVESTIGATIONS

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

- a. An investigation of the involved officer's actions to determine if any actions were criminal. Depending on the circumstances, this investigation may be conducted by the agency having jurisdiction where the incident occurred, or may be conducted by an outside agency such as the MSHP.
- b. A civil investigation to determine potential liability conducted by the involved officer's agency.
- c. An administrative investigation as to policy compliance by involved officer(s)' agency.
- d. A criminal investigation of the suspect's actions. Depending on the circumstances, this investigation may be conducted by the agency having jurisdiction where the incident occurred, or may be conducted by an outside agency such as the Missouri State Highway Patrol (MSHP).

#### 310.4 CONTROL OF INVESTIGATIONS / JURISDICTION

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and critical incidents. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or critical incident and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings or critical incidents.

##### 310.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Columbia Police Department would control the investigation if the suspect's crime occurred in Columbia. Depending on the circumstances, The Chief of

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Police or designee may request an outside agency such as the MSHP to take control of all aspects of the criminal investigation.

#### **310.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS**

The control of the criminal investigation into the involved officer(s)' conduct during the incident will be determined by the employing agency's policies, written directives or protocols. When an officer from this department is involved, depending on the circumstances, the criminal investigation may be handled by our Department or the Chief of Police or designee may request an outside agency such as the MSHP to take over the investigation as described in section 310.6 of this policy.

Requests made of this department to investigate a shooting or critical incident involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

#### **310.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION**

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

#### **310.5 INVESTIGATIVE PROCESS / PROCEDURES**

The following process/procedures should be used when investigating an officer-involved shooting or critical incident.

##### **310.5.1 UNINVOLVED OFFICER RESPONSIBILITIES**

Upon arrival at the scene of an officer-involved shooting or critical incident, the first uninvolved officer will be the officer in charge and assume the duties of a supervisor, until relieved by the responding supervisor, and should:

- a. Secure the scene and identify and eliminate hazards for all those involved.
- b. Take reasonable steps to obtain emergency medical attention for injured individuals.
- c. Coordinate a perimeter or pursuit of suspects as appropriate.
- d. Request additional resources, units or agencies as appropriate.
- e. Brief the supervisor upon arrival.

##### **310.5.2 SUPERVISOR RESPONSIBILITIES**

Upon arrival at the scene of an officer-involved shooting or critical incident, the first uninvolved supervisor will assume the duty of Scene Commander and complete the duties as outlined above, plus:

- a. Attempt to obtain a brief overview of the situation from any officers not directly involved with the initial incident.
- b. If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene, identify injured parties

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and pursue the suspect(s). This would include such things as outstanding suspect information, estimated number and direction of shots fired, perimeters of the incident scene, identity of known or potential witnesses and other pertinent information (see Public Safety Statement Form).

- c. Absent a voluntary statement from an officer, the initial on-scene supervisor should not compel any involved officer to provide any information other than public safety information.
- d. Provide all available information to the Watch Commander and Boone County Joint Communications. If feasible, sensitive information should be communicated over secure networks.
- e. Take command of and secure the incident scene with additional personnel until relieved by an Investigative Unit supervisor or other assigned personnel.
- f. As soon as practicable, ensure that involved officers are transported, separately if feasible, to a suitable location, away from the scene and distractions of the investigative process. A peer support person or supervisor should stay with the officer to await further direction.
- g. Each involved officer should be given an administrative order not to discuss the incident with anyone pending further direction from a supervisor (see Public Safety Statement Form).
- h. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided a comparable replacement weapon as soon as feasible. If an involved officer is not armed at the time of his/her transport to a new location, ensure the officer is transported by an armed officer. This is to ensure that anyone in an identifiable police uniform, while in view of the public, has access to some means of protection.

#### 310.5.3 WATCH COMMANDER RESPONSIBILITIES

Upon learning of an officer-involved shooting or critical incident, the Watch Commander shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or designee.

All initial outside inquiries about the incident shall be directed to the Watch Commander until the Public Information Officer assumes that responsibility.

#### 310.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable by the scene Commander:

- a. Chief of Police
- b. Operations and Operations Support/Admin Support Bureau Commander
- c. If applicable, notify appropriate outside law enforcement agency (e.g. Missouri State Highway Patrol).
- d. Internal Affairs Unit supervisor
- e. Psychological/peer support/Chaplain personnel if established
- f. Medical Examiner (if necessary)
- g. Public Information Officer.

All initial outside inquiries about the incident shall be directed to the on duty Watch Commander until the Public Information Officer assumes that responsibility.

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#### 310.5.5 INVOLVED OFFICERS

Any officer who is involved in a shooting or critical incident involving serious injury or the death of another person should expect to be asked for and willing to provide a public safety statement. This is critical information needed at or near the time of the incident to ensure that responding officers and personnel can locate and secure other potential hazards, injured parties, witnesses, evidence, and any outstanding suspects.

Once the involved officer(s) have arrived at the station or other designated area, and have provided public safety statements, the Watch Commander should remind each officer the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer(s):

- a. Any request for legal or union representation will be accommodated.
- b. While discussions with licensed attorneys will be considered privileged as attorney-client communications, no involved officer shall be permitted to meet collectively, or in a group, with an attorney prior to providing a formal interview or report.
- c. Any involved officer should meet with a licensed psychologist or psychotherapist within five days of the incident if possible. Follow-up visits should be conducted, at a minimum, on the sixth month and one year anniversary of the incident at the discretion of the Chief of Police or designee. The psychologist or psychotherapist may request additional sessions as needed. A psychologist or other psychotherapist shall be provided by the Department to any other officer upon request.
  1. Interviews with the psychologist or psychotherapist are privileged and will not be disclosed except to the extent a report is needed to determine whether the officer is fit for return to duty.
  2. If an interview or session with the psychologist or psychotherapist takes place prior to the involved officer providing a formal interview or report, the session shall not be a collective, or group, setting.
- d. The Department will honor the sensitivity of communications with peer counselors if established. Peer counselors are cautioned not to discuss the facts of any incident with an involved or witness officer.
- e. Any involved officer may request to speak with a department Chaplain. Department Chaplains will not discuss or divulge information obtained while acting in a confidential capacity to any person, including department supervisors and administrators. All communication with the Chaplain, other than statements indicating potential bodily harm to the officer or any person, is privileged.
- f. Care should be taken to preserve the integrity of any physical evidence present on the officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.
- g. Investigators shall make reasonable accommodations to the officer's physical and emotional needs.

Additionally, as common practice, any officer directly involved in an officer-involved shooting or critical incident involving a department related death should expect to be placed on Administrative Leave for a minimum of three days following the incident.

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#### 310.6 CRIMINAL INVESTIGATION

This department may utilize an outside agency such as the MSHP to conduct an independent criminal investigation into the circumstances of any CPD officer-involved shooting or critical incident.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer(s):

- a. If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- b. CPD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interviews of CPD officers. This will not prohibit such personnel from remotely viewing the interview.
- c. If requested, any involved 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 officer's statement, the involved officers shall not consult or meet with a representative or attorney collectively, or in groups, prior to being interviewed.
- d. Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative or other related investigations. Absent consent from the involved officer(s) or as required by law, no administratively compelled statement will be provided to any criminal investigators.

#### 310.6.1 REPORTS BY INVOLVED CPD OFFICERS

In the event suspects remain outstanding or are subject to prosecution for related offenses, this department shall retain the authority to require the involved CPD officer(s) to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved CPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators (internal or external as decided by the Chief of Police or designee), who may interview the involved officer as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of an involved officer should focus on evidence to establish the elements of criminal activities by the involved suspects. Care should be taken to not duplicate information provided by an involved officer in other reports.

Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures and should also be included for reference in the investigation of the officer-involved shooting or critical incident.



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Response to resistance reporting should be completed in the appropriate system in accordance with policy 300. In instances where the officer is directly involved in an officer involved shooting, the information may be entered by an authorized supervisor.

#### 310.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or critical incident may be lost or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- a. Identifying all persons present at the scene and in the immediate area.
  1. When feasible, a recorded statement should be obtained from persons who claim they did not witness the incident but were present at the time it occurred.
  2. Any potential witness who has been identified but is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain, or probable cause to arrest.
  3. A detention for witness identification purposes is allowed. A supervisor should be made aware if a witness to an officer-involved shooting or critical incident refuses to identify themselves as required by RSMo 575.190 and handled accordingly to include arrest if appropriate.
- b. Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.
  1. A written, verbal or recorded statement of consent for transportation should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- c. Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### 310.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or critical incident, it shall be the responsibility of the designated CID supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. If the investigation is transferred to an outside agency such as the MSHP, CPD investigators may be assigned to assist the outside agency if requested.

All related CPD reports, except administrative and/or privileged reports, will be forwarded to the designated CID supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Bureau Commander.

#### 310.7 ADMINISTRATIVE / PERSONNEL INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation to determine conformance with department policy. This

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investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential personnel file, only released as required by law.

- a. Any officer involved in a shooting or critical incident may be requested or administratively compelled to provide a blood sample for alcohol/drug screening.
- b. If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of the involved officer.
  1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interview.
- c. In the event an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  1. Although this interview should not be unreasonably delayed, care should be taken to ensure the officer's physical and psychological needs have been addressed before commencing the interview.
  2. If requested, the officer shall have the opportunity to select two uninvolved representatives, which may include legal representation, to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, an involved officer shall not consult or meet with a representative or attorney collectively, or in groups, prior to being interviewed.
  3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
  4. The officer shall be informed of the nature of the investigation. The officer will be given his/her Garrity rights. If the officer refuses to answer, he/she will then be given an administrative order to provide full and truthful answers to all questions or be subject to discipline including potential separation of employment.
  5. The administrative interview shall be considered part of the officer's administrative investigation file.
  6. The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  7. The completed administrative investigation shall be submitted to the appropriate Bureau Commander to determine compliance with the Response to Resistance Policy and any other applicable policies.
  8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

#### **310.8 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

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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. However, persons preparing the response shall be given reasonable access to all other investigations.

#### **310.9 AUDIO AND VIDEO RECORDINGS**

The audio/video recordings of any involved officer or officer responding to a major incident or officer-involved shooting shall be tagged and preserved as evidence.

If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing any video file (CPD policy 447.3.C.8).

Any known audio or video recordings possessed by the department shall not be viewed unless a legitimate law enforcement purpose exists or the viewing is authorized by the Chief of Police or designee. The release of any audio or video recording shall not occur without consulting the department's legal counsel and permission from the Chief of Police or designee.

#### **310.10 DEBRIEFING**

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

##### **310.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING**

A critical incident/stress debriefing should occur as soon as practicable. Notes and recorded statements should not be taken as the sole purpose is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not a part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or valid court order.

Attendance at the debriefing shall only include those members of the department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the department, including supervisory and Internal Affairs Unit personnel.

##### **310.10.2 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police or designee should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.



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### **310.11 MEDIA RELATIONS**

A single media release should be prepared with input and concurrence from the supervisor and the agency representative responsible for each phase of the investigation. This release will be available to the Watch Commander, Operations Support Bureau Commander and Public Information Officer in the event of inquiries from the media.

No involved CPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or designee.

Employees receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and/or primary responsibility for the investigation.