

Officer-Involved Critical Incident

311.1 OICI PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer involved shooting or dies as a result of other actions of an officer (Officer Involved Critical Incident (OICI)).

In other incidents not covered by this policy, the Chief may decide that the investigation will follow the process provided in this policy.

311.2 OICI POLICY

The policy of the Unified Police Department is to ensure that Officer Involved Critical Incidents (OICI) are investigated in a thorough, fair, and impartial manner.

311.3 TYPES OF INVESTIGATIONS

Officer Involved Critical Incidents involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the suspect's actions.
- (b) A criminal investigation of the involved officer's actions.
- (c) An administrative investigation as to policy compliance by involved officers.
- (d) A civil investigation to determine potential liability.

311.4 CONTROL OF INVESTIGATIONS

Upon a qualifying event the protocol is automatically and immediately in effect. In accordance with UCA §76-2-408 the Venue Agency is required to immediately contact the District Attorney's Office and the Protocol Coordinator to affirmatively invoke the protocol. This may be accomplished by contacting the Agency Administrator / designee or the Violent Crimes Supervisor / designee.

The Protocol Coordinator will determine which Protocol Team(s) are available for a response to the OICI, after which the Protocol Coordinator will contact the District Attorney's Office and venue agency and inform them which team will handle the OICI. The Protocol Coordinator will then initiate the Protocol Team callout and response.

Liaison Officers or representative from the Employing Agency who is not a member of the Protocol Team but who serves as a liaison to the Protocol Team for a specific OICI investigation to facilitate communication between the Protocol Team and the Employing Agency. The Liaison Officer is not assigned investigative functions but can respond to

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requests from the Protocol Team and can be present during interviews. The Liaison Officer shall have Guarded Access at all times to the Involved or Contributing Officer(s).

311.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The subject's actions prior to the officer's actions, if constituting a criminal offense, is a separate incident and will be investigated separately. The Venue Agency where the subject's alleged criminal conduct occurred may investigate this separate incident, ask another agency to investigate, or ask the Protocol Team to investigate the separate incident.

311.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The Protocol Coordinator will assign a Protocol Team to be responsible for the investigation of the officer actions. The District Attorney Investigator may be a part of the Protocol Team investigation.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating Officer Involved Critical Incidents (OICI).

311.4.3 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.

311.5 OICI INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an Officer Involved Critical Incident (OICI).

311.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an Officer Involved Critical Incident (OICI), the first uninvolved UPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene, identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival

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- (g) Make sure any suspect or officer being transported to a medical facility has another uninvolved officer with them.
- (h) Secure an inner and outer perimeter to ensure the integrity of the crime scene is kept.
- (i) Start a crime scene log to document each person who enters the scene, to include medical personnel, officers, and any other people who may have reason to be in the crime scene.

311.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved UPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 - 1. If there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any UPD officer to immediately provide a Public Safety Statement necessary to secure the scene, identify injured parties, and pursue suspects.
 - 1. A Public Safety Statement shall be limited to such things as the type of force used, location of injured persons, including those in need of medical attention, description of outstanding suspect(s) and their direction of travel, time elapsed since the suspect was last seen, and any suspect weapons. Also, the direction and approximate number of any shots fired and the results of those shots if known. The description and location of any known evidence and any other pertinent information.
 - 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Watch Commander and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional UPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 - 1. Each involved UPD officer should be given an administrative order not to discuss the incident with other involved officers or UPD members pending further direction from a supervisor.

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311.5.3 NOTIFICATIONS

The Incident Commander or Watch Commander shall ensure the following persons be notified as soon as practicable:

- Chief
- Involved Member's Commander
- Investigations Commander
- UPD Chief Legal Counsel
- Psychological / peer support personnel
- Involved officer's agency representative (if requested)
- Public Information Officer
- Violent Crimes Supervisor
- Protocol Coordinator

It is the responsibility of the Violent Crimes Supervisor in conjunction with the Forensic Unit Supervisor to contact the Medical Examiner's Office if needed. It is the responsibility of the Violent Crimes Unit Supervisor to contact the

- Internal Affairs Unit
- Forensics

311.5.4 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) As soon as feasible, the involved officer will notify dispatch and the Watch Commander that an Officer Involved Critical Incident has occurred.
- (b) If feasible, the involved officer(s) shall give a public safety statement to a supervisor while at the scene or as soon after leaving the scene if necessary.
- (c) As soon as practical, the involved officer(s) will be sequestered by a non-involved officer and taken to a place designated by the investigating Protocol Team Leader.
- (d) Any request for legal or union representation will be accommodated.
 1. Involved UPD officers shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report as long as details of the incident are not discussed.
 2. Requests from involved non-UPD officers should be referred to their employing agency.
- (e) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (f) Discussions with agency representatives / employee groups will be privileged only as to the discussion of non-criminal information.

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- (g) The Department will honor the confidentiality of communications with certified peer support members, as allowed by UCA78b-5-903. Certified Peer Support members shall not discuss the facts of any incident with an involved or witness officer except as authorized by UCA 78b-5-903 or court order.
- (h) The involved and witness officers if practical, shall remain dressed in the condition and manner they were dressed, at the time of the Officer Involved Critical Incident (OICI) occurred, until authorized by the Protocol Team investigating the incident. Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly photograph and retrieve it.
- (i) If feasible the day / night of the OICI, the involved officer(s), will participate in the download of all their weapons and photographs of their person and equipment as necessary.
- (j) Each involved UPD officer shall be given reasonable paid administrative leave following an Officer Involved Critical Incident (OICI). The Chief, Commander or designee will determine the parameters of Administrative Leave and any other administrative actions.

311.6 OICI CRIMINAL INVESTIGATION

The assigned Protocol Team investigating the OICI will interview all the witness officers and civilian witnesses the day / night of the incident if feasible. Officers that are interviewed will be required to write a report explaining that they were interviewed by the Protocol Team and to see that interview for more details of their involvement. Officers that are not interviewed by the Protocol Team will submit their written report by the end of their shift.

- (a) When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
- (b) Any potential witness who 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. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to their departure should be made whenever feasible.
- (c) When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (d) Witness officers will be allowed to have representation in the interview if desired. The attorney representing them will not be allowed to be the same attorney that may be representing any of the involved officers.

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- (e) An involved officer will not be interviewed the day / night of the incident. If an involved officer and their representative agree to provide an interview, it will be set up through their representative at a time and place the parties agree on.
- (f) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

311.6.1 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable 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) Identification of all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who 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. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to their departure should be made whenever feasible.
- (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 a member of the Department.
 - 1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. 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.

311.6.2 STATUTORY MANDATES RELATED TO CRIMINAL INVESTIGATIONS OF CRITICAL INCIDENTS

The Watch Commander shall notify the District Attorney as soon as practical if the following critical incidents occur within the jurisdiction of the Unified Police Department, whether or not an involved law enforcement officer is a department member (UCA 76-2-408):

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- (a) Use of a firearm that caused an injury by a law enforcement officer or any other use of a weapon by a law enforcement officer in a manner that could have caused death or serious injury (e.g., a blow to the head of a person with a baton).
- (b) A fatal injury to any person that could have been caused by a law enforcement officer or while the person was in the custody of a law enforcement agency.

The Chief or authorized designee and the District Attorney shall jointly designate an agency to criminally investigate the actions of a law enforcement officer involved in a critical incident, as appropriate, and may jointly designate a lead agency if more than one agency will be involved. An agency other than the Unified Police Department will criminally investigate the actions of members who may have caused or contributed to a critical incident (UCA 76-2-408).

311.7 OICI ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation to determine conformance with all department policy. This investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol / drug screening. Absent consent from the officer, such compelled samples, and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (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 that 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 their prior statement before proceeding with any subsequent interviews.
- (c) If 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 that 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 an uninvolved

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representative to be present during the interview. However, to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in a group 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. If an officer refuses to answer questions, they should be given their *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 5. The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 6. Any other indications of a potential violation of any policy shall be determined in accordance with standard disciplinary procedures.
- (d) The Chief will make the determination when any officer will be able to return to work. A fitness for duty evaluation may be required of the officer prior to returning to work.

311.8 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available Mobile Audio / Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn, and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or Chief Legal Counsel's Office, as appropriate.

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311.9 OICI DEBRIEFING

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

311.9.1 STRESS DEBRIEFING

A stress debriefing should occur as soon as practicable. The Peer Support Coordinator is responsible for organizing the debriefing and assigning a certified peer support member to attend. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event. Members are encouraged but not required to attend. This briefing shall not take place until all involved members have had the opportunity to provide a statement to protocol investigators.

The debriefing is not 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 a 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. 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.

311.9.2 TACTICAL DEBRIEFING

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

311.10 MEDIA RELATIONS

The Venue, Employing, and Protocol Team Leader's Employing Agency's Public Information Representatives will respond to handle any press inquiries and releases. The Venue Agency will generally be the Lead Public Information Contact Person. It is encouraged that the Protocol Team Leader be consulted prior to the release of any public statements. If the Protocol Team investigators determine the release of specific information would materially jeopardize the investigation, they shall notify those agencies possessing that knowledge about the hazards of releasing such information.

311.10.1 DEPARTMENT WEBSITE

This policy shall be published on the department website along with any related written procedures and protocols (UCA76-2-408).