

Officer-Involved Critical Incident

305.1 PURPOSE AND SCOPE

The purpose of this policy is to establish the process for the investigation of an incident in which a person sustains serious bodily injury or death as the result of a Department officer's actions in the official performance of his or her duties; or intent by the officer and their actions to cause death or bodily injury to a person. The intent of this policy is to ensure that such incidents be investigated in a fair and impartial manner.

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

305.2 DEFINITIONS

- (a) Officer Involved Critical Incident (OICI) - means an incident involving the death or serious bodily injury of an officer or other person(s) as a result of an officer(s) performing their official duties.
- (b) Jurisdiction - means the location of the critical incident.

305.3 INITIAL ON-SCENE OFFICER RESPONSIBILITIES

(a) Department officers involved or immediately arriving at the scene of an OICI shall take measures that are reasonably possible and appropriate to protect their safety, the safety of others, and preserve evidence essential to the investigation, including:

1. Ensure no continued threat exists to officer or public safety
2. Identify wounded or injured officers, suspects and victims and request appropriate medical response
3. Identify, secure and separate suspects
4. Provide feasible and reasonable emergency medical care, to the extent of their training and capabilities, for apparently injured individuals until advanced emergency medical personnel arrive
5. Relay information of fleeing suspects to dispatch or responding units and establish containment
6. Identify, secure, separate, and contain potential witnesses
7. Ensure law enforcement supervisor notification and response
8. Coordinate responding resources as appropriate
9. Identify and secure any involved weapons
 - i. Officer'(s) handguns should be secured in the holster if possible

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- ii. Other weapons should be secured in place if possible
 - iii. Weapons should remain in the existing condition unless exigent circumstances dictate otherwise
10. Identify and protect potential evidence and the overall crime scene
 11. Maintain control and command of scene until properly relieved, and
 12. Start a written record of personnel involved in the incident / investigation and their assignments.

305.4 INITIAL ON-SCENE SUPERVISOR RESPONSIBILITIES

(a) Upon arrival at the scene of an officer-involved critical incident, the first uninvolved Department law enforcement officer shall become the initial on-scene supervisor until relieved by an appropriate law enforcement supervisor upon their arrival:

1. Take all feasible and reasonable steps, to the extent of their training and capabilities, necessary to provide for the emergency medical care of apparently injured individuals until advanced emergency medical personnel arrive
2. Ensure that the local allied agency OICI investigative team is activated and responds if appropriate in the jurisdiction
3. If a Department officer has been wounded or injured, do the following:
 - i. Assign an officer to remain with the injured officer and accompany him or her at all times until a Department officer is available
 - ii. Ensure the priority of in-person notification of the involved officer's family by Department law enforcement personnel
 - iii. Assign a Department officer to remain with the family to facilitate their immediate needs and act as a liaison for the Department to the family
 - iv. Ensure that the involved officer(s) weapons and duty gear are collected and secured, and
 - v. Take care to preserve the integrity of any physical evidence present on the involved officer, equipment, or clothing (e.g., blood, fingerprints) until investigators or lab personnel can properly retrieve it.
4. If a suspect or other person has been injured, assign an officer to remain with the injured individual and accompany the individual to a medical treatment facility.
5. Complete documentation should be made of all statements;
6. Make proper immediate notifications to the following:
 - i. Appropriate Regional Sergeant, Lieutenant, or designee, of the involved officer(s)

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7. Remind the involved officer(s) that they have the right, and may wish, to consult with outside legal counsel
8. Attempt to obtain a brief overview of the situation from the involved officer(s)
 - i. This should only include a general representation of events involved in the incident to address public safety concerns and to identify the scope of the incident and scene.
9. If necessary, administratively order any Department officer to immediately provide public safety information necessary to secure the scene and pursue suspects.
 - i. Public safety information shall be limited to such things as outstanding suspect information, number, and direction of shots fired (if a shooting incident), parameters of the incident scene, identity of known witnesses, and similar information.
10. Do not attempt to order any officer to provide more than public safety information.
11. Provide all available information to the appropriate Regional Sergeant, Lieutenant or designee, and the Dispatch Center with sensitive information communicated over secure networks, if feasible.
12. Take command of and secure the incident scene with additional personnel until properly relieved.
13. As soon as practical, remove involved officers from the scene to a secure location.
 - i. Involved officer(s) shall be given an administrative order not to discuss the incident until asked to do so in conjunction with the OICI investigation.
 - ii. In the event the involved officer's handgun needs to be held as evidence, the handgun shall be secured in the officer's holster until a replacement can be provided to the officer. When applicable, other weapons, including long guns, will be maintained in their existing condition until secured by a member of the OICI investigation team.
14. Ensure that all initial on-scene responsibilities have been addressed, and coordinate the arrival of additional resources.
15. Establish a staging area for media.
16. Ensure that all requests for interviews and information are coordinated through the Department Law Enforcement Director and/or the Department Communications Director.
17. Start a written record of personnel involved in the incident/investigation and their assignments.

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305.5 REGIONAL LIEUTENANT RESPONSIBILITIES

- (a) Upon notification, the Lieutenant, or their designee, shall be responsible for coordinating all Department aspects of the OICI.
- (b) The Lieutenant, or designee, is charged with the oversight of on-scene Department officers.
- (c) The Lieutenant, or designee, shall respond to the scene and upon arriving shall:
 - 1. Receive a full briefing from the on-scene supervisor to include:
 - i. Scope of the incident
 - ii. Involved officers, suspects, witnesses
 - iii. Public safety threats or concerns
 - iv. Completed notifications
 - v. Assignments of personnel, and
 - vi. Current status of investigation
 - 2. As appropriate, assume incident command of the OICI and begin to coordinate additional personnel and resources.
 - 3. Coordinate with appropriate outside agencies to facilitate the investigation of the OICI;
 - i. This shall be done in a manner consistent with the requirements of Utah Code 76-2-408 and this policy as well as any existing locally established protocols, MOUs or other agreements governing the investigation of an OICI.
 - 4. Ensure the priority of in-person notification of the involved officer's family by Department law enforcement personnel.
 - 5. Assign a Department officer to remain with the family to facilitate their immediate needs, and act as a liaison for the Department to the family if it has not already been done.
 - 6. Facilitate additional notifications as needed to include:
 - i. Appropriate chain of command notifications to the appropriate Division Chief of Law Enforcement who will provide notifications to their respective Divisions non-law enforcement supervisors and the Department Law Enforcement Director and Executive Director;
 - ii. Prosecuting Attorney/OICI team
 - iii. Department legal counsel and risk management as appropriate,

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305.6 INVOLVED OFFICER ACCOMODATION

(a) Once involved officer(s) have been moved to a secure location, each officer will be admonished that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:

1. Any request for legal representation will be accommodated.
2. Discussions with licensed attorneys will be considered privileged as attorney client communications.
3. Discussions with Department representatives (e.g., association/peer support) will be privileged only as to the discussion of non-criminal information.
4. A psychotherapist shall be provided by the Department to each involved officer, or any officer, upon request.
 - i. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
5. A peer officer will be assigned to each involved officer to provide support and assistance as necessary and appropriate. The peer officer will maintain this responsibility until relieved by the Lieutenant, or designee.
 - i. Although the Department will honor the sensitivity of communications with peer officers, there is no legal privilege to such. Peer officers should not discuss facts of any incident with an involved or witness officer.
6. All reasonable accommodations should be made to meet the officer's physical and emotional needs.
7. Each involved officer shall be given reasonable paid administrative leave following an officer-involved critical incident and it shall be the responsibility of the Department to make schedule adjustments or otherwise to accommodate such leave.

305.7 INVESTIGATION OF OICI

All Department Officer Involved Critical Incidents shall be investigated with the utmost thoroughness, professionalism and impartiality to determine if the involved officers actions conform with applicable state statute and Department policy

305.7.1 TYPES OF INVESTIGATIONS

Officer-involved critical incidents may involve several separate investigations. These investigations may include:

(a) A criminal investigation of the events leading up to the officer involved critical incident conducted by the Department of Natural Resources.

1. This investigation may be relinquished to an outside agency with the approval of the Executive Director of the Department of Natural Resources, or a designee.

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(b) A criminal investigation of the involved officer(s) actions in the critical incident conducted by an outside agency.

1. The Department may be involved in this investigation as provided by applicable interagency agreements and state law provided the Department is not the lead agency.

(c) A civil investigation to determine potential liability conducted by the Department.

(d) An administrative investigation conducted by the involved officer's agency to determine if there were any violations of Department policy.

305.7.2 UTAH DEPARTMENT OF NATURAL RESOURCES OFFICER INVOLVED IN CRITICAL INCIDENT

The Utah Department of Natural Resources is responsible for the criminal investigation of the suspect's actions, the civil investigation and the administrative investigation. The criminal investigation of the officer-involved critical incident will be conducted by an outside agency, at the direction of the appropriate prosecuting attorney's office and executive of the venue agency.

305.7.3 ALLIED AGENCY'S OFFICER INVOLVED IN A CRITICAL INCIDENT WITHIN THE JURISDICTION OF THE UTAH DEPARTMENT OF NATURAL RESOURCES

At the request of the involved agency, or the appropriate prosecuting attorney's office, the Utah Department of Natural Resources may assist in the criminal investigation of the suspect's action, and/or the criminal investigation of the OICI. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

305.7.4 DEPARTMENT OICI INVESTIGATIVE EFFORTS

(a) When notified of an OICI, the Department Law Enforcement Director, or a designee, shall assign appropriate investigative personnel to participate in the OICI investigation as directed by the lead agency.

(b) Investigators will be assigned to work with OICI investigation team under the direction of the lead agency or task force conducting the investigation.

(c) Additional investigators may be assigned to handle separate investigations of any related crimes not being investigated by the lead agency or task force as part of the OICI.

(d) All related Department reports, except those related to the administrative investigation, will be forwarded to the Department Law Enforcement Director.

1. The Office of the DNR Executive Director will maintain reports related to the administrative investigation.

(e) All officers who enter the designated incident scene of an OICI, who are not being interviewed in the OICI, will complete a report documenting their involvement.

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305.7.5 OICI CRIMINAL INVESTIGATION

(a) The Department and its personnel shall cooperate with investigators assigned by the prosecuting attorney's office to facilitate an independent criminal investigation into the circumstances of any OICI involving serious injury or death.

(b) Once public safety issues have been addressed (scene security, outstanding suspects, victims, etc.), interviews of involved officers will be conducted by investigators assigned to the OICI investigation. The following shall be considered for the involved officer:

1. Department supervisors and investigators should not participate directly in any voluntary interview of involved officers.
2. OICI interviews of involved acting officer(s) should occur as determined by the needs of the officer and is voluntary. This time frame may be flexible with consideration of the physical and emotional needs of the involved officer.
3. If requested, any involved officer will be afforded the opportunity to consult with an attorney of his/her choosing prior to speaking with criminal investigators.
4. Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative or other related investigations.
5. Absent consent from the involved officer or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators.
6. In the event that suspects remain outstanding or subject to prosecution for related offenses, the Department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.
7. It is generally recommended that reports documenting the actions of officers considered actors in the OICI be completed by assigned investigators in conjunction with interviews of the officers. The purpose of these reports will be to facilitate the OICI criminal investigation.

(c) Involved officer audio/video recording

1. The Department will provide any original mobile (in-car/body-worn) audio/video recordings to the OICI team. Copies are prohibited.
2. Prior to providing any statements/interviews in conjunction with an OICI incident, the involved officer will generally not be provided an opportunity to review any audio/video recordings without authorization of the OICI team and prosecuting attorney having jurisdiction.

305.7.6 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an OICI, the Department will conduct an internal administrative investigation to determine conformance with all department policy.

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This investigation will be conducted under the supervision of the office of the Executive Director and will be considered part of a confidential peace officer personnel file.

(a) Any officer involved in an OICI may be 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 involved 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(s).

(c) In the event that an involved officer has elected to not 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. Administrative interview(s) should be recorded by the investigator and may be recorded by the officer as well.

3. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally, per Garrity Admonishment.

4. The administrative interview shall be considered part of the officer's confidential personnel file.

(d) The office of the Executive Director shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.

(e) The completed administrative investigation shall be submitted to the Department Law Enforcement Director, who will convene a Use of Force Review Board which may involve non-departmental personnel, who possess subject-matter expertise, and shall restrict its findings to a determination of an officer's compliance with Use of Force policy.

(f) Any other indications of a potential violation of any policy shall be documented in accordance with standard disciplinary procedures.

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

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305.7.7 RELATED CRIMINAL INVESTIGATION

- (a) The Department of Natural Resources may retain the responsibility for the investigation of criminal incidents leading up to or otherwise related to the OICI.
- (b) The purpose of these investigations will be to ensure the successful prosecution of suspects for crimes not directly involved in the OICI.
- (c) The Department Law Enforcement Director, or a designee, will be responsible for direction of any related criminal investigations that do not fall under the authority of the OICI team.

305.7.8 CIVIL LIABILITY INVESTIGATION

- (a) An employee of the Department may be assigned to work exclusively under the direction of Department legal counsel to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.
- (b) All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability investigation is not intended to interfere with any other investigative aspect of the OICI investigation.

305.8 MEDIA INTERACTION

- (a) All media requests for information concerning an OICI investigation shall be coordinated through the Department Law Enforcement Director, and/or the Department Communications Director, who will serve as the official OICI Public Information Officer (PIO).
- (b) If the incident involves an OICI investigation, no information regarding the details of such investigation will be released without consultation with the prosecuting attorney responsible for the investigation.
- (c) A single press release may be prepared with input and concurrence from the agency representative responsible for each phase of the investigation. The release will be prepared and distributed by the PIO's office.
- (d) It will be the policy of the Department to release the identities of involved officers when deemed appropriate by the agency executive and OICI team, or as required by law. Notification to the involved officer(s) shall be made prior to release of the information.
- (e) Moreover, no involved officer shall make comments to the media unless authorized by the Department Executive Director or a designee.
- (f) All media requests and releases of information will be consistent with Department media relations policy and approved by the Department Law Enforcement Director and the appropriate Division Law Enforcement Chief.

305.9 DEBRIEFING

Following an officer-involved shooting or death, the Utah Department of Natural Resources should conduct both a critical incident/stress debriefing and a tactical debriefing.

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305.9.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing, conducted by a certified team or coordinator, should occur as soon as practicable. The appropriate Division Law Enforcement Chief is responsible for organizing the debriefing. 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.

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 (e.g., dispatcher, 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 Division Law Enforcement Chief / Department Law Enforcement Director.

305.9.2 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The appropriate Division Law Enforcement Chief 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.

305.10 OTHER CONSIDERATIONS

- (a) Review of OICI - A review of all OICIs will be conducted in accordance with the Department's Use of Force Review Policy.
- (b) Line of Duty Death - If an officer is killed as a result of an OICI, the appropriate Division Law Enforcement Chief will ensure that all Departmental requirements are completed in accordance with the Line of Duty Death policy.