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1. PURPOSE

The purpose of this policy is to establish the process to thoroughly and objectively investigate a critical incident as defined in this General Order.

2. PERSONS AFFECTED

All sworn personnel.

3. POLICY

It shall be the policy of the Hawai'i Police Department to conduct a complete, thorough, and factual investigation of critical incidents involving police officers.

4. DEFINITIONS

Critical Incident

- 4.1. Any incident that results in the death or serious bodily injury (defined by Section 707-700, H.R.S. as amended) of any:
  - 4.1.1. Sworn employee or sworn reserve officer acting under color of authority, except:
    - a. In the case of an aircraft accident or a suicide or;
    - b. A solo vehicular incident in which the officer is the driver and sole occupant of the involved vehicle.
  - 4.1.2. Person as a result of an intentional or unintentional police shooting, including police tactical incidents involving special response teams.
  - 4.1.3. Any person(s) in the process of being arrested or while in custody.
- 4.2. Discharge of a firearm towards any person(s) by a sworn employee or sworn reserve officer acting under color of authority, even when death or injury does not occur.

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5. INVESTIGATION

- 5.1. The Criminal Investigation Section shall conduct the criminal investigation.
- 5.2. The Office of Professional Standards shall conduct a Critical Incident Inquiry and/or the administrative investigation.
- 5.3. The Traffic Enforcement Unit shall conduct investigations involving vehicular collisions.

6. INVESTIGATIVE FORMAT AND RESPONSIBILITIES

- 6.1. Investigations of these matters must be performed under two separate investigative formats:
  - 6.1.1. The criminal investigation, and
  - 6.1.2. The critical incident inquiry and/or administrative investigation.
- 6.2. The criminal investigation has investigative priority over the Critical Incident Inquiry and/or administrative investigation and begins immediately after an incident has occurred.

7. FUNCTIONAL RESPONSIBILITIES

- 7.1. The organizational and functional responsibilities of the on-scene supervisor or senior officer on-scene, shall be to:
  - 7.1.1. Assume the role of the scene commander;
  - 7.1.2. Identify injured parties and request for medical attention;



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[REDACTED]

- b. Injured suspects and injured employees shall be separated and/or taken to independent medical facilities, if possible;
- c. The medical care and treatment of any injured suspect and/or injured employee shall be paramount, and nothing in this section shall be construed to compromise that care.

7.1.3. Notify the on-duty watch commander or in the absence thereof, the Station/Division Commander:

- a. The on-duty watch commander in the absence of the Station/Division Commander, shall notify and brief:
  - The Lieutenant or Detective of the appropriate Area I or Area II Criminal Investigation Section.
  - The Office of Professional Standards Commander or designee.
  - The SHOPO – Hawai‘i Chapter Chairperson, if unavailable the Vice-Chairperson, and if unavailable, the designated union representative (the SHOPO representative shall not be required to leave the area or scene merely because of that representative’s union status).

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- 7.1.4. Initiate the action necessary to render the scene safe from hostile suspect(s) action, and/or persons sympathetic to the suspect(s).
- 7.1.5. Coordinate efforts to locate and apprehend any suspect(s).
- 7.1.6. Assign an officer to maintain the Critical Incident Checklist and Log.
- 7.1.7. The following shall be accomplished with the involved employee(s):
  - a. Obtain a preliminary account of the incident and the actions taken for the Criminal Investigation;
  - b. Assign an uninvolved employee (or “Companion Officer” of the involved employee’s choosing) to accompany and remain with the involved employee. The companion officer shall not discuss any details of the incident with the involved employee;
  - c. The involved employee should be removed from the scene as soon as practical and transported to the station or other designated location as determined.
- 7.1.8. Conduct a briefing for investigators consisting of names of officers involved, time of occurrence, suspects, and results of preliminary investigation.

7.2. Scene Responsibilities – the on-scene supervisor shall ensure the following:

[REDACTED]

[REDACTED]

[REDACTED]



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8.2. Scene Responsibilities – assigned investigators from the appropriate Criminal Investigation Division shall:

8.2.1. Ensure the perimeter adequately encloses all evidence.

8.2.2. Make the necessary notification and requests for:

- a. Body removal, if a death is involved;
- b. Deputy Prosecuting Attorney;
- c. Department Crime Laboratory/Evidence Technicians;
- d. Traffic Accident Reconstruction Team, if necessary;
- e. Any other specialists needed to document/process the scene.

8.2.3. Ensure that the scene is properly documented, photographed, sketched, and diagramed.

[REDACTED]

[REDACTED]

- b. A scaled diagram shall be constructed. If multiple diagrams are required, the same individual shall complete all diagrams unless circumstances dictate otherwise.

8.2.4. Ensure that all evidence is properly processed and controlled and chain of custody is maintained.

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[REDACTED]

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8.3. Victim and Witness Interviews – assigned investigators from the appropriate Criminal Investigation Division shall be responsible for interviewing all witnesses and victims.

8.3.1. All interviews and statements should be tape recorded and transcribed.

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- 8.4. Interviews of sworn personnel – assigned investigators from the appropriate Criminal Investigation Division shall:
- 8.4.1. Be in compliance with all Federal and State Laws, as well as current Collective Bargaining Agreement during interviews with sworn personnel.
    - a. All Miranda admonitions and interrogations should be tape recorded and transcribed and the police officer(s) shall be advised of such.
  - 8.4.2. Police officers have the same rights and privileges regarding criminal interviews that any other citizen would have including the right to consult with a representative prior to interview and the right to have the representative present during the interview.
    - a. The representative should be allowed to consult about the facts of incident privately with only one police officer at a time.
    - b. If the representative is not a doctor, lawyer, psychotherapist, or a priest or an agent of such professionals, the content of private conversations between the representative and the police officer are not privileged (i.e. Union Representative, Co-worker, etc.)
  - 8.4.3. During the interview, the following personnel may view the process:
    - a. Assigned investigators;
    - b. Administrative investigator(s);
    - c. Police Officer’s legal representative (if any).
  - 8.4.4. Sworn personnel will not be compelled by suggestions of administrative action to answer questions by criminal interviewers, which would be self-incriminating.
  - 8.4.5. Sworn personnel may request the presence of a legal representative. The representative shall not be allowed to ask



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questions which would obstruct or otherwise interfere with the investigative process.

- a. However, the representative may invoke Miranda to protect the police officer(s) from self-incrimination.

8.5. Intoxicant Testing – assigned investigators from the appropriate Criminal Investigation Division shall have the responsibility of collecting samples.

8.5.1. Police officers have the same rights and privileges that any civilian would have regarding intoxicant testing.

- a. An employee may be asked to voluntarily provide a sample(s) to determine if intoxicants are present for his/her own protection.
- b. If investigators determine that the employee’s state of sobriety is relevant to the investigation, attempts will be made to obtain the sample in accordance with law.

8.5.2. Sworn personnel may volunteer to provide sample(s) for intoxicant testing, even if investigators have not obtained samples. Similarly, a person from whom investigators have obtained samples may request that another sample be taken for independent testing.

- a. The taking of this sample and subsequent testing will not be at the expense of the department.
- b. Such a request will be promptly honored.

8.5.3. Intoxicant test results obtained by criminal investigators are available to the administrative investigators.

8.6. Miscellaneous – investigators from the appropriate Criminal Investigation Division shall cooperate fully with Administrative Investigations personnel.

8.6.1. The lead investigator shall ensure that a “working copy” of all photographs, audio recordings, video recordings, and other like evidence, be provided to the Administrative Investigations personnel.

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8.7. Criminal Investigation Division investigators shall conduct any other investigation necessary to completely and impartially investigate the case.

9. INJURED EMPLOYEE PROCEDURES

9.1. In the event a departmental employee is injured, the scene commander will:

9.1.1. Immediately make notification to the employee's commanding officer.

a. The commanding officer shall notify the police chaplain to accomplish the following:

- Assist the involved employee in notifying his/her family.

9.1.2. If necessary, arrange for transportation of family members to the hospital.

9.1.3. Assign an officer to accompany the injured employee to the hospital.

a. The officer will recover the injured employee's weapon and equipment belt until it can be properly released to an investigator or supervisor.

9.1.4. Promptly notify a Union representative to the extent the employer knows of such injury.

10. DECEASED EMPLOYEE PROCEDURES

10.1. In the event an employee is killed, the scene commander shall:

10.1.1. Immediately notify the Police Chief via Chain of Command;

10.1.2. Immediately notify the appropriate commander to facilitate personal notification of the next of kin and make arrangements to transport the family to the hospital or appropriate location;

10.1.3. Promptly notify a Union representative to the extent that the employer knows of such death;

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10.1.4. Assign an officer to remain with the deceased employee until relieved by investigators;

10.1.5. Assign an investigator to take the deceased employee's weapon, equipment, and clothing as evidence.

10.2. The Station or Bureau Commander or his designee shall arrange for critical incident services to be provided by Department Chaplains and/or a psychologist to aid the deceased employee's family and peer group as needed.

10.2.1. A liaison officer should be designed to support the family and assist them with funeral arrangements and filings for death benefits.

## 11. INVOLVED EMPLOYEE STATUS

11.1. The emotional impact an employee may experience as a result of being involved in a critical incident varies according to the individual. The department recognizes the psychological trauma that may be experienced and therefore will render the necessary assistance to adjust.

11.2. All employees involved in a critical incident shall be relieved from field duty and may initially be placed on authorized leave with pay for a period of time approved by the Police Chief. Employees shall not return to field duty until the completion of an Administrative Review of the incident.

11.2.1. Prior to returning to duty, involved employees shall meet with a department approved psychologist at the earliest possible convenience for an employee wellness debriefing and assessment if additional counseling/treatment may be necessary. Should no additional counseling/treatment be necessary, the employee may return to full-duty status.

a. In the event any involved employee(s) is in need of extended professional psychological or counseling services, the employee(s) shall be placed on Accident/Injury Leave and appropriate reports filed. In this event, prior to the employee returning to full duty a release shall be granted by the appropriate mental health care professional.

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11.2.2. Involved employees shall be provided with counseling services at the earliest possible convenience after the incident.

11.3. Officers whose firearms have been recovered following a critical incident may be temporarily assigned to duties that do not require a firearm. This action has no bearing on whether or not the use of deadly force was justified, but affords the officer and department the time to recognize any symptoms of psychological trauma the officer may be experiencing and render the necessary assistance.

11.4. If the involved employee was injured or sustained a medical related condition as a result of the shooting, the employee shall be placed on Accident/Injury Leave and the appropriate reports filed.

11.4.1. Prior to returning to full-duty, a medical release shall be granted by the employee's attending physician.

11.5. Follow-up contact with the involved employee shall be made every two weeks by the employee's commander or designee until the employee returns to duty.

11.6. Prior to an officer whose firearm had been recovered following a critical incident returning to full-duty (after receiving the proper clearance) and/or the issuance of a replacement or their original firearm being returned, the officer shall be required to re-qualify with the weapon.

## 12. COMPLETION OF CRITICAL INCIDENT INVESTIGATION

12.1. Upon completion of the Critical Incident Criminal Investigation, the commander of the Criminal Investigation Division shall:

12.1.1. Review the case to ensure all aspects of the investigation have been completed.

12.1.2. Ensure that all required reports and investigative supplementary reports have been completed.

12.1.3. Refer the investigation to the Office of the Prosecuting Attorney for their review and disposition.

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- a. Notify the Office of Professional Standards Commander or Investigator that the investigation has been referred to the Prosecutor's Office.

### 13. ADMINISTRATIVE INVESTIGATION

#### 13.1. Notification And Response

13.1.1. The on-scene supervisor shall immediately make or cause notification to be made to the Office of Professional Standards Commander or his designee.

- a. The Office of Professional Standards will be responsible for assigning an investigator.

13.1.2. Upon notification, the Office of Professional Standards Commander and/or the Office of Professional Standards investigator shall respond to the scene of the incident.

- a. The Office of Professional Standards investigator shall be responsible for coordinating and/or performing the Critical Incident Inquiry and/or the administrative investigation function.

#### 13.2. At Scene Responsibilities

13.2.1. The on-scene supervisor shall brief the Office of Professional Standards investigator.

- a. This may also be accomplished by the on-duty Watch Commander in the absence of the on-scene supervisor.

13.2.2. The investigator shall obtain a preliminary account of the incident, the action taken, and shall conduct a review of the scene.

13.2.3. The investigator shall monitor and review the investigative effort(s) of all units involved in conducting the investigation of the incident.

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- a. Compliance with departmental General Orders, policy and procedures, and the respective bargaining unit agreement shall be adhered to.

13.2.4. If the involved employee has been removed from the scene prior to the investigator's arrival, the investigator shall be informed of the employee's location and the circumstances involved in the employee's removal.

### 13.3. Critical Incident Inquiry and/or the Administrative Investigation

13.3.1. The Office of Professional Standards investigator shall conduct a Critical Incident Inquiry and/or the Administrative Investigation of the incident involved.

- a. The investigation shall be thorough, detailing the circumstances attending to the discharge of firearms by departmental personnel or others.

13.3.2. Whenever a firearm is discharged at any person(s) by a police officer or whenever a police officer inflicts death or serious bodily injury to any person, the investigator shall document the incident involved, the level of force used, the weapon(s) used and round(s) fired, other departmental equipment used, and the training, qualifications, and regulations of the involved employee(s).

13.3.3. The involved employee(s) shall be required to give an accounting of the incident and the actions taken.

- a. The investigator shall obtain a verbal statement from the involved employee(s) as soon as practical.
  - All interviews and statements should be tape recorded.
- b. The statements made by the involved employee(s), whether oral or written, shall be subject to the employee(s) Garrity Rights and the existing bargaining unit agreement.
- c. A police officer shall not be required to submit a written report until the officer has had a reasonable period of time,

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not to exceed four (4) hours, to consult with counsel of choice or a Union representative under the following conditions:

- Whenever a firearm is discharged at a suspect(s) by the police officer; or
- Whenever the police officer inflicts death or serious bodily injury to a person; or
- Whenever the police officer is injured and requires immediate medical attention.

13.3.4. Other employee(s) who were directly involved in the incident and/or were witnesses to the event shall be interviewed by the investigator and their statements recorded.

13.3.5. The investigator shall have access to all briefings, the scene(s), physical evidence, and interviewee's statements.

13.3.6. The investigation conducted shall also include the criminal reports, as well as other documents applicable to the Administrative Investigation.

#### 14. EVALUATION OF ADMINISTRATIVE INVESTIGATIONS DEPARTMENTAL POLICY

14.1. The Administrative Investigations Supervisor will provide weekly briefings to the appropriate command staff members concerning the progress and results of the administrative investigation.

14.2. The determination as to whether department policy was followed by the involved employee(s) will be the responsibility of the Special Review Board.

14.2.1. The Office of Professional Standards will conduct the Critical Incident Inquiry and will present its findings to the Special Review Board. Final authority and approval rests with the agency head.

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- 14.2.2. The criminal investigation will be conducted separately and independently of the administrative investigation.
- 14.2.3. Office of Professional Standards personnel will adhere to General Orders and initiate the necessary investigation in the event that an involved employee refuses to participate in the Critical Incident Inquiry.
- 14.2.4. The Critical Incident Inquiry will be submitted as soon as possible to the Police Chief.