
Officer-Involved Shootings and Deaths

304.1 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 another action of an officer.

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

304.2 POLICY

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

The purpose of this directive is to define the procedure for the criminal and administrative investigation and review of an intentional or unintentional firearms discharge. A final report, at the conclusion of the administrative investigation will be forwarded to the Chief of Police with recommendations that may include training, equipment, tactics, procedure, policy and adherence to Departmental written directives. If the officer-involved shooting occurs within Johnson County, the District Attorney will make the final decision concerning criminal charges based upon the officer-involved shooting investigation.

304.3 DEFINITIONS

Law Enforcement Agency Head/Chief of Police: Used within this policy to designate the chief executive officer of any law enforcement agency having jurisdictional boundaries within Johnson County, Kansas.

Crime Lab: The Johnson County Criminalistics Laboratory.

Criminal Investigator: An investigator assigned to the Officer-Involved Critical Incident Investigation Team (OICIT).

Critical Incident Stress: An emotional, behavioral, or physiological reaction to an incident involving sudden and unexpected events beyond the range of normal experiences

District Attorney: The District Attorney of Johnson County, Kansas.

First Assisting Officer: The first non-involved and non-witness officer present at the scene.

Incident Commander: The on-site commander for the involved agency.

Involved Officer: The officer involved either as an actor or victim (or both) in an OIS.

Officer: A commissioned employee of a law enforcement agency.

Officer-Involved Shooting (OIS): The intentional or unintentional discharge of a firearm by an officer, either as actor or victim, in which a person is injured or killed or the potential exists for criminal charges to be filed as a result of the discharge (such as aggravated assault). This

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includes incidents in which the involved officer, while off duty, takes a police action. This does not include intentional or unintentional discharges in which no one is injured or there is no foreseeable possibility of a criminal charge, and typically does not include (1) incidents in which an officer has been shot but no officer has discharged a weapon, or (2) incidents in which lethal force has been used by an officer via something other than a firearm.

Officer-Involved Critical Incident Investigation Team (OICIIT): Multi-jurisdictional team directed to investigate OIS incidents and present that investigation to the District Attorney.

OICIIT Commander: Person chosen from the OICIIT roster to command an investigation; maintains overall investigative supervision.

OICIIT Lead Supervisor: Person chosen from the OICIIT roster to supervise an investigation; maintains specific incident and investigative supervision.

On-Site Supervisor: The involved agency shift supervisor responding to an OIS scene.

Witness Officer: An officer who witnessed at least some of what occurred, but did not discharge a weapon or attempt other deadly force against the suspect, and is not the victim of an offense by the suspect.

304.4 INVESTIGATIVE PROTOCOL

Both criminal and administrative processes customarily investigate officer-involved shootings. Although both processes can be separate and distinct, they are parallel processes, with the criminal investigation taking priority over the administrative process.

The primary goal of the criminal investigation is to gather all evidence so the District Attorney can make a decision as to whether a crime was committed during an officer-involved shooting. The criminal investigation will be conducted in accordance with the Johnson County Chiefs Association, Memorandum of Understanding for the investigation of officer-involved shootings.

The primary goal of the administrative investigation is to determine compliance with Department written directives and to establish recommendations for possible training, policy, equipment, tactics and disciplinary actions by the agency. Facts discovered by administrative investigators will not be able to be released to criminal investigators, if Garrity warnings are applied during the investigation.

304.4.1 AUTHORITY AND RESPONSIBILITIES

The OICIIT will work closely with the Department to ensure cooperative management of the OIS scene.

Once an OICIIT Team Commander or Lead Supervisor has arrived on site, the OICIIT shall assume and maintain authority over the OIS investigation and all aspects of the criminal investigative process, to include scene access. The OIS case investigation may include any crimes that led up to the OIS itself.

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Responsibility for scene and perimeter security will remain with the Department. This includes additional scenes, such as a hospital room. The Department will assist the OICIT by providing an officer to log the name, rank, and agency of any person entering the OIS scene (and additional scenes).

Death notifications, whether employee or perpetrator or witness/victim, shall remain the responsibility of the Department.

304.5 INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

304.5.1 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 1. Involved PVPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 2. Requests from involved non-PVPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with employee groups/agency representatives will be privileged only as to the discussion of non-criminal information.
- (d) A licensed psychotherapist shall be provided by the Department to each involved PVPD officer. A licensed psychotherapist may also be provided to any other affected PVPD members, upon request.
 1. Interviews with a licensed psychotherapist will be considered privileged.
 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, the involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications between the involved officer and a peer support specialist is addressed in the Wellness Program Policy.

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 retrieve it.

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Each involved PVPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Shift Supervisor to make schedule adjustments to accommodate such leave.

304.5.2 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved PVPD 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 and 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.

304.5.3 SHIFT SUPERVISOR RESPONSIBILITIES

1. Proceed immediately to the scene after notification.

2. Assume control of incident/scene ensuring that the duties of the involved officer(s), and first assisting officer(s) have been completed or are in the process of being completed.

3. Request additional personnel and equipment as needed.

4. Ensure the scene is secure and protected by utilizing "police line" barrier tape.

5. Obtain a brief oral summary from officer(s) involved. This summary should include:
 - a. Injured people to include number, extent of injuries and what medical attention has been given.
 - b. Suspect(s) to include identity, description, vehicle information, direction of travel etc.
 - c. Weapons to include who fired, number of shots, direction of fire and current location of weapons.
 - d. Identities of suspects, victims and witnesses.
 - e. Location and size of crime scene.
 - f. Location and identity of evidence.

6. Notification of Department's Command structure.

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7. As soon as practical, at the direction of Command contact the Sheriff's Office Dispatcher to request activation of the OICIIT.

8. Locate and identify witnesses. Detain witnesses at scene and attempt to sequester until they can be turned over to OICIIT.

9. If the shooting occurs within our jurisdiction, establish a logging system for crime scene area, limiting access to:
 - a. Medical personnel;
 - b. Incident Commander;
 - c. Chief of Police;
 - d. Assigned Criminal and Administrative Investigators;
 - e. Crime scene personnel;
 - f. County Medical Examiner and staff, and
 - g. Others approved by the Chief of Police or OICIIT Commander.

10. Contact Johnson County Crime Lab and medical examiner if needed.

11. Instruct Communications to call out an additional crew if required.

12. Remain in charge at scene until advised otherwise by the Incident Commander.

13. If the arrival of the OICIIT Lead Supervisor will occur without undue delay (approximately one hour), assign a non-involved officer, preferably a supervisor, to remain with the involved officer(s) at the scene.

14. If there is a delay in the arrival of the OICIIT Lead Supervisor (excess of one hour), assign a non-involved officer, preferably a supervisor, to transport the involved officer(s) to the Department.
 - a. Involved officer(s) must be separated at the scene, while en route to Police Department, and while awaiting interviews from Police investigators.
 - b. They should be instructed not to discuss the incident amongst one another; nor any other party, until the appropriate investigators have interviewed them.
 - c. The sequestered officer(s) should be provided a relatively isolated office and should be protected from well meaning, but potentially harmful comments and questions from other officers.

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d. Assist with the personal needs of the officer(s), such as telephone calls to family member(s), peer support, Chaplain or assign an Officer to stay with them

15. The involved officer's discharged weapon shall typically be collected by OICIIT investigators as evidence after the involved officer is transported to the Department. If there are compelling reasons to do so, the weapon may be collected immediately by OICIIT investigators or by the Shift Supervisor.

16. Witness officers' weapons will be examined on scene by OICIIT investigators. Investigators have the authority to seize as evidence any weapon or item they believe requires further examination.

- a. 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 with a comparable replacement weapon or is transported by other officers.

17. If officer(s) involved require medical attention, assign a non-involved officer to respond to the hospital as soon as practicable. The Incident Commander will, as soon as possible, relieve the assigned officer with a designated supervisor.

18. If suspect(s) are transported to a hospital, the on-site supervisor will assign a non-involved officer(s) to accompany the suspect(s). The accompanying officer(s) will not interview the suspect(s) unless there is a dying declaration. Any voluntary statements will be recorded or handwritten by the officer(s). Suspect clothing or any other property of the suspect will be properly inventoried.

19. Provide assistance as requested by investigators who conduct the on-scene investigation.

20. The Chief of Police will determine what reports are necessary in collaboration with the OICIIT Commander and/or Legal Advisor.

304.5.4 INCIDENT COMMANDER RESPONSIBILITIES

1. Oversee the protection of the OIS scene, coordinating with the Shift Supervisor to ensure the post OIS responsibilities of all employees are completed.
2. Ensure all pertinent policy directives, rules, and general orders are adhered to.
3. Act as liaison with criminal and administrative investigators, along with any outside agencies.
4. Respond to public information requests, if any, until a PIO has been assigned.
5. Keep the Chief of Police apprised of all aspects of the investigation.

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304.5.5 CHIEF OF POLICE

1. Will ensure the Incident Commander has the resources to complete assigned duties.
2. Ensure the City Administrator is apprised of the incident.
3. If appropriate, consult with the District Attorney, regarding who will assume public information duties. The assigned Public Information Officer will work closely with all agencies to determine what information may be released to the media.
4. Name an administrative investigation team.

304.6 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved PVPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Chief of Police or designee and will be considered a confidential officer personnel file. The Chief of Police will select the investigating supervisor who is responsible for the administrative inquiry into the shooting incident. He/She is directly accountable to the Internal Affairs Coordinator.

To ensure a thorough investigation, the administrative investigations must be coordinated with the criminal investigation being conducted by the OICIIT.

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 if such screening is deemed necessary. 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.
 - 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 interviews.
- (c) In the event that 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 representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not

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- consult or meet with a representative 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. If an officer refuses to answer questions, he/she should be given his/her *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 Chief of Police or designee shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

304.6.1 ADMINISTRATIVE ASSIGNMENT

Due to the fact that a shooting incident may cause emotional stress on the officer(s) and/or the possibility of community concern, an officer(s) involved in such an incident will be assigned administrative leave with pay or administrative duties at the direction of the Chief of Police.

If, the officer(s) is placed on administrative leave, the Chief of Police will assign a Department representative to contact the officer frequently to check on the officer(s) welfare and determine if assistance is needed.

304.6.2 OFFICER RIGHTS AND PRIVILEGES

Any officer involved in a shooting incident may have legal representation through all phases of the review process as appropriate for an administrative or a criminal investigation.

Statement Advisory - The administrative investigation team should cite the "Garrity" warning, to the involved officer(s) prior to interview and statements.

Administrative Review: "Since this is an administrative investigation, you realize you are being directed to cooperate in all phases of this investigation. Therefore, your statement and/or other acts of cooperation during this administrative investigation cannot be used against you during any subsequent criminal investigation, which may be initiated as a result of this incident. In the event you fail to cooperate during the course of this investigation, you will be subject to disciplinary action, the severity of which could be discharge from the Department. Do you have any questions as to what you have been directed to do?"

Statement Advisory - The OISIT may cite the "Miranda" warning, prior to interview and statements if the involved officer(s) are in custody.

304.7 REPORT PROCEDURES

All officers involved in the shooting incident may be required to complete a written report regarding what actions they took during the incident as requested by the appropriate investigative team.

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304.8 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 video, 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 City Attorney's Office, as appropriate or at the discretion of the Chief of Police.

304.8.1 REQUESTS TO REVIEW RECORDINGS

Requests to review recordings of an officer-involved shooting or death made by a body-worn device or in-car camera shall be processed in accordance with the Records Maintenance and Release Policy (K.S.A. § 45-254).

304.9 DEBRIEFING

Following an officer-involved shooting or death, the Prairie Village Police Department should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

304.9.1 TACTICAL DEBRIEFING

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

304.9.2 PSYCHOLOGICAL AID

Due to the extreme psychological stress created, officer(s) involved will be offered counseling by an appropriate professional. The timing and setting will be conducted to provide quality psychological assistance, yet ensure the administrative and criminal investigations are not compromised.

The domestic partner of the involved officer(s) should be made aware of the availability of City-sponsored counseling programs for family members through the Employee Assistance Program.

The involved officer(s) may be asked to submit to a "Fitness for Duty" evaluation with a Department contracted psychologist prior to returning to duty as required by the Chief of Police.

304.10 FINAL REPORT

A. The Investigating Supervisor, after conducting a thorough administrative investigation of the circumstances surrounding the discharge of firearms, will prepare the administrative report following the pattern stipulated for an internal investigation.

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B. The report will contain a recommendation that follows justification guidelines set forth in the Department's use of force written directives. The report will recommend whether the firearm discharge was:

1. Justified – by State Statute and Department policy;
2. Unjustified – by State Statute and Department policy, or
3. Unintentional.

C. The report will address and make recommendations, if required, on issues related to training, tactics, equipment, procedure and policy.

D. The Investigating Supervisor will forward the completed report to the Internal Affairs Coordinator. The Internal Affairs Coordinator will make written comments and recommendations regarding the report.

E. The Internal Affairs Coordinator will forward the investigation to the involved employee's Division Commander for written comments and recommendations.

F. The Division Commander will forward the completed investigation to the Chief of Police.

G. The Chief of Police, upon review of the file, may order a hearing to aid in his/her determination of a finding.

304.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and the department representative responsible for each phase of the investigation. Releases will be available to the Shift Supervisor, Investigation Division Commander, and Public Information Officer in the event of inquiries from the media.

No involved PVPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Division Commander.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.