

RESPONSE TO RESISTANCE – INVESTIGATIVE PROCESS FOR USE OF FORCE INCIDENTS INVOLVING SERIOUS INJURY OR DEATH

POLICY:

It is the policy of the Omaha Police Department (OPD) that any death or serious injury of a subject in OPD custody shall be investigated by the OPD Officer-Involved Investigations Team (OIIT). The OIIT shall have sole responsibility for the criminal investigation and case management of all incidents resulting in serious injury or death that involve use of force by an OPD officer regardless of whether the officer is on or off duty. The OIIT may also investigate any incident at the direction of the Chief of Police or designee.

DEFINITIONS:

Involved Officer(s): Any officer who uses force and/or discharges a weapon, and their actions result in the serious bodily injury or death of a subject.

Officer Involved Investigations Team (OIIT): A team of lieutenants, sergeants, and detectives trained in officer-involved use of force investigations commanded by a Captain. The OIIT reports directly to the Criminal Investigations Section Captain and is an As-Needed Component (ANC).

Witness Officer: Any officer who was present or who arrived in time to observe an officer-involved incident in which a subject experienced serious bodily injury or death, but did not discharge their firearm or use any other type of force that resulted in injury or death to a subject.

PROCEDURES:

- I. Responsibilities Immediately After an Incident Involving the Use of Force that Resulted in Death or Serious Bodily Injury of Any Subject**
 - A. Involved Officers will:
 1. Control threats to safety. This may include handcuffing the suspect(s).
 2. If not already requested, request emergency medical assistance.
 3. Administer first-aid to self and others.
 4. If not already requested, request a supervisor and additional units.
 5. When possible, protect the scene.
 - B. Witness Officers will:
 1. Control threats to safety. If necessary, search for outstanding suspects.
 2. If not already requested, request emergency medical assistance.
 3. Administer first-aid to anyone in need.
 4. Request a supervisor and any additional units needed to secure the scene.
 5. Protect the scene.
 6. Identify witnesses and request their cooperation.

7. Coordinate the arrival of Responding Officers and direct a perimeter for scene preservation.
- C. Responding Officers will:
1. Control threats to safety.
 2. Relieve Witness Officers in any search for outstanding suspects.
 3. When possible, relieve Involved and Witness Officers from administering first-aid.
 4. Identify any additional witnesses and request their cooperation.
 5. Establish and maintain a perimeter until relieved.
 - a. Incident Command should be established as soon as possible.
 - b. OPD Protocols for Use of Force Incidents Involving Serious Injury or Death ([OPD Form 148](#)) will be used as a guideline to make certain critical tasks are completed.
 6. Coordinate the arrival of the rescue squad(s).
 - a. UPB command shall make certain a UPB officer rides with the subject to the hospital.
- D. All On-Scene Officers will:
1. If tactically safe, leave all evidence where it is located until the arrival of the OIIT and supervisor(s).
 - a. If evidence must be picked up for safety reasons prior to the arrival of the OIIT, officers will attempt to mark the location from which it was removed.
 2. If the scene involves any vehicles, the vehicles will be handled as part of the investigation and will be secured as evidence.
- E. Responding Uniform Patrol Bureau (UPB) supervisors shall:
1. Establish or assume Incident Command.
 - a. Make sure the crime scene inner and outer perimeters are secure. Secure the inner perimeter with crime scene tape or other appropriate equipment/materials.
 - b. If appropriate, employ the use of privacy screens around any bodies to help diffuse potential crowds or onlookers.
 - c. Continue the use of or start an [OPD Form 148](#) to make sure critical tasks are completed.
 2. Collect the Involved Officer(s) Body-Worn Cameras (BWC's) and Witness Officer(s) BWC's for transfer to the BWC Administrator, or OIIT designee if the BWC Administrator is not immediately available.
 3. Ask the Involved Officer(s) questions relevant to public safety and scene security (suspects still at large, weapons used in the incident still unrecovered, etc.).

- a. These questions will be answered on pain of insubordination; however questions beyond those issues must wait until the Involved Officer(s) has an opportunity to consult with legal representation, if representation has been requested. Questions that go beyond issues of public safety must wait until the Involved Officer(s) has been advised of Fifth and Sixth Amendment rights.
 - b. If the Involved Officer(s) makes a statement about the incident, the supervisor should document any information received at that time (without further questioning).
 - c. If the Involved Officer(s) declines to make a statement, the supervisor will not question them further.
4. Assign an officer to maintain a Crime Scene Log ([OPD Form 200F](#)) to document all police and emergency response personnel involved at the scene by name, rank, and serial number.
5. Notify the following:
- a. Precinct and unit chain of command.
 - b. CIB personnel who will contact the appropriate OIIT supervisor.
 - c. Forensic Investigations.
 - d. Department Peer Support Team Leader.
 - e. Internal Affairs Lieutenant.
 - f. Public Information Office (PIO).
6. Assign officers to initiate a neighborhood canvass to locate witnesses to the incident.
- a. Officers assigned to canvass the area shall obtain pertinent information from all parties contacted during the canvass to include, but not limited to, their full name, address, date of birth, work and home phone numbers, in addition to a brief statement concerning the incident.
 - b. After conducting the preliminary canvass, assigned UPB officers shall document all information in a Supplementary Report and submit the report(s) to the OIIT on-scene supervisor.
 - c. If a residence is checked but no one is present, the address, time of the check, that no one was present and any other pertinent information shall be documented in a Supplementary Report and submitted to the OIIT on-scene supervisor.
7. Remove any Involved Officer(s) from the crime scene as soon as practical.

NOTE: Involved Officers and Witness Officers shall not be removed from the scene until their BWC's have been collected.

- a. Coordinate and assign UPB supervisors to transport all Involved Officers.
 - (1) Upon order of the Chief of Police or designee, alcohol and drug testing shall be conducted in accordance with Section IV of this policy.

- (2) With the exception of stopping at the drug screening and alcohol testing facility when ordered, the Involved Officer(s) shall be transported directly to the OPD Central Police Headquarters (CPHQ) by a UPB supervisor. No extraneous stops shall be made.
 - (3) The Involved Officer(s) shall be separated from other involved individuals.
 - (4) The UPB supervisor shall turn the Involved Officer over to an OIIT member on the fourth floor of CPHQ.
8. Be prepared to coordinate and assign transportation officers or supervisors for any Witness Officers requested by the OIIT.

- a. Witness Officers shall be transported directly to the CPHQ. No extraneous stops shall be made.

NOTE: Involved Officers and Witness Officers shall not be removed from the scene until their BWC's have been collected.

9. Be prepared to coordinate and assign transportation for any witnesses requested by the OIIT.
 - a. Cooperating witnesses shall be voluntarily transported to CPHQ as soon as possible for formal interviews to be conducted by personnel designated by the OIIT Interview Sergeant.
 - (1) Officers who transport cooperating witnesses shall instruct witnesses not to discuss the incident among themselves or with anyone except detectives assigned to investigate the case.
 - b. Witnesses who identify themselves as having observed the incident but who refuse to cooperate with officers at the scene shall not be detained.
 - (1) If a witness insists on leaving, officers will attempt to obtain the witness's name, date of birth, address, and work and home telephone numbers and will attempt to verify the witness's identity.
 - c. Transporting officers will keep witnesses separate as much as possible.
10. Ensure any necessary Incident, Injury, and/or Supplementary Reports from the scene are completed and submitted.

NOTE: The Involved Officer(s) do not complete reports.

F. Internal Affairs Unit shall:

1. If not already notified, notify the Chief of Police.
2. Coordinate with the Chief of Police for alcohol and drug testing in accordance with this policy.

G. The Involved Officers' supervisor(s) shall:

1. Complete and submit a Chief's Report ([OPD Form 214](#)) through the normal chain of command and directed to the Internal Affairs Unit, in order to document the Involved Officer(s)'s actions.
2. Ensure any necessary Incident, Injury, and Supplementary Reports from the scene are completed and submitted.

NOTE: The Involved Officer(s) do not complete reports.

II. Officer Involved Investigation Team (OIIT) Responsibilities

- A. The assigned OIIT Captain shall assume responsibility of the OIIT members and take command of the investigation. The OIIT Captain shall assign an operational Lieutenant.
- B. The OIIT Lieutenant shall:
 1. Make certain weapons possessed by Involved Officers are collected and turned over to the OPD Forensic Investigations Unit for examination when the Involved Officer(s) arrives at CPHQ.
 - a. The process of the firearm being inventoried and round counts will be recorded on audio/video in front of the Involved Officer, if possible.
 2. Make certain weapons possessed by Witness Officers are inventoried and round counts are recorded on audio/video in front of the Witness Officer(s), if possible.
 3. Make certain the OPD Training Unit is contacted so that Involved Officers will be provided replacement/loaner weapons.
 - a. Witness Officers may also be supplied with replacement/loaner weapons if their weapons are retained as evidence by the OIIT.
 4. Coordinate and provide directions to the OIIT sergeants and detectives.
 5. Coordinate and assign personnel to make next of kin notifications for suspects and all decedents.
 - a. Next of kin notifications shall only be made after positive identification of the decedent.
 - b. Attempts to notify next of kin shall be made as soon as possible after positive identification.
 6. Coordinate with the OPD Crime Analysis Unit to ensure the additionally required FBI data collection forms are completed and submitted.
- C. The OIIT shall, at a minimum, have four (4) Sergeants with the following responsibilities:
 1. The OIIT On-Scene Sergeant shall:
 - a. Take charge of the incident scene investigation.
 - (1) The UPB Incident Commander shall manage the operation of the inner and outer perimeter at the direction of the OIIT On-Scene Sergeant.

- b. Make certain Forensic Investigations employees document and process the entire scene and collect all evidence.
 - c. Make certain available videos from any cruisers on-scene when the incident occurred and those cruisers that responded to the scene are collected, turned over to the Evidence and Property Unit, and held as evidence.
 - d. Determine which vehicles are considered on-scene and part of the investigation. Vehicles shall be processed by Forensic Investigations and On-Scene OIIT detectives. The vehicles may be towed if necessary.
 - e. Make certain OIIT On-Scene detectives canvas the area of the scene in an attempt to locate any additional video evidence and to develop additional witnesses. OIIT On-Scene detectives shall document the scene and investigate available physical evidence.
 - f. An additional OIIT On-Scene supervisor may be used for secondary scenes and shall have the same authority as the OIIT On-Scene Sergeant.
2. The OIIT Hospital Sergeant shall:
- a. Make certain a UPB officer at the hospital completes an original Incident Report.
 - b. Make certain a UPB officer stays with the subject at all times.
 - (1) This UPB officer shall document all unsolicited statements from the injured subject (if any) in a Supplementary Report.
 - (2) This officer shall remain at the hospital until released by the OIIT Hospital Sergeant.
 - c. Make certain OIIT detectives request Forensic Investigations assistance gathering evidence from the hospital and from the UPB officer's custody.
 - (1) These items of evidence will be documented to establish a proper chain of custody and will then be turned over to the Evidence and Property Unit employee(s).
 - d. Make certain officers turn over all preliminary reports to the OIIT Hospital Sergeant.
 - e. Make certain immediate family members of deceased person(s) are allowed a private viewing of the body at the hospital, when feasible.
 - (1) Only a parent, spouse, sibling, or child of the deceased qualifies as an immediate family member.
 - (2) The OIIT Hospital Sergeant and/or OIIT detective will accompany family member(s) during the viewing.
 - f. Upon a subject being pronounced clinically dead, contact the Douglas County Coroner to arrange for transportation of the body.
 - g. Request any needed additional security needed at the hospital.

- (1) A UPB supervisor may be assigned to supervise additional security and shall report to the OIIT Hospital Sergeant.
 - h. Request an additional OIIT Hospital supervisor for any additional hospitals where any involved subject may have been taken.
 - (1) Any additional OIIT Hospital supervisor(s) shall have the same responsibilities as the primary OIIT Hospital Sergeant for their assigned hospital.
3. The OIIT Interview Sergeant shall:
 - a. Assign OIIT detectives to conduct interviews of Involved Officers, Witness Officers, and witnesses.
 - b. Make certain all interviews will be audio and video recorded.
 - c. Coordinate and review interviews.
 - d. Direct re-interviews as necessary.
4. The OIIT Central Police Headquarters (CPHQ) Sergeant shall:
 - a. Make certain that during the initial stages of an incident investigation, access to the CPHQ fourth floor is restricted to only those detectives involved in the investigation or OPD employees who are normally assigned to work on the floor and are on duty.
 - b. Assign an officer to act as the floor monitor. This officer shall document the names of persons who enter the floor and shall refuse entry to the floor to any employees who are not assigned to the floor and on duty and any employees who are not involved in the investigation.
 - c. Collect initial reports from officers and deliver them to the OIIT Lieutenant.
 - d. Monitor rooms that contain Involved Officers, Witness Officers, and witnesses for policy compliance.
 - e. Coordinate with the OPOA representatives, the attorneys for any Involved Officers and Witness Officers, and the Peer Support staff.
 - f. Coordinate and secure additional interview space at CPHQ when needed.
- D. The OIIT Lieutenant, after consulting with the OIIT On-Scene Sergeant, will determine which officers identified in the Crime Scene Log will be required to submit detailed Supplementary Reports (excluding Involved Officers and Witness Officers).
- E. The OIIT Lieutenant shall determine whether Witness Officers need to complete a formal, recorded interview, a detailed written Supplementary Report, or provide a verbal statement to further document the incident.

III. Interview of Involved Officers and Witness Officers

- A. No one other than the Involved Officer's attorney, Peer Support officer, or OPOA representative are allowed to have contact with the Involved Officer without permission of the OIIT Captain or Lieutenant.

1. Immediate family member(s) will only be allowed contact with the Involved Officer with approval of the OIIT Captain or Lieutenant.
- B. The Involved and/or Witness Officer will be requested to submit to a formal interview conducted by OIIT detectives.

NOTE: The Involved Officer(s) retains rights are guaranteed by the Fifth Amendment which requires reading of Miranda warnings against self-incrimination, as well as the Sixth Amendment which pertains to one's right to counsel.

- C. The Involved Officer(s) is encouraged to allow an interview to take place as soon as possible to allow an expeditious flow of the investigation.

1. An Involved Officer who declines to be interviewed after the incident will be asked to participate in an interview within 24-48 hours of the incident.

- D. Any Witness Officer(s) shall be kept separate from other involved individuals. The Witness Officer(s) shall not discuss the incident with anyone except the OIIT personnel.

1. An OPOA representative and a Peer Support officer may check on all Witness Officers for any personal needs.

IV. Alcohol and Drug Testing Policy

- A. Pursuant to the administrative investigation, and in accordance with the Omaha Police Officer's Association (OPOA) collective bargaining agreement, officers involved in a shooting incident may be required to submit to alcohol and drug testing to determine the presence of alcohol or drugs.

NOTE: Only the Chief of Police or designee is authorized to order any alcohol or drug test. Authorizations will be coordinated by the Internal Affairs Unit.

- B. The on-scene UPB command officer is responsible for the administration of any alcohol or drug testing ordered.

1. If the Involved Officer(s) is not incapacitated, a UPB supervisor shall transport the Involved Officer(s) without delay, and prior to OIIT questioning, to the contracted City testing facility, currently the Emergency Room of Bergan Mercy Hospital. Upon arrival, the UPB supervisor shall request a breath/alcohol test be administered and urine/drug sample be obtained.
 - a. The officer's second urine void will be collected.
 - b. If breath-testing equipment is not operational, hospital staff will obtain a blood sample. Four vials of blood shall be collected. The procedures for collecting blood specimens in the "[Driving Under the Influence \(DUI\)](#)" policy shall be followed.
2. If the Involved Officer(s) is unconscious or conscious and incapacitated, a UPB supervisor shall accompany the Involved Officer to the closest emergency room or trauma center for treatment and, when practical, request a blood sample for alcohol and drug testing.
 - a. Four vials of blood shall be collected. The procedures for collecting blood specimens in the "[Driving Under the Influence \(DUI\)](#)" policy shall be followed.

- C. Upon completion of the alcohol test and sample collection, the UPB supervisor shall:
1. Transport the Involved Officer directly to the fourth floor of CPHQ and notify an OIIT member upon arrival.
 - a. No stops shall be made during this transportation.
 2. Complete an OPD Information Report, via the electronic reporting system, to document the following information:
 - a. Involved Officer's name.
 - b. Time of the incident.
 - c. Location of where tests were administered or samples collected.
 - d. Full name(s) and contact information of hospital personnel who completed the test and collected any samples.
 3. Obtain a separate RB number for the Information Report.
 - a. If blood is drawn or urine is collected, the UPB supervisor shall book the sample(s) into the OPD Evidence and Property Unit under the separate RB number.
 4. Contact the Internal Affairs Lieutenant directly upon electronic submission of the Information Report.
 - a. If the Information Report is completed electronically, the UPB supervisor shall notify the IAU commander by email that the report has been completed. The UPB supervisor shall then print a copy of the completed report and hand deliver it to the IAU commander.
- D. If the Involved Officer(s) refuses to submit to alcohol and drug tests, the UPB supervisor shall document the refusal on an Internal Information Report and shall hand-deliver the Internal Information Report to the IAU commander.

V. News Media Releases

- A. Only the Chief of Police or designee shall authorize information to be released to the media. This includes, but is not limited to:
1. On-scene media interviews.
 2. Press releases.
 3. The names of anyone involved in the incident
 4. Any other account of the incident.
- B. All subsequent news media releases relative to the incident will be reviewed and approved by the Office of the Chief of Police or designee prior to release.

VI. Administrative Matters

- A. Assignment of Involved Officers during OIIT Investigations.
 - 1. An Internal Affairs Unit representative shall meet with the Involved Officer to discuss duty status and any additional instructions before the Involved Officer(s) is released.
 - 2. Upon completion of the initial OIIT interview, the Involved Officers will be placed on administrative leave per the "[Leave Procedure – Administrative Leave](#)" policy.
- B. Mandatory Referral to OPD Staff Psychologist.
 - 1. All Involved Officers shall meet with the Department Psychologist within 48 hours. Refer to the OPD "[Medical Services – Psychological Services](#)" policy for procedures.
- C. Critical Incident Stress Debriefing and Peer Support.
 - 1. All officers present will submit to a Critical Incident Stress debriefing. Refer to the OPD "[Medical Services – Psychological Services](#)" policy for procedures.
 - 2. Trained Peer Support personnel will be made available to any involved employee who requests support. Refer to the OPD "[Peer Support](#)" policy for procedures.
- D. Involved Officer returning to full duty status.
 - 1. The investigation will be treated as an open, ongoing matter until all evidence, reports, and other relevant materials are transferred to the Douglas County Attorney.
 - 2. If the Douglas County Attorney determines the incident occurred in accordance with Nebraska Revised Statutes, the Involved Officer may be returned to full duty at the discretion of the Chief of Police or designee.
- E. The Internal Affairs Unit shall conduct an administrative review of the incident. The review shall determine whether:
 - 1. OPD Policies and Procedures were followed.
 - 2. Relevant OPD Policies and Procedures, as well as applicable OPD training, are clearly understandable and adequate.
 - a. Additional training and/or policy revisions may be enacted subsequent to the administrative review.
- F. Upon completion of both the administrative and criminal investigation, and at the discretion of the Chief of Police, the Training Unit will review all Use of Force issues to determine if additional Departmental training is needed.

REFERENCES:

I. Previous OPD Orders

- A. Previous OPD General Orders include #7-13, 64-15, 115-16, 15-17, 24-17, and 24-18 and Supplement #1-2.

II. Accreditation Standards

- A. CALEA accreditation Standards 1.3.6, 1.3.7, and 1.3.8 are relevant to this policy.

III. Other

- A. PPM Update #6-2017 and #4-2018.