

Critical Issues in Policing Series

Managing Officer-Involved Critical Incidents

Guidelines to Achieve Consistency,
Transparency, and Fairness



2025



POLICE EXECUTIVE
RESEARCH FORUM

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Message from PERF Executive Director Chuck Wexler

Ask any police chief or sheriff which calls they most dread, and they're sure to mention the "officer-involved critical incident" — an incident where an officer causes or contributes to a death or serious physical injury. Regardless of the underlying facts and whether the officer's actions were justified, these critical incidents are among the most volatile issues faced by law enforcement executives. A life has been lost, and for agencies that embrace a sanctity-of-life philosophy and culture, any death, no matter the circumstances, is tragic.

Officer-involved critical incidents (OICIs) touch on some of the weightiest issues in policing today:

- They often involve law enforcement agencies that may, at times, already be viewed skeptically by the communities they serve.
- The explosion of cellphone video and social media can lead to the rapid dissemination of sometimes incomplete or inaccurate information, leaving agencies behind the public narrative.
- Agencies are expected to be transparent and quickly disseminate information to a public eager for information.
- Often, public expectations do not align with legal realities, such as when police officers are legally authorized to use force, the legal threshold required to charge an officer with a crime, and the employment rights guaranteed to law enforcement officers in laws and collective bargaining agreements.

In the past, law enforcement agencies exclusively controlled the evidence and the flow of information about these incidents, which certainly contributed to some of the current public cynicism. But that is no longer the case. Cameras are ubiquitous, as are social media platforms on which to post footage, information, and opinions.

Decades ago, the public knew very little about how or when charging and prosecution determinations were made, with families and friends of decedents often asking questions into a void; but again, things have changed. Publications like PERF's *Guiding Principles on Use of Force* hold police to higher standards than ever before, the press is highly engaged, and many organizations exist to help families and friends navigate the system, including where and from whom to demand answers.



PERF Executive Director Chuck Wexler at the September 27, 2023, meeting with law enforcement agency chiefs and executive-level personnel, OICI investigators, internal affairs investigators, prosecutors, and a medical examiner.

Changing times present opportunities for all agencies to examine what they are doing as they constantly strive to improve. Every police agency should implement policies and practices consistent with modern expectations and responsibilities. **There are many policies and practices every chief and sheriff can implement to navigate these incidents in ways that are consistent, transparent, and fair — to the public, the decedent's friends and family, and the involved officer.**

I want to provide a brief note on language. Use of the phrase “officer-involved” when referring to a shooting or other critical incident has been criticized for, at times, obscuring or minimizing what took place.¹ While I think that criticism is understandable, it is the language commonly used in the policing profession, so we have used it in this report.

Over the years, PERF has dedicated a great deal of time and resources to providing police officers the skills and knowledge they need to avoid fatal uses of force altogether, whenever possible. This was our first time surveying the broad landscape of how law enforcement executives are managing these difficult cases so we could share that information broadly.

This report will cover promising practices in place throughout the country — from the smallest to the largest agencies — and should give every chief and sheriff ideas on new practices they can implement or current practices they can improve. While laws vary from state to state – and can greatly affect what agencies are able to do – there is one general principle that guides every recommendation in this report: **consistency, transparency, and fairness should be the goals of every decision made when managing officer-involved critical incidents.**

To arrive at the recommendations contained in this report, on September 27, 2023, PERF convened a meeting in Washington D.C., during which people with experience in various aspects of OICIs shared their knowledge. Attendees included law enforcement agency chiefs and executive-level personnel, OICI investigators, internal affairs investigators, prosecutors, and a medical examiner.

One uniform principle that emerged from that meeting is that it is far better to implement good practices now than react to incidents in the future. Building community trust takes time, effort, and goodwill, but trust is fragile and can be eroded instantly; mishandling a critical incident is one way to erode that trust.

¹ Jonathan Moreno-Media et. al., “Officer-Involved: The Media Language of Police Killings,” National Bureau of Economic Research, https://www.nber.org/system/files/working_papers/w30209/w30209.pdf.

Acknowledgments

Like all PERF publications, this report was informed and enriched by the experience and input of our members, many of whom took the time to complete our survey and speak with the project team. Additionally, this report reflects the expertise and insight of the subject matter experts who gathered in D.C. to discuss these issues at length. PERF is grateful to these dedicated professionals who are listed below:

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Austin Police Department

Jeremy Christensen, Captain
Omaha Police Department

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Denver Police Department

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Thomas Eicher, Director
Office of Public Integrity and
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New Jersey Office of the Attorney General

Christine Elow, Commissioner
Cambridge (MA) Police Department

John Helou, Lieutenant
New Orleans Police Department

Jason Hendershot, Lieutenant
Philadelphia Police Department

Scot Hunter, Assistant Director
CA - DOJ (CA AG's Office), Bureau of
Investigation

Wayne Jones, Chief
Miami Beach Police Department

Patrick Kinney, Lieutenant
Chicago Police Department

John Knutsen, Commander
Washington, D.C. Metropolitan Police
Department

Paul Lough, Inspector
Milwaukee Police Department

Anthony Marino, Deputy Chief
New York City Police Department

Joseph Martino, Director
Ontario (Canada) Special Investigations
Unit, Ministry of the Attorney General

Brian Maxey, Chief Operating Officer
Seattle Police Department

Philip Meitl, AUSA
U.S. Department of Justice - Office of
Legal Policy

Ali Miri, Lieutenant
San Jose Police Department

Scott Mueller, Deputy Superintendent
Minnesota Bureau of Criminal
Apprehension

Dana Mulhauser, Chief of the
Independent Investigations Division
Maryland Office of the Attorney General
(fmr.)

Timothy Mygatt, Deputy Chief, Special
Litigation Section
U.S. Department of Justice, Civil Rights
Division

Brian Nadeau, Deputy Commissioner
Baltimore Police Department

Art Nakamura, Assistant Chief (ret.)
Portland Police Bureau

Carlo Peek, Major
Atlanta Police Department

Terrence Rhodes, Deputy Chief
Dallas Police Department

David Smith, Lieutenant
Los Angeles Police Department

David Squires, Chief (fmr.)
Wrightsville Beach (NC) Police Department

Keith Stephens, Deputy Chief
Metropolitan Nashville Police Department

J. Scott Thomson, Chief (ret.)
Camden County (NJ) Police Department

Anthony Vasquez, Assistant Chief
Phoenix Police Department

Nicholas Viorst, Chief of Police
Accountability Unit
Manhattan District Attorney's Office

David Zibolski, Chief
Fargo (ND) Police Department

Mark Kollar, Deputy Superintendent of the Ohio Bureau of Criminal Investigation, was unable to attend the meeting, but brought a wealth of experience to this project and served as consulting subject matter expert throughout.

Many PERF staff contributed to this report. Deputy Director Jennifer Sommers managed the project, developed the survey, interviewed subject matter experts, and wrote the report. Senior Research Associate Rachel Apfelbaum provided indispensable assistance every step of the way and Director Tom Wilson helped direct the overall effort. Former Research Assistants Adam Kass and Ashley Richards processed and analyzed the survey responses. Research Associate Zoe Mack, Senior Research Assistant Caleb Regen, and Research Assistant Rachael Thompson reviewed policies and provided general assistance. Senior Communications Principal James McGinty and Communications Associate Dustin Waters edited the report. Dustin Waters also designed and laid out the report.

And finally, we thank Motorola Solutions and its philanthropic arm, the Motorola Solutions Foundation, which supported this project and many others over the past three decades. This is the 51st report in the *Critical Issues in Policing* series, and the ongoing support of the Motorola Solutions Foundation enables PERF to tackle the profession's critical issues. In particular, PERF would like to thank Greg Brown, Motorola Solutions Chairman and CEO; Jack Molloy, Executive Vice President and Chief Operating Officer; Jason Winkler, Executive Vice President and Chief Financial Officer; John Zidar, Senior Vice President, North America Government; and Karem Perez, Vice President of Diversity, Equity, and Inclusion and Executive Director of the Motorola Solutions Foundation.



Jennifer Sommers leads a discussion at the September 27, 2023, meeting on OICIs.

Introduction and How to Use This Guidebook

News stories about officer-involved critical incidents (OICIs) are distressingly common. A single incident can permeate news cycles, often with viral, uncontextualized videos of extremely unsettling incidents.

For some broad perspective on the issue, according to the *Washington Post*, there were 1,164 fatal police shootings in the United States in 2023;² there were 758,707 law enforcement officers in the country that year.³ That means roughly one-fifth of one percent (i.e., 0.002%) of all officers in the U.S. fatally shot a person in 2023, with each death constituting a tragic loss of life. But when these tragic events occur, they receive tremendous publicity, often affecting not just the involved officer and their agency, but the perception of all officers and all agencies.

Growing Information and Public Interest

The intensifying spotlight on OICIs partly reflects increased transparency where little previously existed.

Prior to 2015, there was no expectation that law enforcement agencies would report fatal incidents to a federal repository where they would become public; that is slowly changing. In 2015, the FBI announced it was creating a National Use of Force Data Collection portal, which began accepting data in 2019.⁴ Participation is voluntary, but the number of agencies submitting data has steadily increased, with nearly 60 percent of agencies nationwide submitting data in 2024.⁵

2 Washington Post, "Fatal Force Police Shootings Database," <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>.

3 Federal Bureau of Investigation, "Crime Data Explorer: Participation," <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/le/uof>.

4 Federal Bureau of Investigation, "National Use-of-Force Data Collection," <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/use-of-force>.

5 Federal Bureau of Investigation, "Crime Data Explorer: Participation," <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/le/uof>.

Non-governmental entities have filled the information void. In 2013, the nonprofit Mapping Police Violence began publicizing information about people killed in fatal encounters with law enforcement.⁶ And, in 2015, the *Washington Post* began publishing its “Fatal Force” database, disseminating information about fatal police shootings across the nation.⁷ While these and other databases gather intelligence differently, making it difficult to draw broad conclusions, there is much more data available today about civilian fatalities during police incidents than ever before.⁸

There is greater press interest in this issue than ever, and social media has become a new avenue for disseminating information (and, at times, misinformation). At the same time, police leaders have been much more open to communicating with the public about policies and practices, as well as sharing information after critical incidents. This has all contributed to the public’s knowledge of, interest in, and perceptions about officer-involved deaths.⁹

As University of South Carolina criminology professor Geoffrey Alpert notes, “The number of [legally] improper, bad shootings is very small ...[t]he vast majority are not questionable.”¹⁰ And, reflecting that reality, there is little to suggest that significantly more officers are being charged with or convicted of crimes following fatal incidents.¹¹

To some, the small number of police officers charged with crimes after OICIs reflects the fact that police have the legal authority to use deadly force under certain circumstances – **the scope of which the public may not fully understand**. To others, the low number reflects ineffective investigations and prosecutions.¹²

But one thing is certain: **if an agency experiences an OICI, it has never been more important to respond in a carefully planned and methodical manner.**

Defining Officer-Involved Critical Incidents

In this publication,¹³ “Officer-Involved Critical Incident” (OICI) refers to:

- Any firearm discharge by an officer, acting in a law enforcement capacity, that causes injury or death to any person, including another officer. (In plain language, a police shooting that results in any injury, however slight.)

6 Mapping Police Violence, “About this Project,” <https://mappingpoliceviolence.org/about>.

7 *Washington Post*.

8 Samantha Putterman, “Ask PolitiFact: Are more people dying at the hands of law enforcement now than ever?,” PolitiFact, February 6, 2023, <https://www.politifact.com/article/2023/feb/06/ask-politifact-are-more-people-dying-hands-law-enf/>.

9 See, for example, Ashlin Oglesby-Neal, Emily Tiry, and KiDeuk Kim, “Public Perceptions of Police on Social Media: A Big-Data Approach to Understanding Public Sentiment toward the Police,” Urban Institute, February 2019, https://www.urban.org/sites/default/files/publication/99789/public_perceptions_of_police_on_social_media_0.pdf.

10 In, James Varney and Abigail Degnan, “Why Fatal Police Shootings Aren’t Declining: Some Uncomfortable Facts,” Real Clear Investigations, April 18, 2024, https://www.realclearinvestigations.com/articles/2024/04/18/why_fatal_police_shootings_arent_declining_some_uncomfortable_facts_1025760.html.

11 Martin Kaste, “Are more police officers facing prosecution? As the data shows, it’s complicated.” NPR, September 25, 2023, <https://www.npr.org/2023/09/25/1201620935/are-more-police-officers-facing-prosecution-as-the-data-shows-its-complicated>.

12 Mark Berman, “When police kill people, they are rarely prosecuted and hard to convict,” *Washington Post*, April 4, 2021, <https://www.washingtonpost.com/nation/2021/04/04/when-police-kill-people-they-are-rarely-prosecuted-hard-convict/>.

13 This definition is a baseline for purposes of this publication, and every jurisdiction should refine its definitions. Words like “serious physical injury” and “cause” will differ depending on the jurisdiction.

- Any incident in which an officer causes or contributes to the death or serious physical injury of a person during a law enforcement interaction; this includes any use of force (including physical restraint) or vehicular-related incident. (In plain language, any incident — including those involving uses of force, restraints, and vehicles — in which an officer’s conduct causes or contributes in any way to a person’s death or serious physical injury, regardless of intent.)

PERF Member Survey

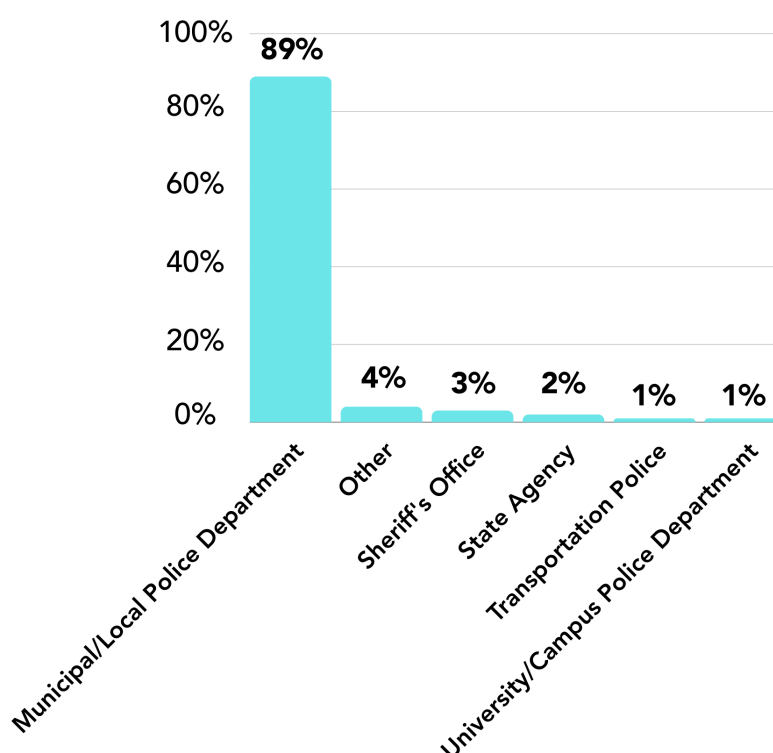
To learn how agencies are now handling OICIs, PERF distributed a survey to a cross-section of member sheriffs and chiefs of police and received responses from 148 agencies.¹⁴ Roughly 90 percent of the respondents were from municipal or local police departments; the rest were members of sheriffs offices, state police agencies, transportation agencies, and campus police departments. (See Figure 1.)

Mid-sized agencies of 50-249 sworn officers represented the greatest share (44 percent) of survey respondents. Twenty-seven percent of responses came from agencies with 1-49 sworn officers, 20 percent came from agencies with more than 500 officers, and 9 percent came from agencies with 250-499 officers. (See Figure 2.)

The survey asked how many fatal OICIs an agency experienced in 2022. Nearly 60 percent of responding agencies had no fatal OICIs, and among those with at least one fatal OICI, the most common category was shootings; restraint/use-of-physical-force and vehicular-related fatalities were far less frequent. (See Figure 3.)

After analyzing the survey responses, PERF interviewed several respondents to better understand their OICI processes and practices.

Figure 1: Survey Responses by Agency Type



PERF Meeting of Subject-Matter Experts

On September 27, 2023, PERF convened a meeting in Washington D.C., at which people with experience in various aspects of OICIs shared their knowledge. This group included law enforcement agency chiefs and executive-level personnel, OICI investigators, internal affairs investigators, prosecutors, and a medical examiner.

¹⁴ PERF distributed 682 surveys and received 156 responses. Eight responses were not used in this analysis because more than one person at an agency completed the survey. Throughout this report, unless otherwise noted, the number of survey respondents involved is 148 (i.e., n=148).

Figure 2: Survey Responses by Personnel Number

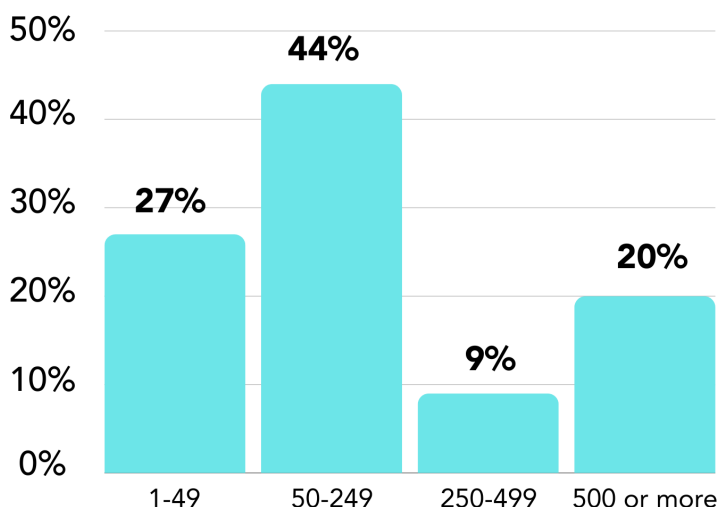
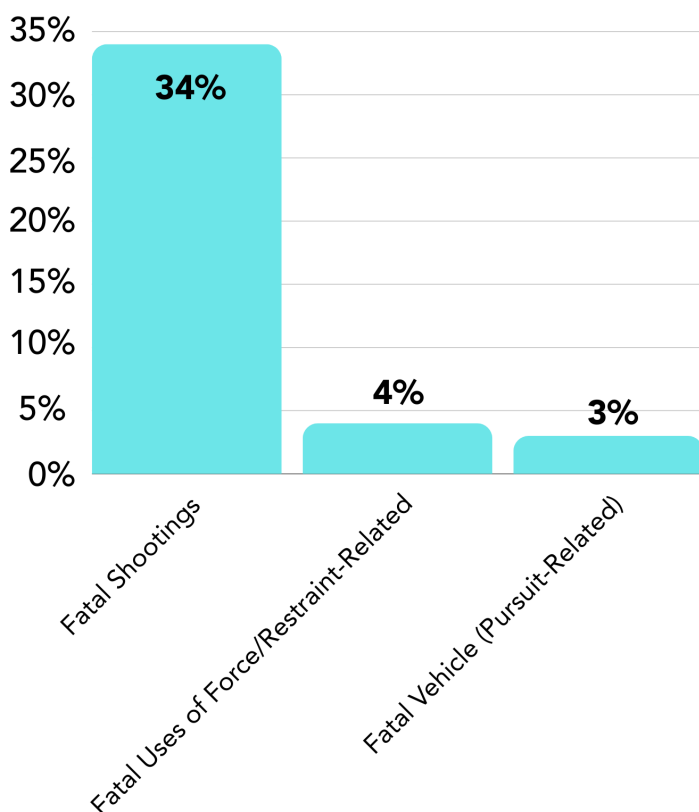


Figure 3: Agencies with At Least One Officer-Involved Critical Incident January 1-December 31, 2022



Using this Guidebook

This guidebook reflects information gathered through PERF's survey, its interviews with survey respondents, and the Washington D.C. meeting. The publication describes actions that every agency – regardless of size or prior experience with OICIs – can take to prepare for an OICI, as well as promising practices for police executives to employ after an incident.

The guidance falls into the broad categories of steps to take before (i.e., how best to prepare) and after (i.e., how best to respond and manage) OICIs. But obviously, categorizing actions as before and after is simplistic because they cannot be neatly teased apart – responding to and managing an OICI in the best way possible (after) requires rigorous preparation (before). And there is overlap among sections. For instance, prosecutors are necessary stakeholders, and meeting with them is covered in the “MEET WITH STAKEHOLDERS” section along with the topics that should be covered during that meeting; however, there are also prosecutor-related issues covered in “TRANSPARENCY PRACTICES AFTER AN OICI,” as well as “THE CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS.”

The publication ends with “Officer Education and Wellbeing.” There, law enforcement leaders can learn what other agencies are doing to help their officers before, during, and after these life-altering critical incidents.

The chapters are summarized below:

HOW BEST TO PREPARE FOR AN OICI

1. ASSESS CURRENT PRACTICES AND POLICIES

Regardless of size, every agency will benefit from a thorough

review of its policies and practices. This chapter identifies a litany of issues that can guide the policy and practice assessment process.

2. ENGAGE IN PROACTIVE TRANSPARENCY

Agencies should co-locate as much information as possible about OICIs and the agency's response in one place on the agency website, even if the information is also provided elsewhere. This chapter contains many examples of the types of information agencies can make publicly available.

3. MEET WITH STAKEHOLDERS

Meeting with OICI stakeholders should always occur proactively, before an OICI takes place. This chapter discusses who those stakeholders are and topics that should be addressed with them.

RESPONDING TO AND MANAGING OICIs:

4. TRANSPARENCY PRACTICES AFTER OICIs

Every agency should have plans and policies covering whether, how, and when information will be released to the public after an OICI. This chapter covers the release of general information about incidents, as well as video footage and officers' names and histories; it also shares some promising transparency practices that agencies are currently using.

5. THE CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS

This chapter stresses that after any OICI, *three* different investigations should take place: a criminal investigation, an officer-focused administrative investigation, and an agency-focused evaluation; it also makes clear that the results of any one of the three investigations do not control the outcome of the other two. Additionally, this chapter addresses four investigative issues that can be confusing or contentious among law enforcement officials: issues involving medical examiners, involved-officer review of video before interviews, public safety questions, and mandatory pre-interview waiting periods/sleep cycles.

6. OFFICER EDUCATION AND WELLNESS

This chapter addresses the (often-lacking) education officers should receive about the investigative processes that will take place if they are involved in an OICI. It also addresses wellness practices in place at various agencies across the country and makes clear that no agency should wait until after an incident takes place to think about their employees' mental health.

The practices recommended throughout this report can improve law enforcement executives' responses to these critical incidents – in a way that can benefit the community, the decedent's family and friends, seriously injured subjects, and officers. However, nuance and context matter. Some recommendations may not apply to every circumstance in every agency, but implementing as many as possible can improve consistency, transparency, and fairness during these incidents.



Christine Elow,
commissioner of the
Cambridge (MA)
Police Department,
discusses OICs at
PERF's 2023 meeting
in Washington, D.C.



1: Assess Current Practices and Policy

Even if you have not had an officer-involved critical incident (OICI) in your jurisdiction recently, you should proceed as if one might happen any day — because it might. Preparation is critical to ensure you are not merely reacting to events. So, it's important for an agency to plan by assessing its practices, creating a comprehensive policy for responding to OICIs, and publicly sharing as much information as possible.

Analyze Current Processes and Policies

For an agency that has not had a recent OICI, the process of planning for one will force the command staff to grapple with issues they may not yet have seriously considered. For an agency that has had one or more recent OICIs, revisiting its policies and procedures will force the command staff to reassess practices that may have become stale or inconsistent with modern procedures and expectations.

Regardless of the number of OICIs your jurisdiction has experienced, every agency should ask itself, minimally, the following questions:

DO WE HAVE A DEDICATED OICI POLICY?

- If so, is it up to date?
- Have we compared it to policies from other organizations to determine whether and how it can be improved?
- Have we placed our policy (and other information about OICIs) online?

WHO CONDUCTS OR WILL CONDUCT OUR OICI INVESTIGATIONS?

- If our agency conducts the investigation, how do we respond if asked why another agency is *not* involved?
- If another agency conducts the investigation, does our policy still fully address our own staff members' responsibilities, including the involved officer and incident commander?
- If another agency conducts the investigation, have we met with that agency *before an incident takes place* to discuss mutual expectations and processes?

WHAT ARE OUR OICI TRANSPARENCY PRACTICES?

- Will there be a press release and press conference, and if so, will they be within a defined time?
- Will our agency release body-worn camera footage? The officer's name? The officer's disciplinary history? If so, when and under what circumstances?
- Does the prosecutor have ultimate decision-making authority over these types of determinations, or does our law enforcement executive have independent discretion and authority?

WHICH PROSECUTOR'S OFFICE DETERMINES WHETHER AN OFFICER WILL BE CHARGED WITH A CRIME?

- Have we met with members of that office to discuss the process and expectations?
- Is there any indication of how long these determinations will generally take?
- Do we know the standard that will guide the prosecutor's charging decisions?

REGARDLESS OF WHETHER THE INVOLVED OFFICER'S ACTIONS WERE JUSTIFIED, DO WE HAVE PROCESSES IN PLACE TO REVIEW WHETHER AN OICI COULD HAVE BEEN AVOIDED OR TO UNCOVER ISSUES THAT NEED TO BE ADDRESSED AT THE AGENCY LEVEL?

- As an agency, how are we learning lessons from these incidents?

HAVE WE FULLY PREPARED OUR OFFICERS FOR THE AFTERMATH OF AN INCIDENT?

- Do the officers understand that, as a matter of fairness, consistency, and justice, every OICI will be investigated as a potential criminal case in addition to the administrative review?
- Have officers been educated about the criminal review process?
- Do we have a process in place for officer status pending the various investigations?
- Do we have appropriate support and wellness systems in place, given the emotional toll these incidents can take on officers?

This publication examines each of the above-referenced issues. While they are by no means the only questions agencies should be asking themselves, they provide a good starting point.

RECOMMENDATION: Every agency, regardless of its size and the number of officer-involved critical incidents it has experienced previously — and whether it already has a dedicated OICI policy — should conduct a comprehensive analysis of its current practices to identify areas that can be improved. The list of topics referenced above can serve as a launchpad into the process.

Having a Comprehensive OICI Policy is Critical

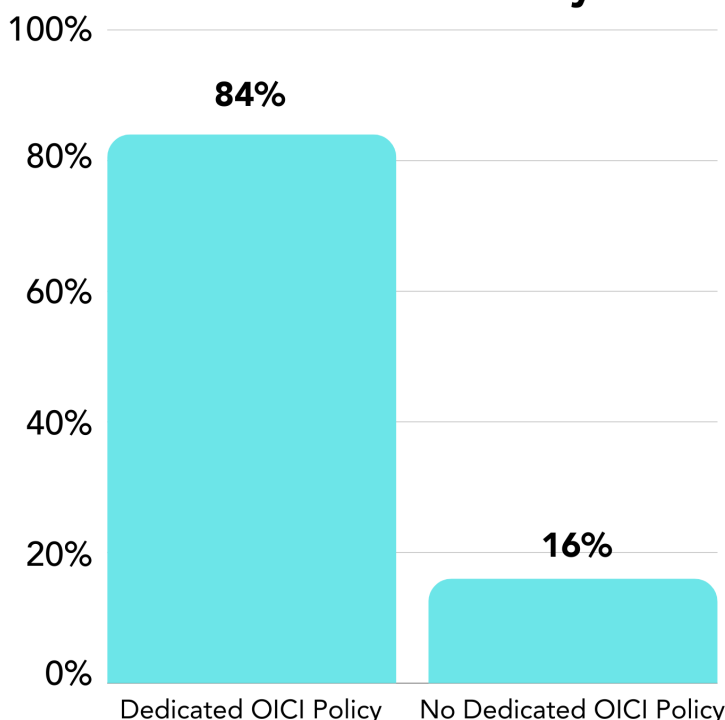
All agencies, regardless of size, should have an OICI policy, and our survey found that most agencies have one: Eighty-four percent of respondents said they have a dedicated OICI

policy. The remaining agencies have no dedicated policy, although some agencies said that other policies, such as those dealing with body-worn cameras or use of force, refer to OICIs. (See Figure 4.)

Of the agencies that indicated they had dedicated OICI policies, 71 percent sent them to PERF for review. A small share (6 percent) of the policies we reviewed only covered shootings, with no indication that relevant provisions should apply to any OICI. As recent history shows, restraint and non-firearm use-of-force-related fatalities, such as George Floyd in Minneapolis and Tyre Nichols in Memphis, can generate an extraordinary amount of public attention, as can vehicular-related deaths.¹⁵ Although the investigative techniques will differ, policies should be expansive enough to cover various types of incidents, not just shootings.

Clear, detailed protocols are needed to ensure that consistent, high-quality processes and investigations take place after an OICI. Thus, not only should every agency have a policy, but the policy itself should comprehensively cover the issues that every agency will face in the wake of these events.

Figure 4: Agencies Reporting a Dedicated OICI Policy



RECOMMENDATION: Every agency should have a dedicated OICI policy. It should cover all officer-involved critical incidents, not just shootings. The policy should be comprehensive and cover issues likely to arise following a critical incident.

¹⁵ See, for example, Kiara Alfonseca and Beatrice Peterson, “DC police officers found guilty in fatal pursuit of man on electric scooter,” ABC News, December 22, 2022, <https://abcnews.go.com/US/dc-police-officers-found-guilty-fatal-pursuit-man/story?id=95708022>.

ADDITIONAL RESOURCES

For agencies wishing to review policies from other agencies to potentially improve their own, **Appendix A** lists agencies that responded to our survey and post their OICI policy online. For agencies seeking help in developing OICI-related checklists, Appendix A also includes the Albany (OR) Police Department (APD)'s Checklist and Quick Reference Guide. APD's entire Incident Manual, linked in the Appendix A Table, is among the most comprehensive we reviewed.

Additionally, the Ohio Office of the Attorney General has developed best practices for fair, consistent, and comprehensive investigations of OICIs, which can be adapted for any agency's policy and are available for free download.¹⁶

16 Mark Kollar, "Best Practices for Investigating an Officer-Involved Critical Incident," Ohio Office of the Attorney General, 2021, <https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Law-Enforcement/OICI-Book>.

2: Engage in Proactive Transparency

Police agencies are increasingly expected to share information and demonstrate public transparency. In addition to being the right thing to do, placing as much information into the public sphere as possible enables agency representatives to direct the press and others to the agency website after an OICI. This shows the public that the agency is following policies and practices that were established before the incident, instead of appearing to have practices that change in real time. This benefits not only the public but the agency as well.

Law Enforcement Agencies Should Publicize Information About OICIs and Use of Force Online, on a Dedicated Portion of Their Website

In 2015, the President's Task Force on 21st Century Policing recommended that agencies publicly post their use-of-force policies, other policies related to OICIs, and aggregate data about force.¹⁷ An agency dashboard is one way to accomplish this; it allows departments to proactively educate and convey necessary information to the public, the press, officers, and others about OICIs before an incident ever takes place. Regardless of its size or number of past OICIs, every agency should develop a platform or dedicated space on its website for this information.

Use-of-Force Policy on Agency Website

Among respondents to PERF's survey, at least half of the agencies in every size category except the smallest post their use-of-force policies online; among agencies with more than 500 officers, 75 percent do so.¹⁸ (See Figure 5.)

¹⁷ Office of Community Oriented Policing Services, "Final Report of the President's Task Force on 21st Century Policing," May 2015, https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

¹⁸ This is consistent with a report released by the Major Cities Chiefs Association in 2018, which found that 75 percent of agencies in its data set (representing some of the largest metropolitan areas in the United States) had placed their use-of-force policies online. See Joseph Kuhns et al., "Independent Investigations of Officer-Involved Shootings: Current Practices and Recommendations from Law Leaders in the United States and Canada,"

Figure 5: Use-of-Force Policy on Agency Website

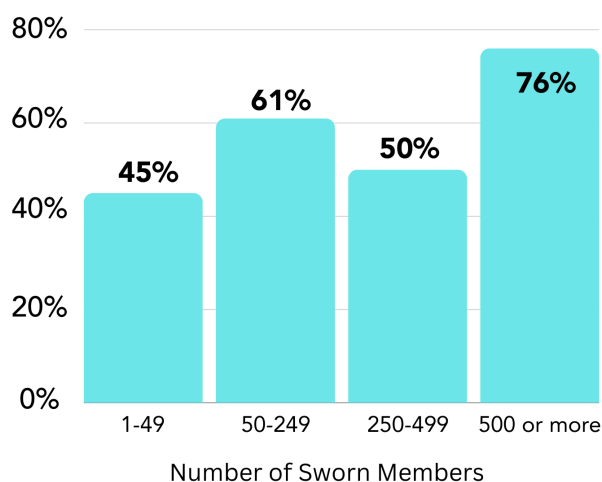
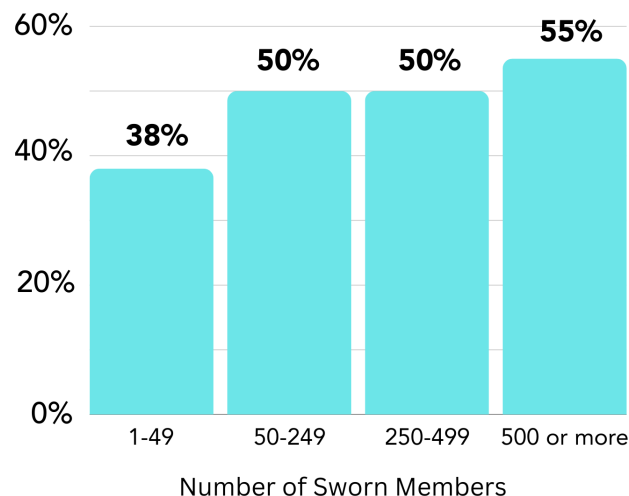


Figure 6: OICI Policy on Agency Website



OICI Policy on Agency Website

Fewer survey respondents post their OICI policy online, although this partly reflects the fact that not all responding agencies have a dedicated OICI policy. (See Figure 6.)

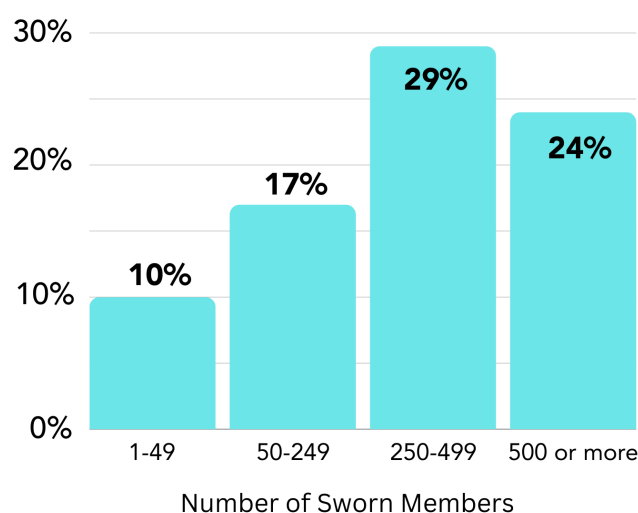
Web Platform Dedicated to OICI and Use of Force

Even fewer survey respondents have a platform or dedicated space on their website for information about OICIs (i.e., a dedicated OICI dashboard or a use-of-force dashboard that includes OICI information) where the public can go to learn about the agency's policies and practices related to OICIs and look up information about specific incidents. (See Figure 7.)

Maintaining a platform that hosts as much information as possible about OICIs and the agency's use of force promotes consistency, transparency, and fairness. Agencies have a considerable amount of relevant information they can post on their websites, and doing so helps credibly rebut any allegations that the information was hidden or difficult to find. As Brian Maxey, Chief Operating Officer of the Seattle Police Department, explains:

We put almost everything (except for sensitive information like the contents of the SWAT and Hostage Negotiation Manuals) out on our website. It is the right thing to do. Have it all out and frame how these processes work in the moment of calm before the storm. It

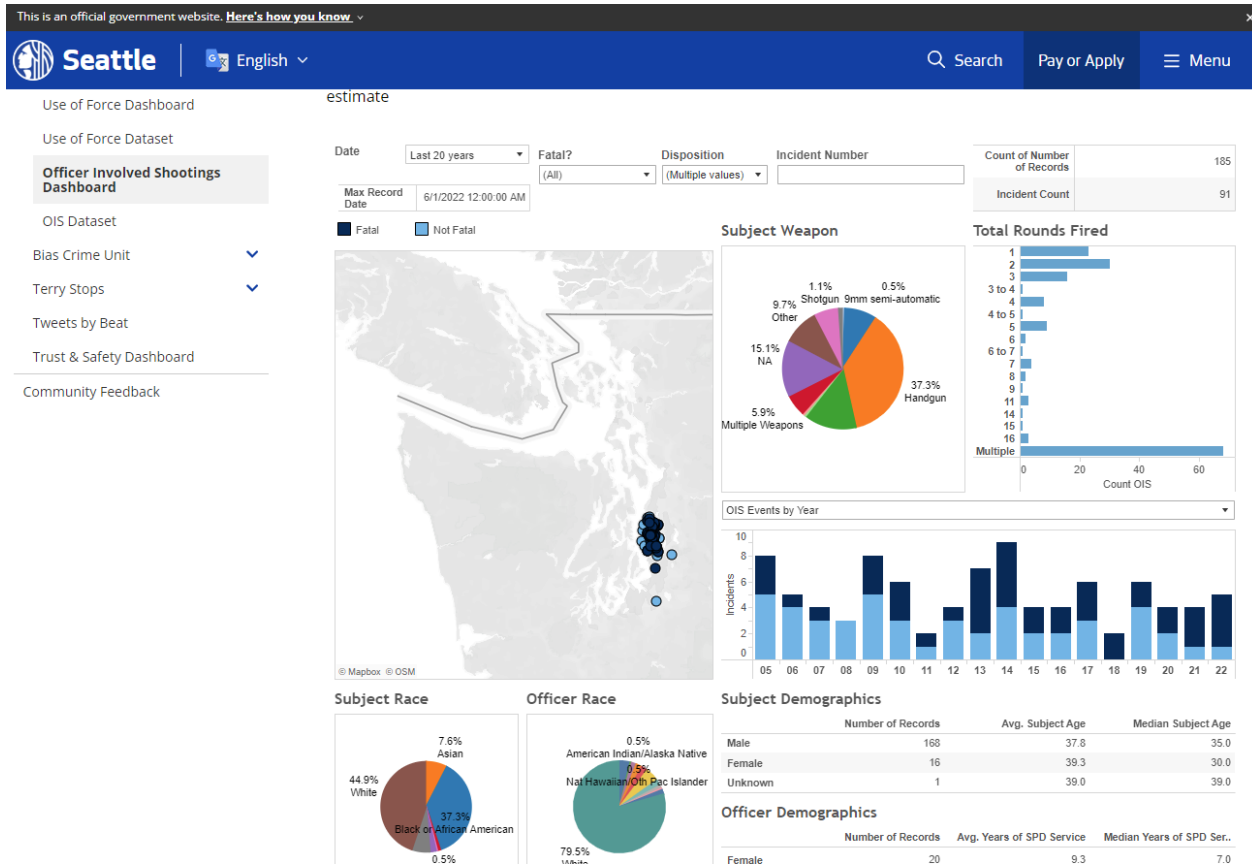
Figure 7: Agencies with OICI Platforms or Dashboards with OICI Information on Website



Major Cities Chiefs Association, 2018, https://majorcitieschiefs.com/wp-content/uploads/2021/01/ois_final_report_9_27_18.pdf.

allows you to engage with the press and the community and say this is the way we do things.

A portion of the Seattle Police Department's Officer-Involved Shootings Dashboard is reproduced below.¹⁹



Information That Every Agency Can Make Public Includes:

LINKS TO USE OF FORCE, OICI, AND OTHER POLICIES RELEVANT TO OICIs²⁰

- If an agency is unwilling to make these policies public, it should ask itself why.²¹ J. Scott Thomson, former chief of the Camden (NJ) Police Department, says, "There cannot be a downside to making the use-of-force policy public. How the government uses force on its citizens is part of a social contract."

¹⁹ See, <https://www.seattle.gov/police/information-and-data/data/use-of-force-data/officer-involved-shootings-dashboard>.

²⁰ Obviously, the same policy can be linked in more than one place on any agency's website. Policies that could be linked under the broad category of "Relevant Policies" in an OICI or Use-of-Force Dashboard include, but are not limited to: Freedom of Information or Public Information, Body Worn Camera, Disciplinary Procedures, and Internal Affairs policies.

²¹ An alternative to posting the entire OICI policy is to post some of this information as part of a summary of the "Investigation Process," as illustrated by the Long Beach Police Department: <https://www.longbeach.gov/police/about-the-lbpd/bureaus/investigations-bureau/officer-involved-shooting-investigation-process/>.

MISSION STATEMENTS ABOUT FORCE AND OICIs

- Proactively advising the public about your agency's values can enhance agency credibility and promote accountability. The following example comes from the Special Investigations Unit of Ontario, Canada, an independent governmental organization that investigates police in the province:

*We conduct thorough and unbiased investigations where someone is the subject of a firearm discharge, is seriously injured, ... or dies during an encounter with law enforcement agencies, including police, the Legislative Protective Service, and the Niagara Parks Commission. Our independence in seeking and assessing all the evidence ensures law enforcement accountability, inspiring the confidence of all in the work of SIU.*²²

WHO CONDUCTS YOUR AGENCY'S OICI INVESTIGATIONS?

- If it is another agency, do they investigate all OICIs or only shootings?
- Is this by choice or by law? If by law, cite or link to the statute or regulation. This example comes from the Tennessee Bureau of Investigation's Officer-Involved Shootings Frequently Asked Questions:²³
How does the TBI get involved in an officer-involved shooting investigation?
There is no state law requiring TBI to investigate use-of-force cases in Tennessee. In order to have the appropriate jurisdiction to do so, state law requires the request of the District Attorney General for the judicial district in which the incident occurs.

The following is from the Town of Eagle (CO) Police Department's website:

*Officer-involved shootings that result in injury or death shall be investigated by a multi-agency team. The multi-agency team shall include at least one other police or sheriff's agency or the Colorado Bureau of Investigation. The Chief of Police or the authorized designee shall ensure this protocol is posted on the Eagle Police Department website and is available to the public upon request (CRS §16-2.5-301).*²⁴

WHAT PROSECUTING AUTHORITY WILL REVIEW THE MATTER?

- Agencies should provide a link to relevant parts of that agency's website and reference the law involved. The **Santa Monica (CA) Police Department** posts its Officer-Involved Shootings and Deaths policy, which includes the following, relative to prosecution determinations:²⁵

305.6.1 ATTORNEY GENERAL'S INVESTIGATION

In accordance with existing law, any officer-involved shooting resulting in the death of an unarmed civilian will be investigated by the Attorney General, or designated State prosecutor. The state prosecutor is authorized to do the following (Government Code § 12525.3):

(a) Investigate and gather facts.

²² Special Investigations Unit, "The Unit," <https://www.siu.on.ca/en/unit.php>.

²³ Tennessee Bureau of Investigation "Officer-Involved Shootings" website: <https://www.tn.gov/tbi/crime-issues/crime-issues/officer-involved-shootings.html>.

²⁴ Town of Eagle, "Officer Involved Shooting Policy," <https://www.townofeagle.org/500/Officer-Involved-Shooting-Policy>.

²⁵ Santa Monica Police Department "Officer-Involved Shootings and Deaths" Policy 305.6.1, <https://public.powerdms.com/SANTAMONICACA/documents/273654>.

- (b) *Prepare a written report containing a statement of the facts, a detailed analysis and conclusion for each investigatory issue, [and] recommendations to modify the policies and practices of the law enforcement agency, as applicable.*
- (c) *If criminal charges against the involved officers are found to be warranted, the state prosecutor will initiate and prosecute criminal action against the officer.*

WHAT IS YOUR AGENCY'S POLICY ON TRANSPARENCY / RELEASE OF INFORMATION

- Will there be a press conference? If so, will it take place within a defined timeframe? Does the agency commit to a series of press releases and/or press conferences as information is reviewed and clarified?
- What are your agency's policies regarding the release of body-worn camera footage and officers' names after OICs? This information should be presented in clear, non-technical language with links to the actual policies.

Critical Incident Video Release Policy

It is the policy of the Los Angeles Police Department (LAPD) that video evidence in the Department's possession of "Critical Incidents" involving LAPD officers be released to the public within 45 days of the incident.

<https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2022/10/Critical-Incident-Video-Release-Policy.pdf>

VIDEO, INCLUDING BODY-WORN CAMERA FOOTAGE AND PRESS BRIEFINGS

- All videos related to a given incident can be grouped together by date. For example, the Fairfax County (VA) Police Department posts information about all OICs online and, for each incident, includes body-worn camera video, press conference video, and updates.²⁶
- Consider posting a general explanation of the limitations of body-worn camera video, including the difference between what the eye sees and what the camera records. [See below, 4: TRANSPARENCY PRACTICES AFTER OICs, for the Oxnard Police Department chief's description of this reality in that agency's OICI videos.]

EMPLOYMENT OR DISCIPLINARY ISSUES THAT MAY NOT BE OBVIOUS TO THE PUBLIC

- For instance, does your agency have the authority to immediately terminate an officer without a hearing? If not, why not (civil service laws, collective bargaining agreements, etc.)?
- Explain the meaning of the different determinations made when evaluating OICs, such as the differences between "exonerated," "unfounded," and "unprovable."

²⁶ See, Critical Incident Investigation Updates, from website: <https://www.fairfaxcounty.gov/police/Chief/CriticalIncidentInvestigationUpdates>.

This is particularly important if your agency releases the disciplinary history of officers involved in OICs.

For instance, the Denver Police Department posts its Disciplinary Handbook online, which includes the following:²⁷

10.13.1 Unfounded: The investigation indicates that the subject officer's alleged actions relating to the Department policy, procedure, rule, regulation, or directive in question did not occur.

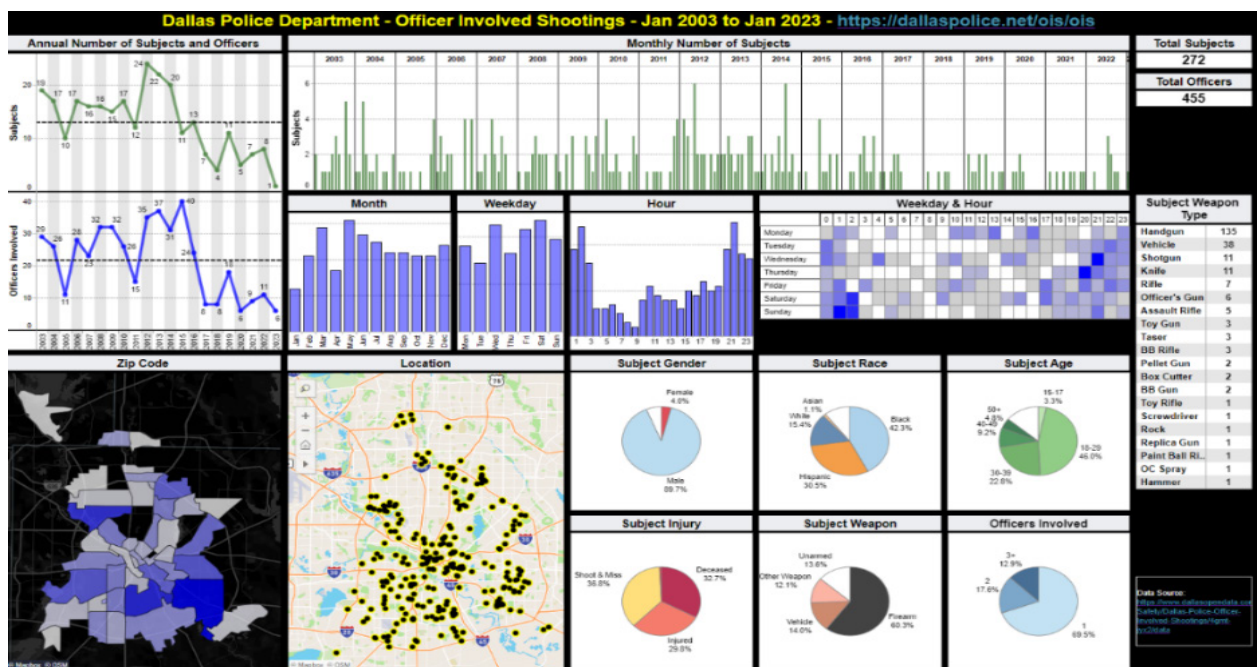
10.13.2 Exonerated: The investigation indicates that the alleged actions of the subject officer were within the policies, procedures, rules, regulations, and directives of the Department.

10.13.3 Not Sustained: There was insufficient evidence to either prove or disprove the allegation.

10.13.4 Sustained: The subject officer's actions were found to have been in violation of the Department policy, procedure, rule, regulation, or directive in question.

AGGREGATE DATA ABOUT USE OF FORCE

- This should include demographic and geographic (mapping) information. The example below is taken from the Dallas Police Department's website,²⁸ and includes dates and times of OICs, information about subjects and officers, mapping, and types of weapons involved.



²⁷ Denver Police Department Discipline Handbook: Conduct Principles and Disciplinary Guidelines, online at: <https://www.denvergov.org/content/dam/denvergov/Portals/720/documents/discipline-handbook/hand-book-final.pdf>.

²⁸ Dallas Police Department's Officer Involved Shootings Data, online at: <https://dallaspolice.net/reports/Pages/Officer-involved-shootings-data.aspx>.

WHAT IS YOUR AGENCY DOING TO AVOID OICIs?

- Describe the types of training the agency has implemented or the policy changes it has made to minimize uses of force.²⁹

FREQUENTLY ASKED QUESTIONS

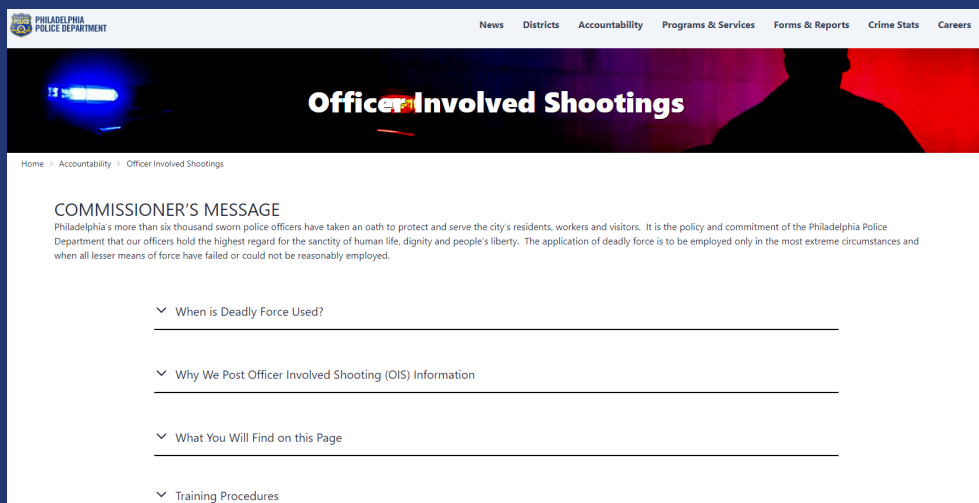
- This can be an effective way to organize some of the information noted above.³⁰

The above list of potential items agencies should consider making public is by no means exhaustive. However, the more information an agency puts out before an incident, the easier it will be for any chief, sheriff, public information officer, or other person to answer questions on behalf of an agency after an OICI. **At a press conference, answers that begin, “As our website explains, our investigations are conducted by . . .” or “As noted on our website, absent unusual circumstances, we release names and video after [number] days . . .” are far better than grasping for an explanation.** The process of developing a well-designed platform also provides law enforcement executives with an opportunity to engage with these issues thoughtfully, in a neutral environment, before they are asked questions as part of an unsettling viral incident.

Philadelphia Police Department

The Philadelphia Police Department (PPD) is an example of an agency that has established and maintained an “Officer-Involved Shootings” portal (online at <https://www.phillypolice.com/ois/>). In addition to educating the public about what happens after an officer uses deadly force (“When Deadly Force Is Used”), the portal includes all related policies, information about training, how incidents are reviewed, data, maps, charts, and information on each individual incident.

Below is a portion PPD’s portal:



²⁹ For examples of training as part of a dashboard or dedicated webspace, see Fairfax County Police Department, “Officer-Involved Shooting Summary: What kind of training and accreditation do we have?” <https://www.fairfaxcounty.gov/police/chief/generalorders/policies/officerinvolvedshooting>.

³⁰ See, for example: San Francisco Police Department, “Officer Involved Shooting FAQ,” <https://www.sanfranciscopolice.org/your-sfpd/policies/officer-involved-shooting-faq>; San Jose Police Department, “Officer Involved Shootings-FAQ,” <https://www.sjpd.org/about-us/organization/bureau-of-investigations/investigations-dvision-ii/homicide/officer-involved-shootings-faq>; Phoenix Police Department, “Officer-Involved Shootings (OIS) Information: Frequently Asked Questions (F.A.Q.),” <https://www.phoenix.gov/police/oisinfo#OIS07>; Ontario (Canada) Special Investigations Unit, “Frequently Asked Questions,” <https://www.siu.on.ca/en/faq.php>.

Piedmont, CA — Small Agencies Also Can Put Information Online

While dashboards are more common among larger agencies, smaller agencies should also recognize the benefits of placing as much information online as possible. One example of a small agency that has done so is the Piedmont (CA) Police Department, which employs roughly 20 officers. The department maintains a “Transparency Portal” (https://piedmont.ca.gov/services__departments/police/transparency_portal) where it explains what it is doing to avoid fatal uses of force, posts relevant policies, describes agency training, and provides links to relevant laws and other helpful information.

RECOMMENDATION: Agencies should dedicate a section of their website to publicizing as much use-of-force and OICI-related information as possible.

Everything related to use-of-force and OICIs should be in an easy-to-find location, even if certain policies, such as body-worn camera and public release of information, appear on the agency’s website in other places as well. Disseminating this information can educate the public, set expectations, and show that the agency operates consistently, transparently, and fairly.

3: Meet with Stakeholders

A crucial part of handling OICIs with consistency, transparency, and fairness is having open and honest conversations with all stakeholders about processes and expectations **before** an incident happens. These meetings should be ongoing, and stakeholders should discuss improving their OICI response after each incident. Below is a non-exhaustive list of stakeholders every agency should engage with before an OICI occurs.

Community Leaders and Advocacy Groups

This is the single most important type of engagement any agency can have. Community engagement before an OICI event is vital — simply put, the best time to make friends is before you need them. We heard this point reiterated repeatedly during interviews and among meeting attendees. Tim Mygatt, deputy chief in the Special Litigation Section of the U.S. Department of Justice’s Civil Rights Division, spoke about agency engagement with the community as both a top-down and bottom-up issue:

It’s key that police departments — from the chiefs to district commanders to the officers out there patrolling — have relationships with the communities in which an officer-involved critical incident may occur. It can’t be that you’re trying to do outreach for the very first time after an incident takes place. The relationship has to be built over time; it has to be real and deep. You have to have listened to people, and it has to have shaped the way that you do policing in their neighborhoods.

And then you need to be able to use those relationships to do outreach immediately [after an incident]. Because you’re going to have officers who are back out on patrol in that district right after this critical incident happened. They’re the ones who are going to be interacting with the people in that neighborhood; they’re going to be the ones who are answering those initial questions. If they don’t have any relationships, if they don’t have credibility in that community, it’s going to erode that neighborhood’s, and then, even more broadly, that community’s perspective of the police department.

Fargo (ND) Police Department Chief David Zibolski, who was also chief of the Beloit (WI) Police Department and held high-ranking positions at the Milwaukee (WI) Police Department, agreed, noting that there is no substitute for talking to people. Chief Zibolski said that agencies he's worked for have participated in community presentations where issues like use of force and agency processes are discussed, and he's found those meetings to be very productive.

The community may still react skeptically to an OICI despite robust community engagement, but community engagement will undoubtedly affect its reaction. Having a solid relationship from which agencies can educate the community on what to expect in the wake of an OICI can greatly assist the agency and the community when an incident occurs.

RECOMMENDATION: Agencies must take the time and effort to build relationships with the community. These relationships are crucial for nearly every aspect of policing, including the response to OICIs. From community policing to holding information sessions, proactive engagement will benefit both officers and the community in the wake of an OICI.

Camden, New Jersey

Perhaps the most striking example of proactive community engagement comes from **former Camden County (NJ) Police Chief J. Scott Thomson**, who oversaw policing reforms that transformed Camden from a city with one of the nation's highest murder rates to one where crime rates are down and the community has renewed faith in its police force. According to Chief Thomson:

Whenever we had a critical incident, there were probably about 15 people who would get a direct phone call from me before it even hit the media. And then I would have at least 100 individuals identified within the community who I'd have commanders make personal phone calls to, to let them know, understanding that most of the people that I'm trying to speak to are not going to be tuning in to my Twitter account.

But you have to make the connections first. If you have to introduce yourself at the time the incident happens, you've lost — regardless of what happened in the case.



Investigative Teams

Either by choice or by law, more and more agencies are including an outside, independent agency in their OICI investigations – either working alongside that outside agency or having the outside agency conduct the entire investigation itself. [See 5: THE CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS for a broad discussion of this issue.]

If another agency will be involved in OICI investigations, it's important to meet with that agency *before* an incident takes place. Agencies should contact the agency responsible for investigating its officers to discuss protocols, processes, and mutual expectations. Ideally, these meetings will culminate in a memorandum of understanding that captures and clearly defines protocols and expectations among the agencies.

Importantly, the investigating agency and the involved officer's agency must ensure that they have a well-vetted process in place if the agency is pursuing concurrent criminal and administrative investigations. [See 5: THE CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS for discussion of this issue.]

In addition to operational issues, transparency issues should be discussed proactively. If another agency conducts the investigation, which agency releases information and when? Does the investigating agency want to participate in press conferences? Is there an expectation that the involved officer's agency will review substantive matters with the investigating agency before holding a press conference? Agencies should work out these granular issues before an OICI takes place, not in real time in the wake of a critical incident.

New California Law Highlights Need for Inter-Agency Coordination

In 2021, a new California law (CA AB 1506) required the attorney general's office to investigate officer-involved shootings that result in the death of unarmed civilians. **Scot Hunter, Assistant Director of the state Bureau of Investigation**, explained that the law's enactment created a need for his agency to conduct immediate and ongoing outreach because local agencies did not know what to expect from his agency. He and other investigators in his unit meet regularly with other agencies, both formally and informally. He encourages his investigative teams to meet the actual local investigators because they are the ones with whom his teams will need to coordinate.

California's DOJ places all aspects of its investigative protocols on its website, including law enforcement agency notification responsibilities and procedural guidelines for investigations. See, <https://oag.ca.gov/ois-incidents>.



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Finally, agencies should not overlook engagement with their federal partners, which can affect OICI investigations. At PERF's Washington D.C. meeting, many discussed the need to proactively resolve issues stemming from local agencies' participation in federal task forces, such as joint terrorism or U.S. Marshals Service task forces. Often, the memorandum of understanding that spells out the terms of local agency participation does not address investigatory issues that can arise if a task force member is involved in an OICI. Any agency joining a task force should first establish a clear understanding with their federal partner about what will happen in these circumstances.

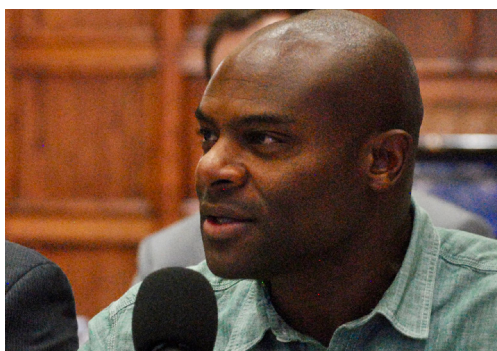
RECOMMENDATION: If an outside agency will be involved in OICI investigations, the involved agency should meet with members of the investigating agency to define expectations, develop protocols, and update policies. The involved agency should take the lead in establishing these communications.

Prosecutors

Some states require the Office of the State Attorney General to review OICIs and determine whether a police officer should be charged with a crime; examples include California, Maine, Maryland, New Jersey, and New York.³¹ In other states, such as Ohio and South Dakota, the state attorney general's involvement is optional but not mandatory. For most police departments, the local district attorney will decide whether to charge an officer with a crime.

Every police agency should have proactive conversations with the agency that makes prosecution determinations about its officers. These meetings are an opportunity to discuss legal issues, define expectations, and establish boundaries. The prosecutor's priorities may not align with the chief's or sheriff's.

Prosecutors and law enforcement executives are independent and have separate sources of authority; one cannot normally dictate what the other must do or say. (New Jersey is an exception, as the box on page 28 indicates.) If a chief or sheriff and a prosecutor have conflicting views on issues such as the public dissemination of video or other evidence, they should address those issues in advance.



"The state attorney and I both have constituents. We respect each other, but neither of us dictates to the other what to say or how to say it."

Chief Wayne Jones
Miami Beach (FL) Police Department

31 See, CALIFORNIA - Cal. Gov. Code §12525.3(b)(1); MAINE - 5 M.R.S.A. §200-K; MARYLAND - MD Code, State Government §6-602; NEW JERSEY - N.J.S.A. 52:17B-98; and NEW YORK - Executive Law §70-b.

The types of issues every agency should fully vet with the prosecuting authority include:

NOTIFICATION-RELATED ISSUES

- How will the prosecuting authority be notified about an incident?
- Will a member or members of the prosecutor's office respond to the scene?

PRESS CONFERENCES AND PUBLIC DISSEMINATION OF INFORMATION

- Does the prosecutor want or expect to be part of any press conference?
- Is there an expectation that the law enforcement agency will consult the prosecutor about any public statements before those statements are released?
- What will happen if there is disagreement about what can and/or should be released?
- Does the prosecutor have the authority to make binding determinations about matters such as the release of information?
- How, if at all, is the release of information affected if it appears the incident may lead to criminal charges or, conversely, appears clearly justified?

GENERAL LEGAL / PROSECUTION-RELATED ISSUES

- Does the prosecutor process all OICIs in the same manner (e.g., place all OICIs before a grand jury or seek an inquest for every OICI)?
- If the prosecutor selectively presents some OICIs to a grand jury or refers some OICIs to an inquest, what standard does the prosecutor use to make that determination?
- In cases where charges are not brought forth (by every measure, most OICIs fall into this category), how will that determination be communicated to the public?
- What is the prosecutor's input on Garrity-related issues?
- Setting aside cases that are obviously criminal, is there a loosely predictable timeframe within which charging determinations are made?

To be sure, every jurisdiction is different. For instance, state laws concerning body-worn camera release will largely remove that issue from debate in some jurisdictions, although coordination will still be necessary. But here, as with the other issues discussed above, the key point is that police leaders should not wait until the next OICI happens — they should have these conversations now.³²

New Jersey

Thomas Eicher, now-retired Director of Public Integrity and Accountability at the New Jersey Office of the Attorney General (OAG), explains that his office, unlike OAGs in every other state, can issue policies and directives that are binding on all law enforcement agencies and officers in the state. Yet even with this statewide authority, his office works closely with law enforcement agencies and has regular meetings with union representatives, law enforcement associations, and other stakeholders (including the public) to make sure OAG directives are well informed and the office's expectations are clear.

³² Some of the issues discussed above, such as press conferences and information release, are addressed more fully in the TRANSPARENCY PRACTICES AFTER OICIs section, below.

American Bar Association — Prosecution Guidelines



Standard 3-4.3, Minimum Requirements for Filing and Maintaining Criminal Charges, advises that prosecutors should only seek criminal charges if “admissible evidence will be sufficient to support conviction beyond a reasonable doubt.”³³ Police executives should know ahead of time whether their prosecuting authority follows this guidance in determining whether to seek charges against officers.

RECOMMENDATION: Law enforcement agencies should meet with the prosecuting agency that will examine their officers’ OICIs for potential criminal charges. Expectations about public disclosure of information, legal issues, projected timeframes, and other issues related to OICIs should be fully discussed.

Members of the Press

The press has never been more focused on OICIs. While some law enforcement executives may lament the intense focus, every chief and sheriff should work to establish and sustain relationships with the media; proactive engagement will make many interactions easier to navigate in the future, including OICIs.

When meeting with the press, law enforcement agencies can:

- Show assembled members of the press the OICI-related information posted on the agency’s website, as explained above [See 2: ENGAGE IN PROACTIVE TRANSPARENCY].
- Discuss issues that you will or will not, as a general rule, address at press conferences regarding OICIs, such as whether the decedent had a criminal history. [See 4: TRANSPARENCY PRACTICES AFTER OICIs for a discussion of this issue.]
- Discuss your policies and practices concerning press conferences, press briefings, and the release of other information, such as body-worn camera footage and involved officers’ names. [See 4: TRANSPARENCY PRACTICES AFTER OICIs for a discussion of these issues.]
- Invite members of the press to participate in scenario-based training simulations.

If an agency has not begun to engage with the media or hasn’t recently communicated with the press outside of press conferences and interviews, a “media breakfast” is a good way

³³ American Bar Association, https://www.americanbar.org/groups/criminal_justice/standards/Prosecution-FunctionFourthEdition/

to start the process. Recommended by former reporter and current police and government crisis communications expert Julie Parker:³⁴

This is one of the best returns on investments you can get. A local bagel or coffee shop will likely donate food or drink. Have your command staff bring story ideas to the table that reporters could either cover the day of the breakfast or in the future. We got positive coverage out of every single media breakfast we held. Breaking bread and consuming caffeine together goes a long way in building relationships.

Relative to OICIs, the informal environment of a breakfast allows an agency to discuss issues broadly, exchange information, and raise awareness of practices in a neutral environment far removed from a critical incident.³⁵ The next section, TRANSPARENCY PRACTICES AFTER OICIs, provides a host of OICI-related topics that can be discussed with the media in this neutral and informal environment.

RECOMMENDATION: Agencies should meet with the press in a neutral and casual environment to discuss OICI-related issues and other topics.

Inviting the press to the agency for some type of informal meeting or open house is a simple way to achieve this.

The list of stakeholders discussed above is partial. For instance, meetings with law enforcement unions and officers themselves are very significant but are covered in 6: OFFICER EDUCATION AND WELL-BEING. However, the entities listed in this section are important, and engaging with them ahead of time can help avoid confusion and problems in the wake of an OICI.

³⁴ See, julieparkercommunications.com.

³⁵ For a sample invitation, see Fairfax County Police Department News, "Media Breakfast," <https://fcpd-news.wordpress.com/2019/05/20/media-breakfast-2/>.

4: Transparency Practices After OICIs

OICIs generate intense press coverage and public interest. **By being as transparent as possible in the aftermath of an incident, within the bounds of the law and ethical responsibilities, an agency can show the public, the decedent's family, and its officers that it handles all OICIs fairly and consistently.** Every agency should have transparency plans covering if, when, and how the following information will be released:

- facts about the incident
- whether a weapon was present or used
- body-worn camera video and other forms of audio/video media, and
- the involved officer's name and history.

In recent decades, agencies have increased their communication with the public and proactively released more information. However, their methods and what they release can vary greatly, as explained below. Regardless of how agencies release information, the involved officers should be notified before it is shared so they are not caught off guard.

In addition, agencies must have a plan in place for how to advise the decedent's or seriously injured person's family. At many police agencies and prosecuting attorneys' offices, this is facilitated by family liaisons who support families and provide updates and information throughout the process. As with the involved officers, when at all possible, the involved family should not learn of the death or serious physical injury of their loved one through a press conference.

RECOMMENDATION: Before releasing any information after an OICI, the agency should notify involved officers and make every effort to notify the family of the deceased or seriously injured person.

General Information Release

Providing a sweeping, specific recommendation about what information should be released is impossible because states and municipalities have different laws and policies. In North Carolina, for example, the release of body-worn camera footage (OICI-related or otherwise) is not permitted without a court order,³⁶ while in Washington state, public access laws are very broad, so agencies like the Seattle Police Department (SPD) can share videos proactively;³⁷ as Brian Maxey, SPD's chief operating officer noted, "It's the right thing to do." **In jurisdictions that require the release of certain information upon request (i.e., via a freedom of information / "sunshine law" request), agencies should consider releasing the information proactively — before the requests are made.** In other words, if an agency would not be able to withhold information about a critical incident upon request legally it should release it proactively.

Ohio Office of the Attorney General³⁸

In fatal OICs where criminal charges are not brought against an officer, the Ohio Office of the Attorney General proactively places all publicly accessible documents (with redactions and withholdings as required by law) on its website after completing its investigation. People do not need to file requests for the information; it is made publicly available.



To the extent possible, agencies should err on the side of proactive transparency. The following process can be adapted to any jurisdiction and parallels the recommendation of the President's Taskforce on 21st Century Policing that information be released early and updated regularly when it can be done "without compromising the integrity of the investigation or anyone's rights."³⁹

³⁶ N.C. Gen. Stat. § 132-1.4 et. seq.

³⁷ Urban Institute, "Police Body-Worn Cameras: Where Your State Stands," <https://apps.urban.org/features/body-camera/>.

³⁸ See, for example, Ohio Office of the Attorney General, "Investigative documents related to fatal officer-involved shooting cases," <https://www.ohioattorneygeneral.gov/InvestigativeDocuments>.

³⁹ Office of Community Oriented Policing Services.

Process to guide general information release

Step 1 — Know the parameters of applicable laws and rules (e.g., public access laws, employment laws, contractual rights, etc.)

No agency should guess here; agencies must know the contours of their laws. Many officers assume that agencies have blanket authority to deny the release of information (video, names, facts, etc.) while a matter is “under investigation,” but laws often say something different. The authority to withhold often applies only if the release of information would interfere with an investigation – not simply because an investigation is underway.⁴⁰ The answer to questions about which information would interfere with an investigation if released will likely shift over time. Release of certain information immediately after an OICI *would* likely interfere with the investigation, but that does not necessarily hold true throughout the investigation. For instance, investigators may want to interview witnesses before they have seen publicly released body-worn camera footage, but that concern abates when interviews are complete.

States also generally restrict the release of information that would interfere with a person’s ability to obtain a fair trial.⁴¹ In cases where criminal charges against an officer seem obvious and the information (generally video) is incendiary, law enforcement agencies should carefully discuss with their prosecutors how best to proceed ethically.

Step 2 — Redact or selectively withhold sensitive or restricted information

Releasing some information is better than not releasing any. If modifying or redacting certain information enables agencies to release some information instead of withholding it all, they should do so. For instance, information whose release would violate a person’s right to privacy is almost always exempted from public release.⁴² However, steps like blurring faces on video or obscuring addresses on documents can accommodate calls for transparency while protecting privacy rights.

Step 3 — Proactively release what can be legally and ethically released

When it comes to the release of video, audio, officers’ names, and officers’ disciplinary records, an agency should be consistent and predictable in what it releases, when, and how, based on set policies and practices. Ideally, the agency will have already shared those policies and practices with the media (See 3: MEET WITH STAKEHOLDERS – Members of the Press) and with the public (See 2: ENGAGE IN PROACTIVE TRANSPARENCY – Publicize Information About OICIs and Use of Force Online) before an incident occurs. This insulates an agency from claims of selective release in cases where the officer’s actions appear justified; it also protects the agency against claims of selectively releasing information that might cast a decedent in a negative light. Consistent transparency is key.

40 See, for example, New York’s Freedom of Information Law; agencies may deny access to public information that would interfere (not information that *could* interfere) with a law enforcement investigation. See N.Y. Pub. Off. Law §87(2)(e) *et. seq.*

41 See, for example, Oregon’s Public Records Law, ORS 192.345(3), interpreted by courts to mean that public disclosure of information that would deprive a person of a right to a fair trial is not required, even if the criminal investigation is complete.

42 See, for example, Maryland’s Public Information Act, MD Gen Provisions Code § 4-351, which allow the custodian of records to deny release of those that would “constitute an unwarranted invasion of personal privacy.”

California Department of Justice

The California Department of Justice, responsible for investigating all fatal shootings in the state, places its comprehensive communications policy online.⁴³ The policy outlines when and under what circumstances it will disseminate information after an incident. The policy's statement of purpose is reproduced below.

AB 1506 COMMUNICATIONS POLICY



This protocol is designed to provide guidelines concerning communications with the media during a California Department of Justice investigation into an officer-involved shooting.

When an officer-involved shooting (OIS) occurs, transparent and open communication is critical to maintaining public trust, and the California Department of Justice (DOJ) will strive to be as transparent as possible throughout the process. However, the interests of public disclosure must be balanced with the privacy concerns of all involved, as well as the requirements of the investigation and the rights of involved individuals. As in every case, care must be taken to ensure that misleading, erroneous, or potentially prejudicial statements are not made. Agencies and individuals who are not intimately involved with the progress and results of the criminal investigation should be careful in making statements to the press. These protocols are not intended to impede any law enforcement agency from their responsibility to provide timely and relevant information to the communities they serve on police policy and/or procedures when it is needed to add clarity and understanding for the actions of their officers or how the incident will be investigated.¹ With these understandings, the DOJ will follow these guidelines:

RECOMMENDATION: Use the following process to guide decisions about information releases:

1. Know what the applicable freedom of access laws and rules require.
2. Determine whether redacting or withholding certain information — to address privacy concerns or other issues — will permit the release of other information.
3. Proactively release what can be legally and ethically released by following pre-determined policy and practice.

Press Conferences and Press Briefings

The initial press conference after an OICI allows agencies to set a transparent tone with the press, the public, and officers. Agencies should establish a policy stating that absent ex-

⁴³ California Department of Justice COMMUNICATIONS POLICY, <https://oag.ca.gov/system/files/media/AB%201506%20Communications%20Policy.pdf>.

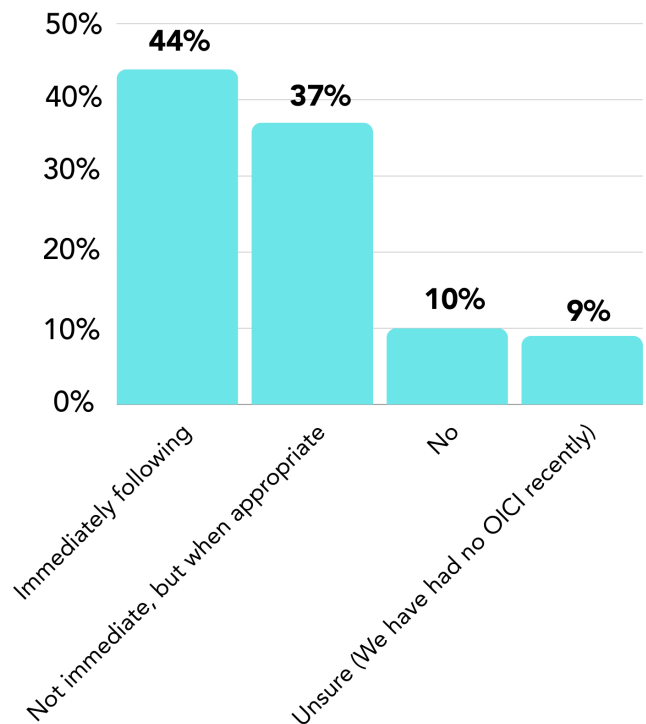
traordinary circumstances, they will hold a press conference or press briefing within 24 hours of an incident; again, lack of a policy often leads to lack of consistency. PERF's survey responses show that many agencies hold press conferences soon after an incident. (See Figure 8.)

But regardless of when agencies communicate, all should adhere to one guiding principle about what they communicate: **accuracy matters above all else, including speed.** Whoever is speaking for the agency should only comment on confirmed facts that will not change – not about conclusions drawn from those facts. This is especially important when the incident is not fully captured on body-worn camera and the agency is relying, in whole or in part, on internal accounts of what took place. **It's also important to make clear that early information is preliminary and provided in good faith, but subject to change as additional information is received.**

This approach (committing to holding a press conference within 24 hours of every OICI) can be difficult, but again, proactive measures can help. If the press knows the well-defined parameters of an agency's initial OICI press conference (such as what questions a chief generally will or will not answer) because agency representatives have met with the press and established expectations, things can proceed more expeditiously. Similarly, involved officers are less likely to feel unjustly attacked if they know up front that the chief or sheriff will generally not, except in rare circumstances such as a mass casualty active shooter, announce an opinion on whether officers' actions were justified **immediately after the incident.**

Common sense, context, and nuance matter. This cannot be stressed enough. The type of press conference that follows an active shooter OICI will differ from one that follows an incident involving a mental health crisis or clear criminal conduct on the part of the officer. Law enforcement leaders, spokespeople, and/or public information officers should be able to

Figure 8: Agency Press Conference after an OICI



"Often what seemed to be clear initially can become clouded."

**Thomas Eicher,
Director (Ret.) of Public Integrity and
Accountability
New Jersey Office of the Attorney General**

adapt to specific circumstances. **However, there are some predictable questions that every person speaking on behalf of an agency will likely face from members of the press, and having general responses at the ready can help.**

Common Post-OICI Questions

Question	Potential Answer
Was this justified?⁴⁴	Participants in PERF’s meeting agreed that agencies should generally avoid answering this question in the immediate aftermath of an incident. A potential answer might be: Our practice is to provide facts—not conclusions—early in these investigations. This is true in every case, not just this one. We don’t make statements about whether or not we believe an action was justified until the matter has been investigated more fully. This type of answer can convey that the agency is not trying to direct the narrative but is simply providing facts in good faith. If an agency has briefed the press on this policy [See 3, MEET WITH STAKEHOLDERS], they can also add that the press is aware of the agency policy in this regard.
Do you see issues with the incident?	As with the question above, most participants at our meeting felt that immediately announcing whether they see issues with an OICI can taint the investigation from the top down. A potential answer might be: We don’t generally offer opinions early on before we have comprehensively reviewed all the facts. This incident will be fully investigated, and we will provide additional information once we fully understand all aspects of what happened. We consistently take this position in fairness to our officers, the decedent’s family, and the public. However, most also noted that when issues are obvious from the inception, it’s important to acknowledge them somehow. As Assistant Chief Paul Connelly of the San Diego Police Department said, “In problematic cases, you need to indicate that the agency has concerns while not publicly convicting an officer.” This is a sensitive balance. One participant at our meeting suggested a potential answer in these types of cases that tells the public that the agency is taking the matter seriously while not publicly indicting the officer (which, in addition to other issues, can be ethically problematic): We’ve seen the video. The community has questions. I have questions. As always, there will be a thorough investigation.

⁴⁴ Many officers view a department’s reluctance to answer this question immediately as a failure to support them. However, as noted in 6: OFFICER EDUCATION AND WELL-BEING, educating officers before they ever experience an OICI that this will be the department’s general response, as well as the department’s reason for this response, can help to mitigate this.

Did the decedent have a criminal history?	A decedent’s criminal history is <i>only</i> relevant if it contributed to the OICI itself, such as when: - The OICI took place during the execution of an arrest warrant based on prior criminal conduct. - The OICI took place as officers were seeking the decedent for questioning about prior criminal conduct. - The officer knew the decedent (or the decedent’s reputation) because of the criminal history, <u>and</u> that information may have affected how the officer approached the situation / the decision to use force. But if the decedent’s criminal history is irrelevant to the facts of the incident, and the only purpose in sharing it would be to create a negative impression of the decedent or downplay the use of force, it should not be shared gratuitously.⁴⁵ Potential answers to criminal history questions are: As you know, I don’t comment on criminal history unless it is relevant to the incident (and in this case, if it exists, it isn’t). As you know, I don’t comment on criminal history unless it is relevant to the incident. In this case, I will comment because the history is relevant to what happened.
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There are no easy or perfect answers that will fit every circumstance and there must always be room for nuance. But chiefs and sheriffs should never lose sight of the messages that public statements send — to the public, the decedent’s family, and to their officers. As Baltimore (MD) Police Department Lieutenant Elliot Cohen, a Baltimore City Fraternal Order of Police representative, said at the meeting:

If it’s justified, the agency is not going to say anything or add anything, but when there is a problem, the agency is going to say something. The officer sees that when they did something right, they’re not getting support from their agency. But if there may be an issue with it, now the agency is going to put them out there.

There is no simple fix for this reality, although the agency can publicly recognize their officers’ actions after the investigation is over (being respectful of the decedent’s friends and family). But consistency coupled with proactive education — of the press, public, and the officers [See below, 6: OFFICER EDUCATION AND WELL BEING] — can go far.

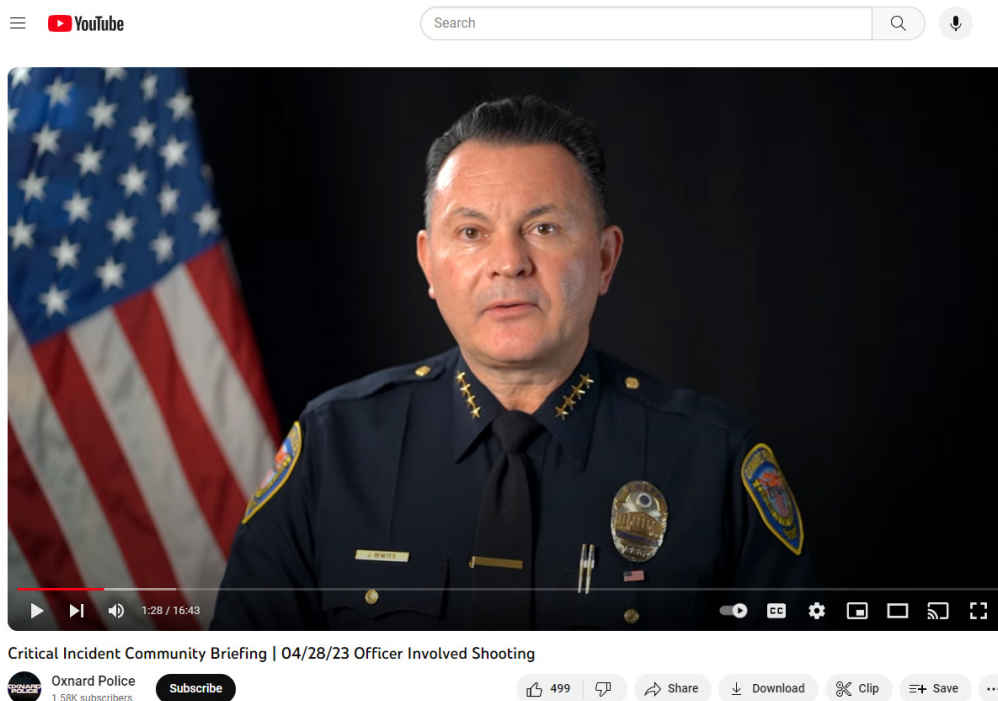
RECOMMENDATION: Agencies should communicate facts to the public as those facts are confirmed. Spokespersons generally should not offer opinions about those facts. Appropriate answers to predictable questions should be contemplated in advance.

⁴⁵ Note that this pertains to criminal *history*. **If the person was committing a crime immediately before or during the incident, that fact is almost always relevant, because it will generally lead to the OICI.** The relevance of criminal history should be discussed with the prosecutor.

Releasing Body-Worn Camera Footage⁴⁶

To the extent they can legally and ethically do so (Following the process outlined in “General Information Release” above, agencies should proactively release body-worn camera (BWC) footage, which sends a powerful statement about their commitment to transparency. They can do so by issuing a press release with links to the video, posting the footage on the agency website, or both. **Agencies should also provide information that provides context to the footage.** Audio of 911 calls (redacted for privacy), radio transmissions between officers, and maps can make BWC videos more understandable to the public.⁴⁷

For example, the Oxnard (CA) Police Department hosts “Critical Incident Community Briefings” (CICBs) on its website and social media platforms, during which Chief Jason Benites presents BWC video and information supplemented by maps, audio, and neutral facts.⁴⁸ The briefings also include general information about BWCs, including their limitations and the difference between camera footage and what an officer sees, or other equipment used during the incident, such as Tasers.) Chief Benites states up front that the briefing will not “offer an opinion or analysis of what transpired” but will instead cover the “release of facts — that which has been established.” He also notes that he will not discuss information about the deceased person, such as their background (i.e., criminal history). **Oxnard’s CICBs are consistent from incident to incident and can serve as models for other agencies; an example is provided below.**



Chief Jason Benites briefs the public about an OICI in Oxnard on April 28, 2023. See, https://www.youtube.com/watch?v=rz2_jlvHBOM.

⁴⁶ While the focus of this section is BWC footage, the same principles generally apply to other video (surveillance or cellphone) an agency might have that captures an OICI.

⁴⁷ Agencies lacking the in-house resources to produce these types of multimedia presentations might want to consider internships with local colleges and universities that offer communications, graphic design, film, or other relevant majors or programs.

⁴⁸ These videos are typically released after all involved officers have provided a statement (or have declined to provide one) for the investigation that examines the legality of the use of force (i.e. the criminal investigation).

Some agencies release preliminary facts within hours of an OICI and advise the public that they will update the initial facts within a set number of days. Then, after audio and video have been collected and reviewed, the agency holds a media briefing at which the incident is narrated, and the press is permitted to ask questions. This process works well if followed consistently. See below for an example from the Las Vegas (NV) Metropolitan Police.

Consistency in how an agency releases its video shows the community and its officers that the agency manages every incident fairly and transparently. Releasing video as part of a press briefing also sends a message that the agency is not opportunistically selecting the incidents or facts about which it will comment.

One final note: a decedent's family must have the opportunity to review BWC footage before it is released. At many agencies, including those in some major cities, the chief offers to meet with the family as part of that viewing.

RECOMMENDATION: Agencies should follow consistent practices regarding when and how they release BWC and other OICI footage. Releasing other media, such as 911 calls and maps, will help the public understand the footage. The decedent's family should always have the opportunity to view the footage before its release.



Nicholas Viorst, chief of the Manhattan District Attorney's Office Police Accountability Unit, discusses OICIs at PERF's 2023 meeting in Washington, D.C.

Releasing the Involved Officer's Name

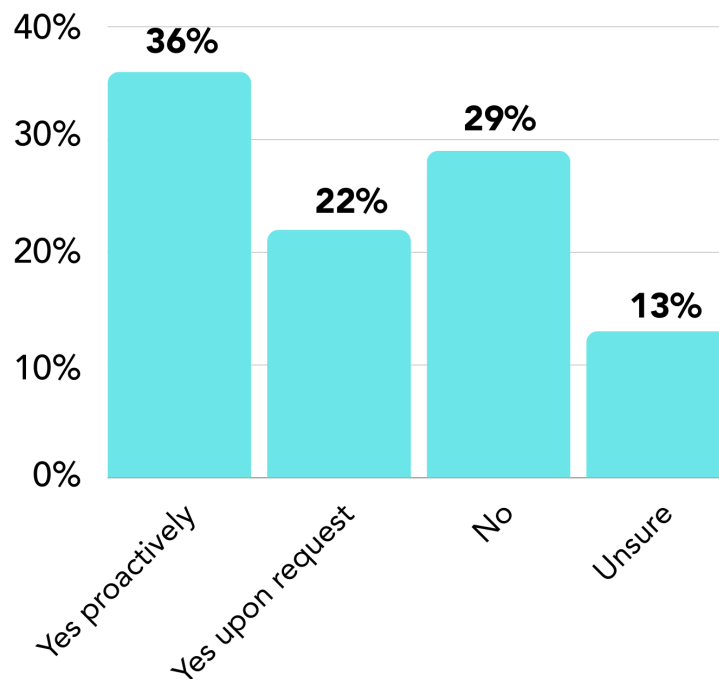
In 2016, as part of a project for the Fairfax County (VA) Police Department, PERF examined the name-release policies and practices of several agencies in the Washington, D.C. area and found that most agencies quickly released an involved officer's name after an OICI. These included: Anne Arundel County (MD) Police Department – within 24 hours; Baltimore (MD) Police Department – within 48 hours; Howard County (MD) Police Department – “as quickly as possible”; Montgomery County (MD) Police Department – within 24 hours; Prince George's County (MD) Police Department – within 24 hours; and Prince William County (VA) Police Department – within three to five days.⁴⁹

In PERF's survey, most respondents also said they release the involved officer's name after an OICI. (See Figure 9.) Fifty-eight percent of respondents release officers' names, either proactively (36 percent) or if requested by the press or other entity (22 percent). But 29 percent do not release officers' names at all. Most cite the potential danger to the officer as the primary reason; others cite Marsy's law (see box below) or another statutory exemption.⁵⁰ Increasingly, the public expects this information, and if there is no credible reason not to do so, agencies should release the names.

Officer safety and well-being are incredibly important, especially in the highly charged environment that often follows OICIs. Agencies that release the names of officers in the absence of a credible threat assessment might place their officers at risk. On the other hand, a blanket policy of withholding officers' names from the public citing officer danger, with no corresponding threat assessment, can ring hollow. Agencies need to balance officer safety with the public's desire for knowledge.

PERF's survey asked agencies that release officers' names whether name release has ever resulted in harm to an officer. Ninety-one percent reported no harm to officers, nine percent reported that officers had experienced some type of harm, and no agency reported any physi-

Figure 9: Agency Release of Involved Officer's Name



49 See Police Executive Research Forum, “Review of Information Release Policies and Procedures of the Fairfax County Police Department,” April 2016, <https://www.fairfaxcounty.gov/boardofsupervisors/sites/boardofsupervisors/files/assets/meeting%20materials/committees/2016/may10-public-safety-perf-review.pdf>.

50 For example, Ohio's Sunshine Law (ORC §149.43(2)(a) includes Confidential Law Enforcement Investigatory Records, which have been interpreted to include “uncharged suspects.” See www.ohioattorneygeneral.gov/Media/Videos/Sunshine-Law-Videos/Confidential-Law-Enforcement-Investigatory-Records.

cal violence toward an officer. The main type of harm reported was the mental toll from online comments attacking the officer.⁵¹

In jurisdictions where the release of an officer's name after an OICI is not prohibited, every agency should begin with an initial threat assessment.⁵² Then, **in the absence of specific threats that would justify withholding the name**, agencies should release the officer's name within a pre-determined time frame, after informing the officer and implementing any necessary safety provisions. Again, this is what the public increasingly expects, and agencies lose credibility with the community when they fail to do so.



"For officers involved in a discharge, we have a 72-hour waiting period. We conduct a threat assessment during that time and if there is no credible threat, the officer's name is released. But it's very important that if you do have a threat, the name is not released."

Lieutenant Jason Hendershot
Philadelphia Police Department

"Depending on what the threat assessment reveals, some of the most difficult conversations I have with officers is sitting down and saying chatter on social media calling you names is not necessarily a threat. Just because a person is opining one way or another doesn't mean they're threatening you. It's not easy."

Chief Kevin Davis
Fairfax County (VA) Police Department



If the name cannot be released (because of state law, credible danger, or any other reason), agencies should still provide the public with other information about the officer, such as length of time on the job and disciplinary history/prior OICIs, and other non-personally identifying information as permitted by law.

RECOMMENDATION: Unless otherwise prohibited by law, agencies should set pre-determined periods of time after OICIs during which they will conduct threat assessments and then, if there is not a credible threat, release the names of the involved officers. If name release is not possible – by law or because of a credible threat – agencies should still release whatever information about the officer they can, such as time on the job and previous OICIs, if any.

⁵¹ One agency, however, noted that on one occasion, an unknown individual left a repulsive object on an officer's porch after the agency released the officer's name.

⁵² Many agencies rely on their crime analysis centers for threat assessments, while others use private software programs.

The Impact of Marsy's Law

In 1983, college senior Marsalee (Marsy) Nicholas was stalked and murdered by her ex-boyfriend in California. On her way home from the funeral, Marsy's mother — who had never been advised that the murderer had been released on bail — was confronted by him at a grocery store. Marsy's family became advocates for crime victims, encouraging states to amend their constitutions to include a Victims' Bill of Rights that provides crime victims meaningful and enforceable rights equal to those of the accused.⁵³

In states that have adopted Marsy's Law by amending their state constitutions, some agencies have invoked the law's broad privacy rights to withhold officers' names from public release after OICIs, claiming that the law covers those officers as crime victims.⁵⁴ States where some agencies have withheld officers' names include Wisconsin and Ohio.

Marsy's Law for All, the national non-profit organization that leads lobbying efforts for states to adopt Marsy's Law, has issued a statement indicating that it does not agree with this use of the law:

"When reviewing the conduct of an on-duty law enforcement officer who has used physical force, the right to privacy of their name must quickly yield to the public's right to know."⁵⁵

On November 30, 2023, the Supreme Court of Florida ruled that Marsy's Law does not prohibit municipalities from releasing officers' names after OICIs. The Florida decision is not binding on other states, but agencies in states that have adopted Marsy's Law should be aware that similar challenges may take place in their jurisdictions.

Releasing the Involved Officer's History

As with BWC footage, states differ in what they permit and restrict regarding the release of police personnel records.⁵⁶ Some states only recently (i.e. since 2020) passed laws permitting

53 See Marsy's Law for All, "About Marsy's Law," https://www.marsyslaw.us/about_marsys_law.

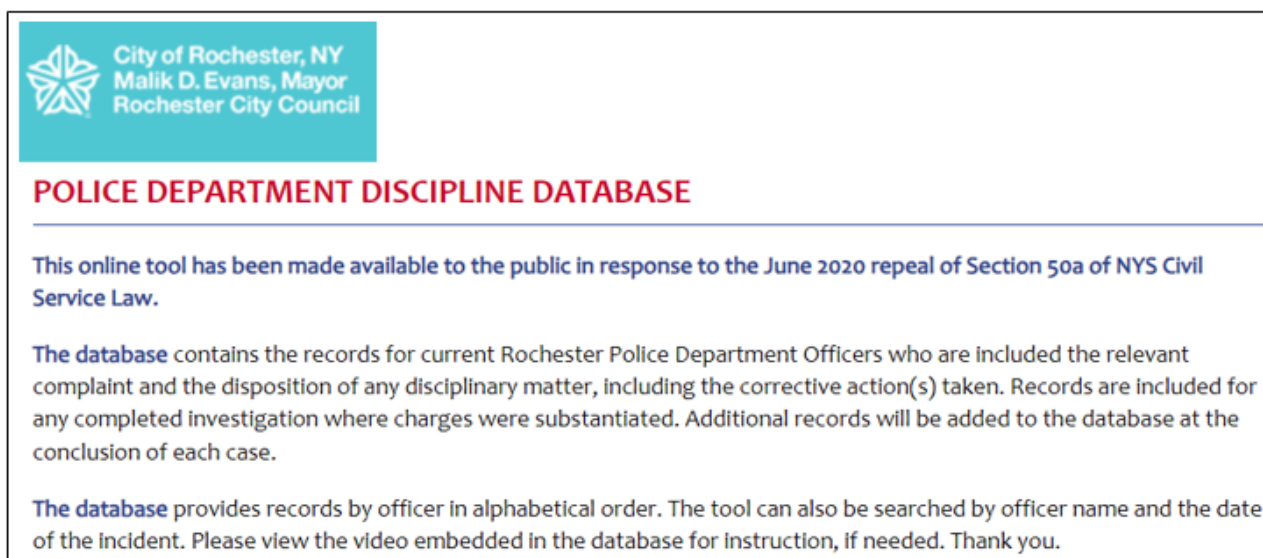
54 See Kenny Jacoby and Ryan Gabrielson, "Marsy's Law was meant to protect crime victims. It now hides the identities of cops who use force," USA Today/ProPublica, October 29, 2020, <https://www.usatoday.com/in-depth/news/investigations/2020/10/29/police-hide-their-identities-using-victims-rights-bill-marsys-law/3734042001/>.

55 Jacob Resneck, "'Marsy's Law' and the names of police officers in Wisconsin involved in shootings," PBS Wisconsin, September 6, 2023, <https://pbswisconsin.org/news-item/marsys-law-and-the-names-of-police-officers-in-wisconsin-involved-in-shootings/>; Kristin Mazur, "Marsy's Law allows the identities of crime victims, including police officers, to remain undisclosed," Spectrum News 1, August 22, 2023, <https://spectrumnews1.com/oh/columbus/news/2023/08/21/marsy-s-law-allows-the-identities-of-crime-victims--including-police-officers--to-remain-undisclosed->; Jeff Burlew, "As Supreme Court weighs Marsy's Law, group behind it says it shouldn't shield police," Tallahassee Democrat, October 12, 2023, <https://www.tallahassee.com/story/news/2023/10/12/marsys-law-florida-supreme-court-crime-victims-organization-says-officer-names-public-in-force-cases/71146182007/>.

56 Kallie Cox and William H. Freivogel, "Analysis of police misconduct record laws in all 50 states," Associated Press, May 12, 2021, <https://apnews.com/article/business-laws-police-reform-police-government-and-politics-d1301b789461adc582ac659c3f36c03c>.

the release of certain information, raising questions about whether the new laws apply to misconduct (or complaints of misconduct) that took place before the laws were passed.⁵⁷

For example, the 2020 repeal of a New York law making police personnel files (including all disciplinary records) confidential spurred a wave of litigation. Several issues are still working their way through the state's courts, including whether agencies can refuse to release misconduct records that predate the law's repeal. In the meantime, some agencies, such as the Rochester (NY) Police Department, have established online databases that contain certain disciplinary records of current employees,⁵⁸ as shown below:



Every law enforcement executive, in consultation with their municipality's legal authority, should have a plan for what will be released in the wake of an OICI and when. The issues to evaluate ahead of time include:

- What are the applicable laws?
- Is none, any, or all of an officer's disciplinary history subject to disclosure?
- If an officer has prior complaints but they did not result in sustained violations (i.e., the officer was exonerated or the charges were unfounded or unproven), must they be disclosed?
- Even if the relevant law precludes the release of prior discipline, is there other basic information that can be released to the public, such as the officer's name, time on the job, and/or prior number of firearm discharges?

Proactively working through these questions forces the agency to engage thoughtfully with these issues. And again, agencies that do not release this information may lose credibility with their community.

For example, an agency can link to the relevant law (prohibiting or authorizing release of officer history/discipline) on its website and then outline its release plan (e.g., "We release all sustained misconduct complaints.") An agency can also include guidance to the public about how it investigates and resolves complaints and include the meaning of such terms as "unfounded," "not provable," "sustained," and "exonerated." [See 2: ENGAGE IN PROACTIVE

⁵⁷ Kallie Cox and William H. Freivogel, "Police Misconduct Records Secret, Difficult to Access," Pulitzer Center, January 24, 2022, <https://pulitzercenter.org/stories/police-misconduct-records-secret-difficult-access>.

⁵⁸ City of Rochester Police Department Discipline Database, online at <https://www.cityofrochester.gov/po-licediscipline/>.

TRANSPARENCY] As noted, it is much easier for a chief or sheriff to point to a website and tell the press, the public, and a decedent’s family that the agency follows a transparent protocol than to grasp for answers at a press conference amid a troubling incident.

Proactive Disciplinary Release

The Washington, D.C. Metropolitan Police Department (MPD) routinely releases data on all sustained misconduct investigations.⁵⁹



Adverse Action Data Sheets

The following information on disciplinary actions includes sustained misconduct investigations referred to MPD’s Disciplinary Review Division that resulted in adverse action.

- [MPD Adverse Action Data Sheet: 2016-2020](#)
- [MPD Adverse Action Data Sheet: 2021](#)
- [MPD Adverse Action Data Sheet: 2022](#)

The Minneapolis Police Department similarly publishes its decisions regarding police discipline online (officer names removed from the example below).⁶⁰

Police discipline decision dashboard

[Before you begin](#)[View full screen](#)



MPD Discipline Decisions

Search MPD discipline decisions and view the full decision PDFs

Date of Incident
04/03/12
12/01/21

Case Number
[All]

Officer Name
[All]

Precinct of Incident
[All]

Officer Precinct or Command
[All]

Violation Category
[All]

Violation Type
[All]

Discipline Type
[All]

Incident Date	Case Number	Precinct of Incident	Officer Name	Employee ID	Badge Number	Officer Precinct or Command	Violation Type	Violation Category	Discipline Memo Date	Discipline Type	
12/01/21	21-11086	3				2	De-escalation	Use of force	09/03/22	Letter of reprimand	View PDF
							Failure to write adequate report	Reporting requirements	09/03/22	Letter of reprimand	View PDF
10/30/21	21-10243	Outside Minneapolis				2	Code of Ethics	Code of conduct	06/10/22	Suspension	View PDF
10/22/21	21-09837	3				3	Code of Ethics	Code of conduct	12/07/22	Letter of reprimand	View PDF
10/09/21	21-09576	Outside Minneapolis				2	Carrying unauthorized weapon	Equipment violations	06/10/22	Suspension	View PDF
							Code of Ethics	Code of conduct	06/10/22	Suspension	View PDF
09/08/21	21-10193	5				5	Courtesy & Respect	Code of conduct	07/03/22	Suspension	View PDF
							Use of Discretion/Judgement	Code of conduct	07/03/22	Suspension	View PDF
						5	Courtesy & Respect	Code of conduct	05/19/22	Suspension	View PDF

By proactively releasing information the public would be entitled to review upon request, agencies demonstrate fair and consistent transparency.

59 Metropolitan Police, Washington, D.C., Adverse Action Data Sheets, <https://mpdc.dc.gov/node/1611216>.

60 Minneapolis Police Discipline Decision Dashboard, <https://www.minneapolismn.gov/government/government-data/datasource/police-discipline-dashboard/>.

RECOMMENDATION: Agencies should release relevant history on an involved officer in a consistent manner following applicable laws. On their websites, [See 2: ENGAGE IN PROACTIVE TRANSPARENCY] agencies should post their practices (or their plans if they have not had a recent OICI) with as much information as possible about the agency's disciplinary processes and an explanation of what the various findings categories mean.



5: The Criminal and Administrative Investigations

In the wake of any OICI, three investigations/evaluations should take place:

- **A CRIMINAL INVESTIGATION** to determine whether the involved officer committed a crime.
- **AN OFFICER-FOCUSED ADMINISTRATIVE (OFA)** investigation to determine whether the involved officer violated policy, protocol, or training.
- **AN AGENCY-FOCUSED ASSESSMENT (AFA)** to determine whether the circumstances that led to the OICI, the OICI itself, or the response to the OICI revealed issues that the agency should address through changes to policy, training, agency tactics, equipment, supervision, communications, or other means.

They can take different forms, **but all three evaluations are necessary**. Closing an OICI by only conducting the first two investigations — concluding that no crime occurred or that an officer followed department policy and training — should never happen; it deprives the agency and the community of a deeper evaluation of whether the department needs to implement changes that might spare a life under similar circumstances in the future.

This section discusses each type of investigation, how they connect, and certain key considerations law enforcement executives should know about them. **It's important to remember, however, that investigative models, collective bargaining rights, and laws vary considerably across jurisdictions.**

Although each type of investigation (criminal, OFA, and AFA) has a separate goal, they need not occur sequentially, especially the two officer-focused investigations (criminal and OFA). **Subject to the qualifications noted below, completely delaying an OFA investigation or AFA until a criminal investigation is complete may be unnecessary — they can usually run concurrently, in whole or in part.**

Relatedly, a lack of findings in one investigation has no bearing on whether significant findings are possible in another. For example, in any given OICI, the prosecutor might determine there is insufficient evidence to charge the officer with a crime; but that same officer may have



"We lose a lot of credibility with the public when the standard of whether we did something right or not, is whether we committed a crime."

J. Scott Thomson
Former Chief Camden County (NJ) Police Department

violated several agency policies (as determined by the OFA investigation), and the overall incident may reveal the need for several agency-wide changes in policy and tactics (as determined by the AFA). These principles are broadly summarized in the table below:

Types of Investigations

INVESTIGATION/ OBJECTIVES	POTENTIAL OUTCOMES	IMPACT ON OTHER INVESTIGATIONS
<u>CRIMINAL</u> Examine the OICI to determine whether, applying the facts to the relevant criminal law, the officer committed a crime.	- Officer not charged with a crime. - Officer charged with a crime.	Officer not charged: This does not affect whether there will be OFA or AFA findings. Officer charged: There were likely policies and/or training that the officer did not follow, and the incident may also reveal the need for changes to agency policy and training.
<u>OFFICER-FOCUSED ADMINISTRATIVE (OFA)</u> Examine all facts before, during, and after an OICI to determine whether the officer violated any agency policies, practices, or training.	- No administrative violation findings - Administrative findings against the officer - The normal array of labor options apply, from simple retraining to discipline (including termination).	No administrative findings against the officer - The AFA may still reveal the need for agency-level changes. Administrative findings against the officer - Even if the officer violated current policy, training, etc., the AFA may reveal that changes are needed at the agency level.
<u>AGENCY-FOCUSED ASSESSMENT (AFA)</u> Examine the OICI holistically to determine whether it highlights needed changes in policy, training, tactics, equipment, and/or supervision.	The agency may implement new or modify existing policies, seek out and employ new or emerging technology, change equipment or tactics, make personnel changes, provide accommodations, etc.	The AFA findings may reveal a need for changes at the agency level regardless of whether an individual officer is criminally or administratively culpable.

RECOMMENDATION: Three investigations/assessments should take place after every OICI: (i) a criminal investigation, (ii) an officer-focused administrative investigation, and (iii) an agency-focused assessment. Each will have different objectives and the results of one will not necessarily affect the outcome of the others.

A. The Criminal Investigation

When an officer causes or contributes to a person's death or serious physical injury, a full and fair investigation must follow to determine whether those actions constitute a crime.⁶¹ Of course, this should happen after any death or serious injury. But unlike investigations into actions by those who are not police officers, which often seek to determine *who* committed an established crime (e.g., who broke into a home and stabbed a person), OICI investigations center around *how and why* something happened to determine whether it was criminal at all.

OICI criminal investigations tend to distill down to the following issues:

Shootings:	- Was the shooting legally justified?
Restraint-Related:	- Was the restraint/force justified? - Did the restraint/force cause or contribute to the death? - Was the officer aware that the conduct could (with reasonable foreseeability) cause death or serious physical injury?
Vehicular-Related:	- Did the officer's conduct contribute to the death or serious injury? - Was the officer's conduct reckless or criminally negligent?

Any OICI evaluation involves a reasonableness assessment, and officers are familiar with the *Graham v. Connor* standard of "objective reasonableness."⁶² But *Graham* was a federal civil case, while most criminal prosecutions in this country reflect state criminal laws. Although the reasonableness of the officer's actions will always be relevant to whether the officer is charged with a crime, statutes differ from state to state. **Importantly, criminal statutes are often at odds with public beliefs about what constitutes criminal conduct, so proactive public education — about the conduct necessary to establish criminal culpability — is important.**

For example, until 2019, for prosecutors to bring charges against an officer in the state of Washington, they had to prove that the officer caused death with actual "malice," a nearly insurmountable challenge.⁶³ Utah, in 2021, passed a law making it *more* difficult to prosecute

⁶¹ As covered below [6: OFFICER EDUCATION AND WELL-BEING] proactively advising officers about what they can expect in the wake of an OICI can manage expectations and prevent an officer from feeling like a criminal even in circumstances where an incident was clearly justified.

⁶² *Graham v. Connor*, 490 U.S. 386 (1989).

⁶³ David Kroman, "Fatal Seattle police shooting will test new accountability law, Initiative 940," Crosscut, January 4, 2019, <https://crosscut.com/2019/01/fatal-seattle-police-shooting-will-test-new-accountability-law-initiative-940>.

any person, including a police officer, who claims to have used deadly force in self-defense, which applies to most officer-involved shootings.⁶⁴

How Do Policy and Training Affect Criminal Charges?

Since the reasonableness of an officer's actions is a key factor in determining whether the officer should be charged with a crime, officer training and the agency's policies are relevant to criminal charging decisions. For instance, if an officer fires into a vehicle and kills someone, whether the agency had a policy forbidding shooting into vehicles and whether the officer was trained and expected *not* to do so will weigh into whether the shooting was reasonable.

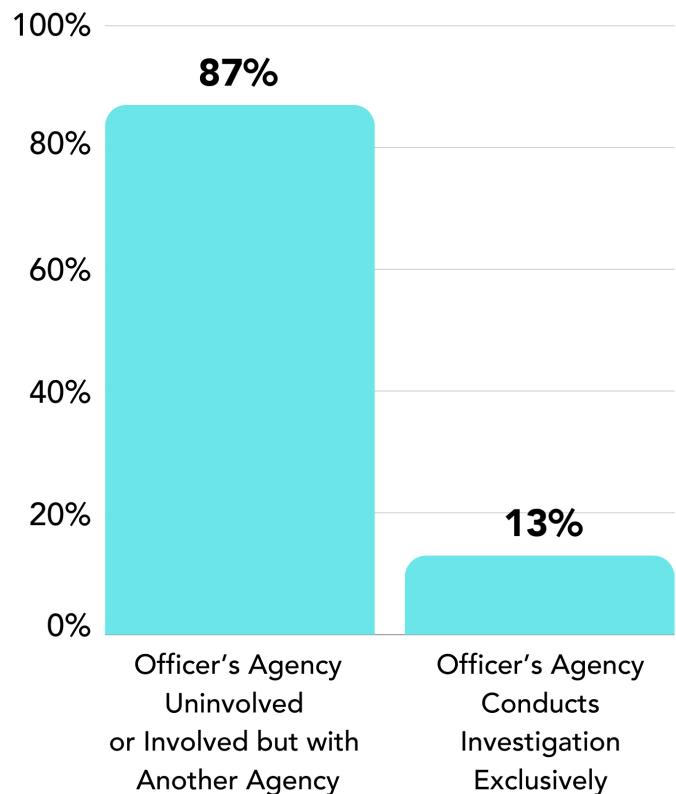
"The degree to which an officer has been trained on something or there's a department policy on something plays a significant role in the analysis of whether an officer's actions were reasonable, but it is not the only factor," explains Nick Viorst, Chief of the Police Accountability Unit at the Manhattan District Attorney's Office.

Models of Criminal Investigation — Balancing Independence with Quality

Some states, such as Washington, require an agency other than the involved officer's agency to conduct OICI criminal investigations. Others, such as New York and California, require the state attorney general's (AG) office to investigate, although the involved officer's agency is not prevented from participating; this often results in joint investigations by the AG's office and the local agency. In Ohio and Minnesota, a state agency is available to conduct the investigation by request but is not required to do so by law. Still other states, such as Virginia and Texas, do not require any specific investigative model.

In PERF's survey, 87 percent of agencies reported that they do not exclusively conduct criminal investigations of their officers. (See Figure 10.) These agencies are either entirely uninvolved or are involved but with another agency as the lead.

Figure 10: Investigation of OICIs by Involved Officer's Agency



64 The Crime Report, "Utah Self-Defense Law Makes It Harder to Charge Problem Cops," August 3, 2021, <https://thecrimereport.org/2021/08/03/utah-self-defense-law-makes-it-harder-to-charge-problem-cops/>.

The respondents that investigate their own officers' OICs are mainly larger agencies. (See Figure 11.)

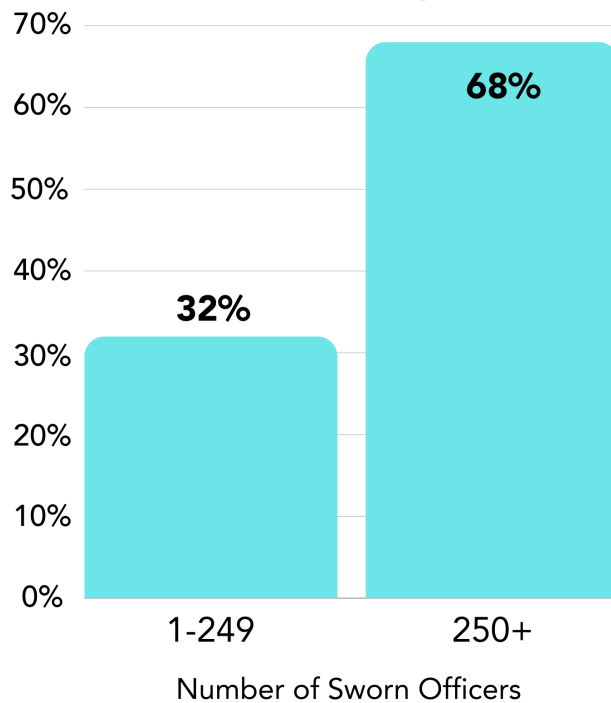
Agencies develop proficiency in managing and investigating OICs through experience, so it is unsurprising that larger agencies with the most OICs will also have the most experience investigating them. Even in states where another agency would normally be required by law to conduct the investigation, departments under federal consent decrees are often permitted to conduct investigations into their own officers' OICs because they have cultivated investigative skills and have U.S. Department of Justice oversight. The Seattle Police Department and the Baltimore Police Department are examples of this.

Among survey respondents who are either completely uninvolved in investigating their officers' OICs or work with another agency to conduct the investigation, 45 percent choose that option, while 30 percent are required by law or other mandate.

The benefit of independence should always be considered alongside the necessity of experience, resources, and skill. Although the agencies represented at our meeting employed various models, **most agreed that some type of hybrid investigation model is likely best** — one that allows the most skilled OICI investigators (from within or outside the agency) to gather and examine the facts while an independent arm or agency is involved in the process, oversight, and/or review.

Regardless of whether the OICI criminal investigation is conducted by the involved officer's agency or a different one, **investigators must be properly trained to investigate OICs.** The decisive issue in OICs is almost always *why* it happened, not *who* did it. Traditional homi-

Figure 11: Agencies that Conduct Their Own Investigations



"California has 58 counties and hundreds of police agencies, and they all did [investigations] differently. [Prior to the 2021 law directing the state AG to investigate and review OICs] there was a lot of inconsistency. One thing the state brings to the table is statewide consistency. As much as possible, wherever you are in the state, the incident will be investigated the same way."

**Scot Hunter, Assistant Bureau Director
California Department of Justice**





"We've done most investigations of deadly force in the state since about 2015. That being said, most other agencies will likely have lost the skills or not kept up with changes to common investigative protocol when investigating a use of deadly force."

Scott Mueller

Deputy Superintendent, Minnesota BCA

"We handle about 60-70 critical incidents each year and, through that process, including lessons learned, have developed some best practices."

Roger Davis

**Special Agent in Charge
Ohio BCI**



cide investigation skills, while important, are not the only skills needed; investigators must be trained in the unique aspects of OICI investigations.⁶⁵

For agencies with the option to choose another agency with skilled investigators – such as the Minnesota Bureau of Criminal Apprehension or the Ohio Bureau of Criminal Investigation – to conduct the investigation, the answer seems clear: choose that agency since that option provides independence and a quality investigation.

Agencies that have developed the competency to conduct quality OICI criminal investigations but do not have any outside agency involved in those investigations (at the investigative, review, or oversight levels) should consider ways to add independent "eyes" to their process. This could take the form of adding non-sworn professionals to a review panel to conduct the OFA investigation and/or AFA. Alternatively, agencies can determine whether a mechanism exists to have another agency, perhaps separate from the local prosecutor's office, review its work.⁶⁶

An example of how to weave independent perspectives into OICI investigations is the

⁶⁵ See, for example, Ohio Office of the Attorney General, "BCI Insights: Investigating Law Enforcement Lethal Use of Force," <https://www.ohioattorneygeneral.gov/Media/Videos/BCI-Insights-Investigating-Law-Enforcement-Lethal>; and see, Public Agency Training Council, "Officer-Involved Shooting and Use-of-Force" <https://publicagencytrainingcouncil.arlo.co/w/seminars/284-officerinvolved-shooting-and-useofforce>.

⁶⁶ Several agencies at PERF's meeting noted that the local prosecutor's office is involved in their OICI investigations from the inception. To be sure, having more eyes on these types of incidents is beneficial. But in many jurisdictions, there is a public perception that the local prosecutor cannot provide an unbiased view of the evidence or the quality of OICI investigations because police and prosecutors work closely together. See, for example, New York Executive Order 147, "A Special Prosecutor to Investigate and Prosecute Matters Relating to the Deaths of Civilians Caused by Law Enforcement Officers," 2015, <https://www.governor.ny.gov/sites/default/files/atoms/old-files/EO147.pdf>, noting, "[P]ublic concerns have been raised that OICIs cannot be prosecuted at the local level without conflict or bias or the public perception of conflict or bias." This was later repealed by legislation that broadened the NY Attorney General's jurisdiction over OICIs even further.

“There was a time when if you had an officer-involved shooting in Houston, you got whoever was next up on the list in the homicide division. That person may have investigated one officer-involved shooting or may have investigated ten. So, we established the Special Investigation Unit with 25 dedicated employees (lieutenants, sergeants and officers) who specialize in this.”

**Kevin Deese, Commander
Houston Police Department**



Houston Police Department (HPD), whose Special Investigations Unit (SIU) is already well-trained in how to investigate OICIs; HPD also has an independent police oversight board that reviews SIU's work and, among other things, advises the chief if it perceives deficiencies in the OICI investigation. In Chicago, a member of the Civilian Office of Police Accountability (COPA) responds to every OICI. Although COPA reviews OICIs from the officer-focused administrative (OFA) perspective, they are an independent presence throughout the process. Similarly, at the Philadelphia Police Department, a member of the Civilian Oversight Committee responds to all officer-involved shootings. The role of these outside entities is not to determine whether officers should be charged with crimes, but their presence in the process helps ensure that the process is fair.

If you are one of several agencies that has joined together to form a task force, this can be an effective way to insert some independent perspective into the process. But if the task force is composed of agencies that have not collectively investigated many incidents, the quality of the investigations may suffer. It's imperative, in those circumstances, that the member agencies fully train the investigators who will be conducting the OICI investigative work about the best practices to do so. It's also helpful if an agency with some experience in this area is a member of the team. This is the case in Milwaukee, where the Milwaukee Police Department (MPD) and 21 other agencies developed a memorandum of understanding and formed the Milwaukee Area Investigative Team. When an incident takes place in the city of Milwaukee, an agency other than the MPD takes the lead; when one of the smaller jurisdictions has an OICI, MPD takes the lead. [See Milwaukee Area Investigative Team MOU – Included in APPENDIX B]

Of course, forming a team that includes one (usually larger) agency that has experienced more OICIs than the others, has more resources (including scene processing), and has the most experience investigating OICIs often results in the larger agency performing an outsized share of the team's work. Several participants in PERF's meeting raised this issue. Agencies should explore whether there are ways to spread the burden, such as requiring that other members of the team be properly trained to conduct OICIs before signing an MOU or, possibly, financially reimbursing agencies that incur especially high costs during the investigations because there is value to opening the process up to as many independent viewpoints as possible.

RECOMMENDATION: High-quality investigations tailored to the specific issues involved in OICIs and some form of independent participation, oversight, and/or evaluation are equally important for every OICI criminal investigation. Agencies should not sacrifice one to achieve the other.

ADDITIONAL RESOURCES

APPENDIX B contains an example of an agreement outlining responsibilities and expectations (in this case, between the Ohio Attorney General's office and the City of Vandalia Police Department) for agencies wishing to have another agency conduct its OICI investigations. For agencies wishing to start a team or task force, APPENDIX B also includes the Milwaukee Area Investigative Team MOU.

B. The Officer-Focused Administrative (OFA) Investigation

The purpose of the OFA is not to determine whether the officer committed a crime but to determine whether the officer violated any agency policies, protocols, or training. Although the criminal and OFA investigations both focus on the officer, they differ in significant ways:

- **Compelled Statements:** Like any other person facing the potential of criminal prosecution, an officer involved in an OICI has the constitutional right to refuse to answer questions in connection with the criminal investigation. The officer cannot, however, refuse to answer questions from the employer as part of the OFA investigation. **This has significant implications.** (See "GARRITY and SELF-INCRIMINATION ISSUES" discussion below.)
- **Focus:** Regarding shootings, which constitute the vast majority of OICIs, **criminal determinations generally center on the moment deadly force was used**, because criminal statutes tend to focus on the shooter's beliefs at that critical moment in time. Usually, statutes ask a version of whether, at the time deadly force was used, the officer reasonably believed the subject was using or about to use deadly force against the officer or another person.⁶⁷ **OFA investigations, however, allow for a broader, upstream and downstream evaluation of the officer's conduct before, during, and after the OICI.** For example, did the officer needlessly escalate the situation during the time leading up to the deadly force? Were there missed opportunities to de-escalate? Did the officer communicate properly with dispatch? After the OICI, was potentially life-saving care provided swiftly?
- **Burden of Proof:** Proving criminal conduct carries a high burden: a prosecutor must prove every criminal element beyond a reasonable doubt. Proving policy violations

⁶⁷ For instance, in New York, an officer is legally justified to use deadly force to defend against "what the officer reasonably believes to be the use or imminent use of deadly physical force." NY Penal Law §35.30(1) (c).

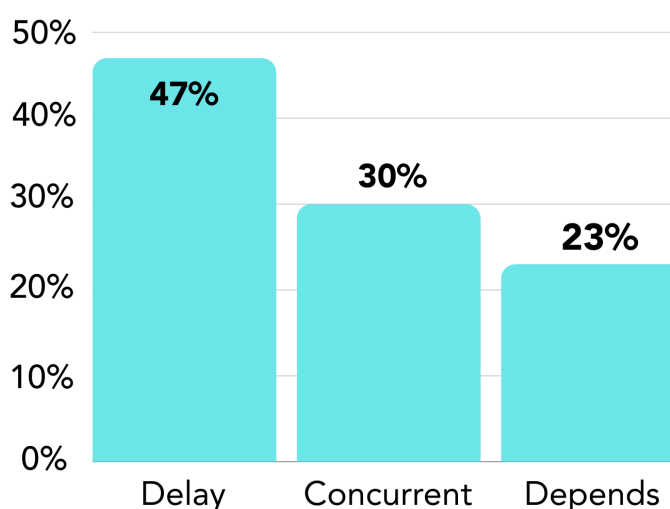
is much easier. Additionally, agency policies often require more from officers than the often-cited legal standard of “objective reasonableness.”⁶⁸

Because of these dynamics, **the outcome of the criminal investigation should not control the outcome of the OFA investigation.** A prosecutor may determine that criminal charges against an officer are not viable, but the OFA investigation may reveal issues that call for re-training, discipline of some sort, or even termination. Of course, it is entirely possible that the officer will not have violated any policies or protocols, but **the point is that these are separate issues addressed by different types of investigations.**

PERF’s survey revealed that 47 percent of responding agencies delay their OFA investigations until the criminal investigation is complete, while 30 percent run them concurrently. The remaining 23 percent choose whichever approach is appropriate to the circumstance presented. (See Figure 12.)

There is a known tendency for some chiefs to close administrative reviews as unfounded based on criminal declinations. Notably, one survey respondent said their agency waits until the criminal investigation is complete to start the OFA investigation because doing so “gives us cover.” It shouldn’t. **Criminal and OFA investigations do not evaluate the same things in the same manner.** There may be compelling reasons to delay parts of an OFA investigation, but trying to avoid negative fallout is not one of them. Subject to the qualifications and Garrity-related guidance presented below, agencies can conduct much of the OFA investigation while the criminal investigation takes place.

Figure 12: Timing of Administrative Investigation Relative to Criminal Investigation



Garrity and Self-Incrimination Issues

Briefly summarized,⁶⁹ *Garrity v. New Jersey*, 385 U.S. 493 (1967) involved police officers who were suspected of criminal involvement in a ticket-fixing enterprise; they were interrogated about their actions after being told that while they had the right to remain silent, they would lose their jobs if they invoked that right. The U.S. Supreme Court held that a public employer cannot use the threat of termination to compel an officer⁷⁰ to provide self-incriminating information and that any such information obtained in

68 See Police Executive Research Forum, “Guiding Principles on Use of Force,” 2016, Principle #2, <https://www.policeforum.org/assets/30%20guiding%20principles.pdf>.

69 This is an overview. All agencies must discuss these principles with their legal authority.

70 While “officer” is used to describe these principles, Garrity rights extend to any public employee compelled to provide information by threat of termination – not just police officers.

this manner, or its fruits, cannot be used against that officer at trial. Further, if an officer charged with a crime can demonstrate that compelled statements exist, the prosecution must show that its evidence is derived from sources wholly independent of the officer's compelled statements.⁷¹

As this report explains, in OICs there are two officer-focused investigations: criminal and OFA. With respect to the criminal investigation, the officer is entitled to the same constitutional rights as any other person, including the right to remain silent. But in the OFA investigation, the officer has no such right, and the agency can compel the officer to provide information; **this is understandable since the agency has a strong interest in knowing whether the officer followed policy and training during an incident that resulted in a person's death or serious physical injury.**

Because the stakes are so high and the implications of compelled testimony so severe, there may be cases where it is best to conduct a compelled OFA interview only after receiving an indication that there will not be a criminal prosecution; this would be true of cases where criminal charges appear reasonably certain relatively quickly. But even in cases where an agency chooses to wait to conduct the compelled interview, "it can still conduct many parts of the administrative investigation while the criminal investigation is ongoing," notes P.J. Meitl of the U.S. Department of Justice's Office of Legal Policy (Special Assignment).

However, an agency may not need to wait to conduct a compelled interview if it has a thorough understanding of Garrity and the capacity to completely wall off those taking the compelled statement from all members of the criminal investigative team (that is, prohibit those taking the compelled statement from sharing that information with anyone). As Lieutenant Jason Hendershot, commander of the Philadelphia Police Department (PPD)'s Officer Involved Shooting Unit explains, officers at PPD must give a compelled statement to Internal Affairs within 72 hours of an incident. An officer refusing to do so can be terminated because at PPD (as at most agencies), failure to comply with a direct order to answer questions from internal affairs constitutes insubordination. But after the officer gives the compelled statement, there is a wall in place between internal affairs and criminal investigators. Retired Assistant Chief Art Nakamura describes a similar process at the Portland (OR) Police Bureau, which requires compelled statements within 48 hours of an OICI. From then on, there is "a clear and delineated separation" between internal affairs and criminal investigators.⁷²

The benefit of this approach is clear: the agency can make swift determinations about the officer, which benefits the agency and often benefits the officer as well. But there is a potential cost: if a compelled statement exists, it can make the work of criminal prosecutors much more challenging. As Nick Viorst, Chief of the Police Accountability Unit at the Manhattan District Attorney's Office noted, prosecutors investigating police misconduct typically do not like to hear that compelled statements have been taken before their criminal investigation is complete.

It is important to understand that this basic overview of Garrity-related issues is far from the fully nuanced presentation this complex topic requires. Every agency must consult with its prosecuting attorney's office and/or legal authority to fully explore the issue.

71 See *Kastigar v. United States*, 92 S. Ct. 1653 (1972).

72 This may be easier to achieve if a separate agency conducts the criminal investigation for the involved officer's agency, since the two teams of investigators will be naturally separated. But again, this cannot be done without a complete understanding of Garrity and agreement by all of the parties – including the prosecutor.

As with other OICI-related issues, agencies should act before an incident to set expectations about compelled statements and determine whether all or part of the OFA investigation will be conducted concurrently with the criminal investigation. The Kansas Bureau of Investigation's "Frequently Asked Questions" clearly establishes the agency's expectations, as seen below.

Kansas Bureau of Investigation

Any agency in the state can request that the Kansas Bureau of Investigation (KBI) conduct its OICI investigations. KBI's expectations relative to compelled statements are expressly set forth in its manual explaining its services, as excerpted below.

Frequently Asked Questions



To necessitate quicker determinations about policy violations, a department's internal investigation may run concurrently with the KBI's criminal investigation, with the following stipulations.

1. The KBI requires that involved officers not be questioned under Garrity until after the KBI has completed its formal interview.
2. The KBI requires that any information garnered during the internal investigation *not* be shared with KBI agents, due to potential Garrity concerns. The KBI's criminal investigative materials may be shared with the department for internal purposes as noted earlier in this booklet.
3. While internal affairs investigators may attend witness interviews alongside KBI agents, no one from the requesting agency may be present during any involved officer's interview. This is due to Garrity concerns wherein the officer may feel required to speak if a superior officer or agency representative is present. Criminal investigations require any statements obtained to be voluntary, not compelled.

Nuance and context matter. As agencies familiar with analyzing OICs know, many incidents will quickly reveal themselves as legally justified, some will be obviously problematic, and still others will exist in the gray area. While the prosecutor will make the ultimate charging determination, OICs generally settle into one of these three categories after an initial good-faith assessment. Which category an incident falls into will affect the decision of whether to compel a statement before the official criminal determination has been delivered.⁷³

⁷³ For instance, if a matter is captured on video and clearly justified (e.g. the decedent was pointing a gun

GENERAL GUIDANCE FOR CONDUCTING CONCURRENT CRIMINAL AND OFA INVESTIGATIONS:

The following general principles can guide any agency's process, subject to its binding laws, collective bargaining agreements, and policies.

- Criminal and OFA investigators should discuss and agree upon expectations *before* an OICI takes place.
- **In the immediate aftermath of an OICI, the criminal investigation must take precedence over the OFA.** Agencies generally should not compel a statement until a general assessment of available evidence has taken place (e.g., at least 24-72 hours, during which video and preliminary information is reviewed) and there is some indication about whether the OICI appears to involve potential criminal conduct.
- If there is a well-defined process and a clear understanding of *Garrity* by all involved, agencies may choose to take a compelled statement after this initial period.
- Agencies that do compel statements must ensure that from that point forward, **OFA investigators are walled off and do not share any information** they obtained from the compelled interview. **The importance of this wall cannot be overstated.** Common sources of breeches are inadvertently overheard conversations, loose lips, or information that has traveled up the wall to the chief of sheriff and then travels down the other side. Every effort and protective measure must be implemented to guard against this.
- Agencies that do not compel statements can still complete most of their OFA investigation while waiting for a criminal determination. This includes reviewing the officer's statement to criminal investigators if the officer has chosen to waive rights and provide one.
- **The prosecutor, knowing that prolonging these matters can negatively affect the community, the agency, and the officer, should notify the involved officer's agency as soon as a criminal determination is made.** As Baltimore Police Department Lieutenant Elliot Cohen pointed out, historically, prosecutors took years to announce the decision not to pursue an indictment, unnecessarily and unreasonably leaving officers, the agency, and the community in limbo.
- Agencies must be mindful of any existing time limits within which to bring disciplinary charges. As NYPD Deputy Chief Anthony Marino (who formerly ran the agency's Force Investigation Division) notes, a prosecutor's failure to issue a decision can sometimes force the issue of taking a compelled statement because disciplinary charges must be brought within 18 months at NYPD.

at the officer and the officer fired back) and the prosecutor's office is delaying the issuance of a determination - for whatever reason - an agency that doesn't normally compel a statement and wall it off, could likely do so with little fear of consequences. But if an OICI falls into the grey or clearly problematic area, an agency that does not normally compel and well off a statement might be reticent to do so since, as noted in "GARRITY AND SELF INCRIMINATION ISSUES," compelled statements are extraordinarily difficult for prosecutors to overcome.

RECOMMENDATION: Agencies should not automatically delay officer-focused administrative (OFA) investigations until a criminal investigation/charging determination is complete. Agencies concerned about compelled statements can conduct their investigations concurrently but delay taking the involved officer's statement. Alternatively, although there are risks, with a proper understanding of *Garritty* and appropriate barriers and safeguards, agencies can compel an OFA statement and wall it off.

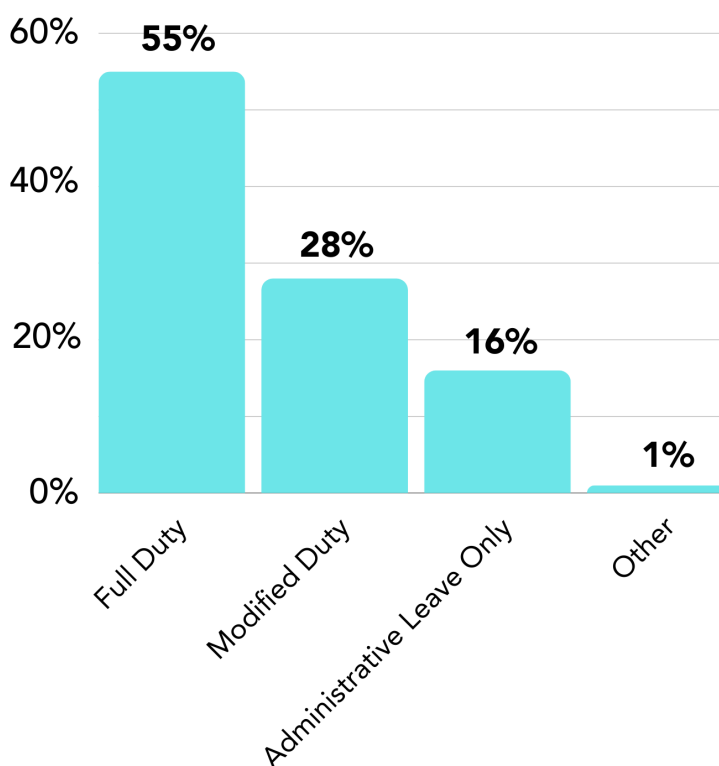
Employment During the OFA Investigation/Prosecution Determination

PERF's survey found that 55 percent of agencies have the flexibility to bring an officer back to unrestricted (i.e., full or unmodified) duty before the prosecutor issues a formal decision on whether to file criminal charges. (See Figure 13.) Twenty-eight percent assign officers to modified duty. Sixteen percent keep officers out of work on administrative leave until the prosecution determination is made, even if it is readily apparent the officers' actions were justified.

There may well be circumstances in which it makes sense to keep an officer on full administrative leave during the criminal determination, such as when an incident has factual issues that require additional time to resolve, or the officer is psychologically unable to return to work.⁷⁴ But a blanket policy requiring officers to remain out of work on leave pending criminal charging decisions is unwise. Not only does it send a message, real or perceived, to officers that something was wrong with their conduct, but it is an unsound use of resources. Consistent with laws and labor rights, law enforcement executives should have the ability to consider the facts of an incident and exercise discretion about officer employment consistent with those facts.

According to Chicago Police Department Lieutenant Patrick Kinney, officers at his agency are placed in modified (that is, non-patrol) duty assignments for 30 days after OICIs. During that time, the Civilian Office of Police Accountability (COPA), which conducts an administrative investigation concurrent with the criminal investigation, provides a recommendation

Figure 13: Employment Options During Prosecution Determination



⁷⁴ If it appears the officer committed a crime, that officer should obviously not be working in any capacity and the process necessary for termination should begin immediately.

"It's psychologically better for officers to be back with their group, as long as they're mentally ready. And almost all of them want to do that."

**David Zibolski, Chief
Fargo (ND) Police Department**



to the superintendent to return the officer to full duty, keep the officer on modified duty until issues can be resolved, or relieve the officer of duty altogether (in other words, to begin termination proceedings). COPA's recommendation is not binding on the superintendent; as the top law enforcement executive in the organization, the superintendent makes the final decision.

Critical Incident Leave – Albany (OR) Police Department

Due to the stigma that traditional "administrative leave" can sometimes generate, the Albany (OR) Police Department (APD) designates the leave associated with critical incidents as "critical incident leave." **The following provisions are taken from APD's Law Enforcement Employee-Involved Critical Incidents policy:**⁷⁵

5. Each involved employee shall be given reasonable paid critical incident leave following a critical incident. An employee who uses deadly force that results in the death of a person shall not be returned to a duty assignment that might place them in a situation in which they have to use deadly force until at least 72 hours immediately following the incident (ORS 181A.790(4)). It shall be the responsibility of the Watch Supervisor to make schedule adjustments to accommodate such leave.
6. Employees involved in a critical incident that causes them to experience unusually strong emotional (and sometimes physical) reactions that interfere with their ability to function either at the scene or later will be assessed by the Watch Supervisor and may be placed on paid critical incident leave. Critical incident leave is in the interest of the employee and the department.
7. Any employee that is impacted by a critical incident, whether directly involved or not, can utilize critical incident leave at the discretion of the Command Staff.

RECOMMENDATION: Agencies should not automatically leave officers out of work until a criminal determination is formally issued. Policies that allow law enforcement executives to make informed employment decisions after an initial period of fact-finding better serve the officer and the agency.

⁷⁵ See Policy 290. Law Enforcement Employee-Involved Critical Incidents. Online at <https://public.powersdms.com/ALBANYOR/documents/200110>.

C. The Agency-Focused Assessment

Every agency needs a process for assessing whether its policies, practices, training, equipment, supervision, systems, culture, or any other agency-related issues may have affected or contributed to an OICI. Ideally, agencies will have a relatively quick process in place to determine whether the OICI revealed glaring tactical deficiencies that should be addressed immediately, followed by a more holistic review to assess broader agency-level issues.



"Broadly looking at incidents has led to changes in how we respond to suicidal subjects who are not active threats to the public as well as changes to our emergency operations/pursuit policy, which has greatly reduced the number and length of our pursuits."

Christopher Crawford, Chief Sparks (NV) Police Department

Immediate Tactical Briefing

A tactical debrief should take place no more than 72 hours after any OICI. This early review aims to identify issues that should be addressed immediately without waiting to complete the more extensive reviews. For instance, at the King County (WA) Sheriff's Office, the immediate briefing process is called the "Sheriff's Briefing"; it takes place as soon as possible after critical incidents, and one of the briefing's primary purposes is to identify "any officer safety, scene management, or other issues that need to be addressed immediately."⁷⁶ This type of focused, immediate assessment is critical to identify issues that should be remedied without delay.

Broader Assessment

A more holistic assessment process examines what took place through a wide lens to identify areas for agency-wide improvement. This can generate valuable insights and identify changes needed in officer training, gaps in tactics, the need for additional equipment, and policies that should be changed or updated.

At agencies already engaged in this type of process, these reviews are conducted by entities called "Critical Incident Review Boards" (Phoenix and Tucson Police Departments),⁷⁷

"Learning organizations need to conduct complete assessments to know how to avoid critical incidents in the first place."

**Brian Maxey, Chief Operating Officer
Seattle Police Department**



⁷⁶ King County (WA) Sheriff's Office, <https://public.powerdms.com/KCSO/documents/1758027>.

⁷⁷ Phoenix Police Department, <https://www.phoenix.gov/policesite/Pages/CIRB.aspx>, Critical Incident Review City of Tucson (tucsonaz.gov).

“Force Review Boards” (Philadelphia Police Department),⁷⁸ and “Performance Review Boards” (Baltimore Police Department).⁷⁹ Regardless of the name, the purpose is to look broadly at incidents and identify issues that may not be revealed during an examination of whether an officer committed a crime or policy violation. This process can also identify and recognize exemplary or model conduct.

Sentinel Event Review

Especially after OICIs involving multiple system failures (e.g. dispatch, emergency medical services, schools, behavioral health services, as well as police), agencies should consider a sentinel event review (SER) with all stakeholders. An SER is “a voluntary, multi-stakeholder, non-punitive review of an organizational error ... [that does not] focus on identifying who is to blame. [Its] primary goal is to identify and respond to the root causes... underlying acts, omissions, or environmental factors that allowed the error to occur, and to devise solutions to minimize such errors in the future.”⁸⁰

Comprehensive SERs can include key decision-makers from diverse systems such as behavioral health (e.g., health department, public health authority, social workers, clinicians, community-based treatment providers, and peer and consumer advocates), criminal justice (e.g., prosecutors, public defenders, courts, jails, parole and probation, and juvenile services), schools, and housing.⁸¹ Having a wide range of stakeholders examine an OICI allows jurisdictions to more effectively diagnose problems and begin to address their often complex root causes.

“Looking at yourself as an agency is very important. Baltimore’s PRB was set up to focus on the officer. But now it also focuses on the agency. How is our training? Do officers have the equipment they need? Is there proper supervision? How did we get into the position we’re in today and what have we done to make sure this doesn’t happen again? That is all on the agency, not the officer.

What we found early on was that often, the PRB identified many agency problems. Training was wrong, supervision was wrong, etc. Now we’re starting to find that since we’ve corrected many of those issues, we don’t see the same problems that we had. We’re always looking to improve.”

Deputy Commissioner Brian Nadeau on Baltimore’s Performance Review Board (PRB)



78 Philadelphia Police Department, <https://www.phillypolice.com/assets/directives/D10.4-UseOfForceReviewBoard.pdf>.

79 Baltimore Police Department, <https://www.baltimorepolice.org/transparency/bpd-policies/724-performance-review-board-0>.

80 Hollway, John and Grunwald, Ben, “Applying Sentinel Event Reviews to Policing” (2019). Faculty Scholarship at Penn Carey Law. 2100. https://scholarship.law.upenn.edu/faculty_scholarship/2100.

81 Even if these entities were not involved in the OICI, their perspectives can be valuable as an agency assesses how to avoid these incidents in the future.

The Seattle Police Department (SPD) has established an SER process, which it describes as “a community inclusive accountability program” to examine critical incidents and determine how SPD can avoid future harmful outcomes and better serve the community.⁸² And in 2020, the Tucson Police Department successfully used an SER process to examine two restraint-related deaths with striking similarities; the SER board released a comprehensive report with 53 recommendations for modifications “to policies, procedures, supervision, and the environment in which [Tucson] first responders are making decisions.”⁸³

Monday-Morning Quarterbacking

The agency-focused processes noted above involve high-level and/or external individuals (e.g., law enforcement executives and supervisors, board members, and other stakeholders) reviewing officer conduct and agency processes. PERF also recommends involving agency members themselves. As PERF has noted before, officers need to start having necessary discussions about critical incidents — conversations that are “not about blaming individual police officers [but are focused on] understand[ing] what happened in past incidents [in order to] prevent the next one.”⁸⁴ PERF calls these conversations “Monday-morning quarterbacking.” They are especially useful after OICIs involving mentally ill subjects or subjects armed with something other than a gun (usually a knife), since those cases are where agencies “[most] need to challenge the conventional thinking on how [they] approach ... potential use-of-force situations.”⁸⁵

An agency need not wait for its own tragic OICI to start these conversations; in fact, it's easier to have a blunt and open discussion about these issues by using another agency's OICI and asking, “What, if anything, would we have done differently?” For example, a sergeant could use video released by another agency to facilitate a frank roll call discussion. Or a chief can have this type of discussion with agency command staff, with an expectation that the topics addressed will trickle down to the rest of the department.

Some of the following topics can be among the most important to cover if an agency wants to use the tragic circumstances of an OICI as an opportunity to learn. The discussion should be free of blame and judgment:

- Was this consistent with the way our agency trains?
- Was a supervisor on-scene and sufficiently engaged?
- Were there indications that the incident was a suicide-by-cop?⁸⁶
- Were there communications-related issues?
- Did the involved officer properly use time, distance, and cover?⁸⁷
- Was the subject sufficiently contained such that no force was needed?
- Were the tactics sound?
- Was there any type of backup plan?
- Was the tragic outcome in any way avoidable?

82 Seattle Police Department, [Sentinel Event Review - OIG | seattle.gov](https://www.seattle.gov/police/sentinel-event-review).

83 Report of the Tucson Sentinel Event Review Board (SERB) on the Deaths in Custody of Mr. Damien Alvarado and Mr. Carlos Adrian Ingram-Lopez (2020). Online at: <https://bloximages.chicago2.vip.townnews.com/tucson.com/content/tncms/assets/v3/editorial/b/a1/ba1a6be6-a50b-5384-9e42-5f7d27d3fcb0/5f656840a85d2.pdf.pdf>.

84 Police Executive Research Forum, <https://www.policeforum.org/trending4Feb23>.

85 See Police Executive Research Forum, “Guiding Principles on Use of Force,” 2016, page 4, <https://www.policeforum.org/assets/30%20guiding%20principles.pdf>.

86 See Police Executive Research Forum, “Suicide by Cop: Protocol and Training Guide,” 2019, <https://www.policeforum.org/suicidebycop>.

87 See Police Executive Research Forum, “ICAT: Integrating Communications, Assessment, and Tactics,”

The previous list is a springboard to some questions every agency interested in changing troubling aspects of agency culture should be asking after OICIs.

RECOMMENDATION: Agencies should have Agency-Focused Assessment mechanisms in place to review OICIs and determine whether any issues exist at the agency level that caused or contributed to the incident. Agencies must learn to Monday-morning quarterback OICIs to determine whether they could have been avoided and incorporate what they learn into agency policy and practice.

D. Investigative Issues

This is not an exhaustive manual about how to best conduct OICI investigations, but below we briefly address some investigative issues that are often confusing or contentious.

I. Medical Examiner/Coroner Issues

Medical examiners and coroners are not the same. In states that maintain coroners,⁸⁸ they are elected officials who often have no medical training but are responsible for certifying causes of death.⁸⁹ Medical examiners are board-certified forensic pathologists — medical doctors responsible for determining causes and manners of death.⁹⁰ In most jurisdictions with elected coroners, the coroner arranges for a medical examiner to conduct a forensic autopsy as needed, and the coroner simply certifies the cause of death based on the medical examiner's determination. **Every fatal OICI investigation should include a forensic autopsy conducted by a board-certified forensic pathologist.** Unless a coroner also happens to be a board-certified pathologist, a medical examiner should conduct all OICI autopsies.⁹¹

Medical examiners classify every manner of death as one of the following: “natural,” “accident,” “suicide,” homicide,” or “undetermined” (“could not be determined”).⁹² Broadly speaking, the National Association of Medical Examiners’ position paper on deaths in custody recommends that OICIs (fatal shootings and restraints) be designated “homicides,” since the deaths occurred “at the hands of another;”⁹³ in other words, the decedent would not have died at that moment if not for the actions of the officer. However, **the designation of “homicide” by a medical examiner or coroner does not mean an officer committed a crime** — the determination of whether a crime took place involves the application of criminal statutes and legal principles.⁹⁴

88 U.S. Centers for Disease Control and Prevention, <https://www.cdc.gov/phlp/publications/coroner/death.html>.

89 Institute of Medicine (U.S.) Committee for the Workshop on the Medicolegal Death Investigation System, <https://www.ncbi.nlm.nih.gov/books/NBK221913/>.

90 Id.

91 In PERF’s survey, only one respondent reported having trouble getting a coroner to refer a matter to a medical examiner for a forensic autopsy.

92 Hanzlick R, Hunsaker JC 3rd, Davis GJ. A guide for manner of death classification. 1st ed. Marceline (Mo): National Association of Medical Examiners; 2002. <https://name.memberclicks.net/assets/docs/MANNER-OFDEATH.pdf>.

93 https://ocme.dc.gov/sites/default/files/dc/sites/ocme/release_content/attachments/Deaths%20in%20Custody_NAME_2017_0.pdf.

94 For instance, if an officer shoots and kills a person who pointed an actual weapon at the officer, the medical examiner will designate the manner of death “homicide” regardless of whether the shooting was justified,

"If the medical examiner indicates "homicide" it doesn't mean a crime took place. The judicial system has separate considerations"

Dr. Francisco Diaz
Chief Medical Examiner
Washington, D.C. Office of the Chief
Medical Examiner



It is essential that law enforcement executives understand and be prepared to address this distinction publicly. **The public, the media, and the decedent's family may incorrectly assume the medical examiner's determination of "homicide" means the officer committed a crime.**

For OICIs, law enforcement should provide the medical examiner with as much information as possible (including video) to enable a fair and fully informed opinion about the cause and manner of death. And law enforcement investigators should attend these autopsies so they can obtain information that can frame the investigation and the interview with the officer. This information includes the number of gunshot wounds, which wounds were fatal, information about trajectories, an opinion as to whether swift life-saving measures could have prevented the death, and how toxicology may affect (generally restraint-related) findings.

RECOMMENDATION: Agencies must thoroughly understand the role of the medical examiner or coroner in OICI investigations. An autopsy conducted by a board-certified forensic pathologist should take place after any fatal OICI. Law enforcement should fully understand and convey to the public the meaning of the "homicide" designation as a manner of death. Members of law enforcement should provide as much information to the medical examiner as requested and attend the autopsy to obtain information that can shape the investigation.

II. Officer Review of Body-Worn Camera Footage

In 2014, when body-worn cameras (BWCs) were an emerging technology, PERF, in collaboration with the Office of Community-Oriented Policing Services and DOJ, issued the first national guidance on implementing a BWC program.⁹⁵ PERF recommended that officers be permitted to view their BWC footage after critical incidents, before providing a statement.

PERF recently revisited the issue with the benefit of ten years of police experience in a

because whether a shooting is justified is a legal determination, not a medical determination. Restraint-related deaths can be particularly fraught because there may be multiple contributing factors, but if an officer's actions contributed in any way to the death, the medical examiner will likely deem the manner of death to be homicide; the issue of whether a crime took place - which often involves issues of contributory causation and determining the officer's state of mind (intentional, reckless, or criminally negligent) - are legal issues.

⁹⁵ Police Executive Research Forum, "Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned" 2014, <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-p296-pub.pdf>.

field where BWCs have since become ubiquitous.⁹⁶ As detailed below, many agencies' practices on this issue have changed, as has PERF's recommendation.

A 2023 PERF member survey found that just over half (56 percent) of responding agencies allow officers to view BWC footage before making a statement about a critical incident. That is a far lower rate than was found in a 2019 Bureau of Justice Assistance analysis, which found that 92 percent of agencies allowed officers to review footage before their interview.⁹⁷

Also, in 2023, PERF gathered roughly 200 police leaders, researchers, and other experts to talk about their experiences with BWCs. Many said they follow the growing practice of taking an officer's perceptual statement of a critical incident — reflecting what they recall seeing, hearing, feeling, and so on — before the officer views the BWC footage. Then, as part of the interview process, the officer can view the footage and offer clarifications or additions.

This approach recognizes that **the critical issue in the criminal analysis of OICIs is what the officer believed (i.e., perceived) at the moment force was used and whether that belief was reasonable.** As Seattle Police Department (SPD) Chief Operating Officer Brian Maxey notes, "the perceptual interview is capturing what [officers] perceived, which, opposed to what actually happened, is the relevant legal inquiry in any [OICI-related] proceeding." **To convey this message to officers and the public, SPD's labor contract expressly states that discrepancies between video and perception should be expected;⁹⁸ the contract makes clear that officers will not be disciplined for those discrepancies absent evidence of willful deception:**

An officer may not receive any discipline for any allegation of wrongdoing based upon a difference or discrepancy between the officer's statement/interview prior to watching video evidence and any other evidence unless the City can prove that the employee knew the information was discrepant and provided the discrepant information with an intent to deceive the City.

The San Jose (CA) Police Department (SJPd) also requires a perceptual interview of an officer before that officer watches BWC footage after OICIs; the officer is then allowed to watch the footage and provide a follow-up statement. SJPd policy contains the following language concerning the limitations of video:⁹⁹

*Investigators will be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by the involved officer. When the investigator shows any audio/video recordings to an involved officer **after** the initial interview, the investigator will admonish the involved officer about the limitations of audio/visual recordings.*

96 Police Executive Research Forum, "Body-Worn Cameras a Decade Later: What We Know," December 2023, https://www.policeforum.org/index.php?option=com_jevents&task=icalevent.detail&evid=75.

97 Michael D. White, Michaela Flippin, and Aili Malm, "Key Trends in Body-Worn Camera Policy and Practice: A Four-Year Policy Analysis of US Department of Justice-Funded Law Enforcement Agencies," CNA Corporation, Arizona State University, and Justice and Security Strategies, Inc., December 2019, <https://bjaojp.gov/library/publications/key-trends-body-worn-camera-policy-and-practice-four-year-policy-analysis-us>.

98 "Agreement By and Between the City of Seattle and Seattle Police Officers' Guild," Appendix A, Section 2, https://www.seattle.gov/documents/Departments/OPA/Legislation/SPOG_CBA_expires_12-31-20_111418.pdf.

99 San Jose Police Department Body Worn Camera Policy, 16. Officer Involved Incidents, <https://www.sjpd.org/about-us/inside-sjpd/body-camera-information/san-jose-police-body-worn-camera-policy>.

The following is an example of an admonishment that would be appropriate in a case involving video evidence that is shown to the involved officer after he/she has provided an initial statement. In these situations, the showing of a body-worn camera file to an officer will be documented in the investigator's report:

In this case, there is video evidence that you will have an opportunity to view after you have given your initial statement. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and recollection.

By expressly stating in policy and/or contract language that **discrepancies between what a device records and what an officer perceives and recalls should be expected, and then placing that information online to educate the public, agencies can better manage public expectations.**¹⁰⁰ And by expressly prohibiting discipline unless evidence of willful deception exists, agencies can reduce officers' uncertainty and anxiety.

Some agencies may not be able to require an immediate shift in their BWC viewing policies because of collective bargaining constraints. But there is nothing stopping an agency from educating its officers about why taking an untainted perceptual statement — and then allowing for post-viewing follow-up—is a more sensible way to proceed. Individual officers can always choose a perceptual interview despite being given the right to view footage first, a choice Denver (CO) Police Department officers make after nearly every OICI.



Denver Police Department Commander Matt Clark notes that *DPD policy allows officers to review video before providing their statement, but in the eight years since the policy was developed, only one officer has chosen to do so. "We want to get their perception first, without tainting it or influencing them by watching the body-worn camera video," he explains. "That's the practice and the culture."*

¹⁰⁰ As noted above in PLANNING, PART 1, having a pre-existing, publicly available policy to point to will also help the agency avoid appearing defensive or reactive at a press conference.

RECOMMENDATION: After an OICI, officers should be interviewed and provide a perceptual statement before watching relevant BWC footage. During the perceptual interview, officers should describe what they saw, heard, felt, believed, and experienced before arriving on scene, and any other relevant perceptions before, during, and after the OICI. After the perceptual interview, officers should be able to review BWC footage and offer clarifications or additions that they feel are appropriate.

Agencies should educate the public and their officers that discrepancies between officers' perceptions and what the video shows should be expected by placing this information in publicly available sources and spaces [SEE, ENGAGE IN PROACTIVE TRANSPARENCY]. Officers should not be disciplined for any such discrepancies absent willful deception.

If any video of the incident is released publicly before an officer is interviewed, those conducting the interview should ask officers whether they have seen it and when.¹⁰¹

III. Public Safety Questions

Some agencies expressed uncertainty about whether the public safety questions (PSQs) officers are asked after critical incidents represent compelled statements covered by Garrity protection [See *GARRITY AND SELF INCRIMINATION ISSUES*]. Agency policies vary — some expressly state that officers are “compelled” to answer PSQs, others indicate that answering PSQs is voluntary, and still others are silent on the issue. Because the implications of taking the type of compelled statements covered by *Garrity* are severe and PSQs involve asking questions of an officer, this confusion is understandable; but agencies should understand that PSQs are not the same types of questions the *Garrity* case dealt with.¹⁰²

PSQs are not meant to elicit information about whether an officer committed a crime; moreover, they are almost always asked before anyone has any idea whether the officer's conduct was ideal, within policy, or possibly criminal. **PSQs aim to quickly determine whether any danger still exists to the public, the involved officers, or the involved subjects.** These questions do not seek an officer's perceptions when they fired shots to measure their reasonableness (the central issue in most OICI criminal and administrative investigations); in fact, the officer is not the focus of an investigation at this point. Instead, these are basic questions any officer would be expected to answer if they had knowledge that affected public safety.

The Buffalo Police Department's (BPD) Critical Incident Policy appropriately highlights that PSQs are focused on whether a threat exists and where aid should be directed, not what happened at the moment the officer used deadly force:

¹⁰¹ Officers have the right to decline an interview as part of the criminal investigation, but not the administrative investigation [See *Garrity and Self-Incrimination Issues*]. In PERF's 2023 survey, 12 percent of agencies allow officers to review footage before an administrative investigation but not before a criminal investigation. This reflects the fact that administrative proceedings are generally governed by collective bargaining.

¹⁰² As noted in *GARRITY AND SELF-INCRIMINATION*, the *Garrity* case involved police officers who were suspected of crimes and were the focus of a criminal investigation when they were interrogated about their actions concerning those crimes.

In situations where a member ... is involved in a critical incident, the responding supervisor, to avoid possible Garrity issues, should utilize the following questions when speaking directly to the Officer or Officers involved. Avoid open ended questions of "what happened." The following questions are designed to elicit a public safety statement:

- *Are you injured?*
- *If you know of anyone who was injured, what is their location?*
- *In what direction did you fire your weapon?*
- *If any suspects are at large, what are their descriptions?*
- *What was their direction of travel?*
- *How long ago did they flee?*
- *For what crimes are they wanted?*
- *With what weapons are they armed?*
- *What is the location of any evidence that you may be aware of?*
- *Did you observe any witnesses and if so, where are they located.*

Buffalo Police Department, Critical Incident Policy § 21.1(A)

These types of questions elicit answers that help direct first responders to where they should look for suspects and/or individuals who may be injured, as well as whether ongoing threats to public safety exist; **public safety and any ongoing danger are the focus**. They are different from the questions an officer will be asked as part of the criminal or administrative investigations, where the officer is the focus and the officer's conduct is the ultimate issue.¹⁰³

Therefore, agency policies should not state that officers are "compelled" to answer PSQs, because doing so unnecessarily injects the language of *Garrity* into an area where it should not apply. Agency policies don't specify that officers are "compelled" to complete incident reports or "compelled" to write traffic tickets. Using that language about answering PSQs needlessly blurs a line between what is expected in the interest of public safety and what will be required once the officer-focused investigations begin.

Some agencies, such as New Orleans Police Department, expressly state in their policies and/or operations manuals that answers to PSQs are not "compelled" statements:

If an investigation proceeds criminally, any compelled interview of the subject officers shall be delayed. **Officers' routine reports and public safety statements are not compelled statements.** No other part of the investigation shall be held in abeyance unless specifically authorized by the Superintendent.¹⁰⁴

103 Courts have held that "[b]rief statements made by [officers] at the scene of an incident [should not be] suppressed under Garrity." (United States v. Camacho 739 F. Supp. 2d 1504 (S.D. Fla 1990)). Also see United States v. Cook, 526 F. Supp 2d 1 (D.C. Cir. 2007), holding that that simply because an officer (in this case, a Deputy U.S. Marshal) is expected to file routine use of force reports, this does not mean that Garrity protections apply to these statements. Agencies should discuss these issues with their legal authorities to gain a broader understanding of the issue.

104 New Orleans Police Department Operations Manual, Force Investigation Team (FIT) Policy Statement, Section 6. Emphasis added.

The University of Wisconsin-Madison Police Department makes explicit that answering PSQs is voluntary. Its reference guide, which directs supervisors to ask basic, safety-focused questions, is reproduced below:¹⁰⁵

PUBLIC SAFETY STATEMENT QUESTIONS

1. **Response to Public Safety Statement questions by the involved officer (s) is voluntary.**
2. The first arriving supervisor not involved in the incident shall seek a Public Safety Statement from the involved officer. This is not an interview and will address only the most basic information regarding the incident. Review the questions below for guidance.
3. The supervisor obtaining the Public Safety Statement shall document the information in an incident report and share it with the outside investigating agency.

Although not limited to the following questions, each question must be asked and answered if applicable.

1. **Are you injured?**
2. **What type of force was used?**
3. **In what direction did you fire your weapon?**
4. **Identify potential uninvolved victims who may be injured “down range” of the incident.**
5. **Where might there be other injured persons or persons requiring medical treatment?**
6. **Suspect(s) description, direction of travel, vehicle description, time suspect(s) last seen, and what types of weapons did the suspect(s) have?**
7. **Description and location of victims and/or /witnesses.**
8. **Is there any evidence that we should know about so it can be protected from loss, contamination, or destruction?**
9. **Is there any information you were not asked, which may help ensure public safety and assist in the apprehension of the suspect(s)?**

¹⁰⁵ These are examples. There are other safety-motivated questions an agency may wish to cover in its policy such as: Are you aware of the location(s) of any weapons or other hazards that need to be secured? In what approximate location was any person who discharged a firearm? In what direction was the weapon fired? See also, Mark Kollar, “Best Practices for Investigating an Officer-Involved Critical Incident,” Ohio Office of the Attorney General, 2021, <https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Law-Enforcement/OICI-Book>.

It is, of course, possible that an officer will refuse to answer PSQs in the immediate aftermath of a critical incident unless they are ordered to do so. But during PERF's interviews and at the meeting, only one law enforcement executive reported having ever heard of this happening, and in that case the union had advised all members not to answer PSQs after OICIs unless compelled to do so.

Since PSQs aim to determine whether people are in immediate danger or need medical attention after an OICI, it is hardly surprising that most officers need not be ordered to answer them. But if an agency does confront that situation, there should be an immediate discussion with other supervisory staff about whether that information can be obtained elsewhere, or if it's worth compelling the officer to provide it. **If it is determined that the officer should be compelled to answer, the information obtained should be walled off from criminal investigators, out of an abundance of caution.**¹⁰⁶

Some law enforcement executives at our meeting noted that if any officer refused to answer questions about whether people needed medical help or whether a dangerous person was at large unless they were expressly ordered to do so, they would refer that officer to internal affairs. The issue under examination in that case would be separate and distinct from whether the OICI was within policy.

RECOMMENDATION: Agency policy should not direct that officers are "compelled" to answer public safety questions. Agencies should develop written PSQs ahead of time and disseminate them. Supervisors and officers should be trained about the PSQs, including why they are asked. Answering PSQs after an OICI should be a routine expectation. If an officer refuses to answer PSQs unless compelled, there should be a discussion with command staff about whether there are other means of obtaining the information. If the officer is ultimately compelled to answer, the information obtained should be walled off from criminal investigators in an abundance of caution.

IV. Mandatory Pre-Interview Waiting Periods/Sleep Cycles

In PERF's survey, 31 percent of respondents indicated that they do not attempt to interview an officer until a preset period of time (usually 48 hours) has elapsed following an OICI, per policy. Research and opinions on this issue are mixed.¹⁰⁷ Some assert that one to two sleep cycles after the trauma of an OICI help an officer recall and relate what happened, while others find that memory is sharpest immediately after an event, fades quickly, and is subject to contamination.¹⁰⁸

Many of those PERF interviewed oppose mandatory waiting periods and question their utility. According to Fargo (ND) Chief David Zibolski, "I've done a lot of these [including at the Milwaukee Police Department] and, almost to a person, the officers know what they saw, what

¹⁰⁶ The "abundance of caution" reflects that even if compelled, the answers to those questions may not be (and are likely not) subject to Garrity protection; again, every agency should consult with its legal authority.

¹⁰⁷ For the differing perspectives on this issue, see Tom Jackman, "Police usually wait days before interviewing officers in shootings. A new study says they shouldn't," Washington Post, July 31, 2018, <https://www.washingtonpost.com/news/true-crime/wp/2018/07/31/police-usually-wait-days-before-interviewing-officers-in-shootings-a-new-study-says-they-shouldnt/>.

¹⁰⁸ Id.

they did, and why they did it. And they want to explain what happened. But now, others have convinced them that they need 48 hours to get their memory in order. However, during those 48 hours — social media, your phone, the news — all that stuff going on can adversely affect the officer's memory as well. There is no legal preclusion to adding to a statement later — this happens regularly in all investigations — officers are no different."

If an officer is affected by an OICI to the point that some amount of processing time would help the officer or benefit the investigation, then waiting for some amount of time would be appropriate. But setting a fixed amount of time (such as 48-72 hours) and applying it across an entire agency seems unwise. Agencies should instead adopt policies or guidelines with a modicum of flexibility. At the Ohio Attorney General's Bureau of Criminal Investigation (BCI), for example, the Officer-Involved Critical Incident Response Overview and Guidelines states:

BCI will attempt to obtain a quality interview from the involved officer(s) as soon as reasonably possible. As part of the interview process, BCI at a minimum provides the officer with an admonition (Criminal Investigation Notification) informing him/her that the investigation is criminal, not internal; that his/her participation in the interview is voluntary; that he/she has the right to refuse to answer any questions; and that, he/she is not compelled to cooperate.¹⁰⁹

As BCI Deputy Superintendent Mark Kollar explains, if an officer is so shaken after an OICI that a quality interview is impossible, this approach allows investigators to give the officer some processing time "without locking investigators into preset time frames that we don't provide to other, non-police subjects."

In the criminal investigation, the officer can refuse the interview altogether, as the BCI policy referenced above points out. But in the administrative interview, where the statement is compelled (assuming there is a proper wall in place), any preset waiting period should be an outer limit; investigators should be able and expected to request the interview well before that limit is reached.

RECOMMENDATION: Agencies should avoid designating a preset waiting period before investigators can interview any officer involved in an OICI. If such a waiting period exists, it should be an outer limit, not a mandatory minimum.

¹⁰⁹ See, BUREAU OF INVESTIGATIONS FOR CRIMINAL INVESTIGATORS: OFFICER INTERVIEWS, Involved-Officer Statements, <https://www.ohioattorneygeneral.gov/Files/Publications-Files/Background-Check-Publications/Officer-Involved-Incident-Booklet>.

6: Officer Education and Well-Being

Although this subject is covered last, it is extremely important. While the vast majority of OICIs are legally justified, and many do not reveal that the officer violated any policies or training, the officer at the center of the incident may struggle with the reality of a life lost, possibly amidst public demands for action that are based on inadequate context and legal knowledge. That same officer may have already been struggling with mental health, burnout, or other issues before the OICI took place.

Officer Education

As noted above, when an officer causes or contributes to a person's death or serious physical injury, an investigation must take place to determine whether those actions constitute a crime. This should be expected after any OICI, but few agencies proactively educate their officers about what they can expect during the process. For any officer, particularly one whose OICI was unambiguously justified, the fact that the incident is being evaluated as a potential crime can be unsettling, but it should not be unexpected; if it is, the agency has failed in its duty to the officer.

Proactively educating officers about what they should expect after any OICI can reduce the anxiety that accompanies these investigations. If an officer knows before an incident takes place that after any OICI, the involved officer will be (for instance) restricted from speaking to on-scene witness officers, initially isolated from select officers, and eventually read Miranda warnings, that officer may feel less apprehensive and defensive about the process. At the very least, that officer should not feel singled out and treated differently than others.

Captain Jeremy Christensen of the Omaha (NE) Police Department explains that to address this issue, during a portion of the basic academy, "The Officer-involved Investigations Team comes in and basically lays it all out for the officers. So there are no secrets about what's going to happen during the normal course of an investigation." Chief Marcia Harnden of the Albany (OR) Police Department notes, "We also train officers yearly on what to expect procedurally and from the mental health perspective" after an OICI. These are practices that every agency should adopt.

“Failing to educate officers, as well as the community and local government officials, about the investigative process that takes place after an officer-involved death is a failure of the system. It leaves officers feeling unfairly scrutinized, the community believing the process is secretive, and government officials totally unprepared.”

**Mark Rusin, Deputy Chief
Syracuse (NY) Police Department**



Every officer should be taught what the criminal and administrative investigations will entail and know their agency's policies about name release, disciplinary history release, and what will (and will not) generally be said publicly in the wake of an OICI [See, 4: TRANSPARENCY PRACTICES AFTER OICIs]. Knowledge of what will happen will not eliminate the psychological toll of an OICI but can help ensure that an officer does not feel singled out and stigmatized for what is most often justified conduct.

Finally, agencies can develop and disseminate a quick reference for officers detailing what to expect after an OICI. A guide like this can also include agency resources available to the officer. (APPENDIX C contains examples from the Green Bay (WI) Police Department and the Tucson (AZ) Police Department.)

By taking these steps, agencies can provide their officers with knowledge and tools to help them better navigate the anxiety and uncertainty about the processes that follow an OICI.

RECOMMENDATION: Agencies should proactively educate their officers about the standard procedures that will take place after every OICI so that officers know what the investigation and release of information practices will entail.

Officer Well-Being

Even if an OICI is justified and within agency policy and training, seriously injuring a person or causing death can take a serious emotional toll on an officer. This toll is in addition to any stress the officer may already have been under, the shock of the incident itself, and the anxiety of the criminal and administrative investigations (especially if the officer has not been educated on what those investigations will entail). The resources available to officers before and after an OICI can greatly affect their ability to cope.

According to PERF's survey, the great majority (92 percent) of responding agencies have services in place to support their officers' mental health after OICIs. But at several agencies, support and resources are only available on a short-term basis. OICI investigations can take months or even years to resolve; more importantly, the psychological toll of these incidents can last well beyond an official notification that an officer won't be prosecuted and the com-

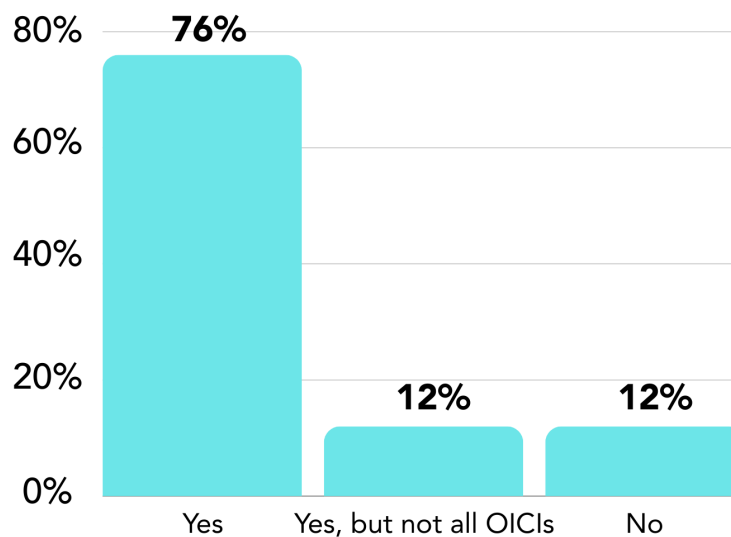
pletion of the administrative review. Agencies need to have protocols in place that maximize every officer's chance for resiliency and future success.

Mental Health Evaluations

Seventy-six percent of survey respondents require involved officers to undergo a mental/psychiatric evaluation before returning to work after any OICI. But 12 percent only require an evaluation in some cases, and 12 percent do not require an evaluation at all. (See Figure 14.)

Any officer whose actions resulted in a person's death or serious physical injury, regardless of whether those actions are determined to have been justified, should undergo an evaluation conducted by a licensed, qualified mental health professional to verify that their emotional response to the incident and coping mechanisms support a return to duty. An evaluation can also determine whether issues other than the OICI might have affected (or might still be affecting) that officer. **Having a consistent requirement that officers be evaluated before returning to work avoids singling out individual officers and lessens the stigma that can still surround mental health issues.**

Figure 14: After OICI, Evaluation Required Before Return to Work



Several meeting participants noted that OICI-related officer-wellness resources decrease after the officer returns to work and sometimes end long before the full investigation is complete. While 54 percent of PERF's survey respondents require at least one additional evaluation after the officer returns to duty, the rest do not.

Although officers involved in OICIs may be deemed fit for duty after a return-to-work evaluation, they may still need support — the type of support that some may have difficulty ask-

"We've tried to standardize all of this. So we don't say, 'Hey, do you want this?' We say, 'You're getting this — it's part of what you will go through after this happens.' As a chief, requiring these types of things doesn't single someone out because they want or need something. Everybody gets it."

Chief Rich Lockhart
Lawrence (KS) Police Department



ing for. Mandating some number of wellness check-ins with a peer support person or counseling sessions with a psychologist removes the burden on an officer to affirmatively seek help.

RECOMMENDATION: Every agency should require an evaluation conducted by a licensed, qualified mental health professional before allowing an officer to return to duty after an OICI. Agencies should also consider requiring all officers to participate in a certain number of periodic evaluations or check-ins after returning to duty. The agency should not leave it to the officer to seek help, because many will not. At the same time, agencies should be doing everything they can to de-stigmatize mental health-related issues and support officers who proactively seek help.

Types of Mental Health/Wellness Support Services

The structure, depth, and length of support services vary greatly among agencies. Below is a sample of the many practices noted by PERF's survey respondents, interviewees, and meeting attendees. Most larger agencies use a combination of the types of services noted below, but even small agencies can maximize their resources by, for instance, joining together with others in their region to form teams.

Mental Health Clinicians

Many police departments have police psychologists or other mental health clinicians on staff or on contract to evaluate officers' mental health and provide confidential counseling after an OICI. Some agencies go a step further by having clinicians respond to the location of the involved officer in the wake of an OICI. For example:

- Herndon (VA) Police Department has a clinical psychologist on contract who can respond on scene or connect virtually to provide immediate support to the involved officer. The clinical psychologist then provides leadership with guidance about the involved officer's mental state and whether they believe it is safe and appropriate to send the officer home with an alternate duty weapon. This is done without violating the confidentiality between the officer and the clinician.
- Baltimore Police Department partners with a health and wellness program that responds to the scene and works with involved officers throughout the investigation process and beyond if needed.



After an OICI, officers must see the police psychologist every 90 days for 18 months, or more frequently if the officer requests it. Our department and the officers involved have found this to be beneficial.

Chief Jason Arres
Naperville (IL) Police Department

- Moore (OK) Police Department has a licensed mental health provider on staff and available to talk to everyone involved in OICIs within hours of an incident. The department also provides officers and their families with information packets on the signs and symptoms of trauma and how to reduce its likelihood and impact.

Some agencies have created multi-disciplinary teams that include mental health clinicians. For example, the Albany (OR) Police Department has a Traumatic Response Support Team consisting of a mental health clinician, trained peer support staff, and a chaplain certified in critical incident stress management; the entire team is available to assist and support officers after OICIs.

Peer Support

Another way agencies can provide officers with resources and support after an OICI is through peer support teams consisting of officers who have been specially trained (including education about mental health, wellness, and the importance of confidentiality) to support other officers. The peer support model benefits officers who feel more comfortable talking to someone with direct experience in the job of policing. Chief Rich Lockhart of the Lawrence (KS) Police Department, which employs a peer support team, notes that his officers can choose which team member they are partnered with and reports that the program has worked well.

“Having a peer supporter return to the scene with the officer before the officer returns to full duty can be advantageous. Even if there was a preliminary scene walkthrough with investigators, the first time back to the scene outside of the OICI investigation can trigger emotions – that shouldn’t happen during a call for service in that same area. Also, having a peer supporter with them when they first fire/qualify with their gun before returning to full duty is advantageous since that can also be a trigger.”

**Mark Kollar, Deputy Superintendent
Ohio Bureau of Criminal Investigation**



Wellness Programs

Although this report focuses on mental wellness following an OICI, a growing number of agencies are developing wellness programs to support their officers’ physical and mental health more generally as they deal with the day-to-day stressors of the job. These programs can be especially important after an OICI.

One example of a preventative wellness program is the Tucson (AZ) Police Department’s Struggle Well,¹¹⁰ a 40-hour program for first responders that specifically addresses the stresses

¹¹⁰ See Ryan Fish, “How TPD recruits learn to ‘Struggle Well,’” KGUN Tucson, July 10, 2023, <https://www.kgun9.com/news/local-news/how-tpd-recruits-learn-to-struggle-well>.

“A health and wellness program is vital. We find that sometimes officers involved in critical incidents are also dealing with other issues that have taken place — either at work or at home. [Agencies shouldn’t neglect this issue] until it’s too late. We need to be aware and make sure we’re taking care of our officers 24/7.”

**Brian Nadeau, Deputy Commissioner
Baltimore Police Department**



inherent in policing. Everyone in the department — including professional staff, dispatchers, and officers — goes through the program, which equips them with wellness practices they can use at work and at home. Similarly, Metro Nashville Police Department Wellness Unit Sergeant Shaun Heath explains that his department has a “hire to retire” mentality about mental health, with recruits learning about the wellness unit and its resources on their first day in the academy.¹¹¹

Louisville’s Wellness Center for First Responders

The Louisville (KY) Metro Police Department recently opened the Summit Wellness Center¹¹² to serve first responders and their families. Its services include financial counseling and financial literacy courses, family support services, a full-time physical therapist, a full gym, a meditation space with a chaplain, and continuing education classes. The center and its resources are available to all officers, but those who have been involved in an OICI are placed on administrative assignment at the center so they can stay connected to fellow first responders while accessing needed support services.

Online/Mobile Services and Applications

Departments can make support services easily accessible at any time by providing an on-line or mobile-based app. While setting up some apps might be resource-intensive, multiple police agencies in an area can partner to save on costs and share resources.

For instance, the Washington Association of Sheriffs and Police Chiefs used state funds to implement a statewide wellness app for police officers, dispatchers, and their families.¹¹³ Through the app, officers can anonymously access mental health clinicians who are trained to work with police, as well as resources related to suicide prevention, substance abuse, and other behavioral health issues. Officers can also use the app to access information specific to

111 See Webinar: Supporting Officers After a Critical Incident: Model Programs, Police Executive Research Forum (2024), [Webinar: Supporting Officers After a Critical Incident: Model Programs \(youtube.com\)](https://www.youtube.com/watch?v=...).

112 Amanda Roberts, “Louisville leaders open brand new wellness center for first responders,” WDRB.com, October 17, 2023, https://www.wdrb.com/news/louisville-leaders-open-brand-new-wellness-center-for-first-responders/article_cf05235c-6d03-11ee-9116-7395528453cc.html.

113 Washington Association of Sheriffs & Police Chiefs, “Law Enforcement Wellness App,” <https://www.waspc.org/law-enforcement-wellness-app>

their agency, such as its employee assistance program, available health care plans, departmental emergency contacts, and other local resources.

Small Agency Size Should Not Preclude Offering Robust Services

The Whitehall Township (PA) Police Department, an agency with fewer than 50 sworn members, is part of the Eastern Pennsylvania EMS Council's Critical Incident Stress Management (CISM) Team, which includes other police agencies, fire, EMS, county personnel, local hospital system professionals, and peer counselors.

The CISM Team is activated through the 911 center. The CISM medical professionals determine the level of intervention needed from beginning to end. The peer counselors have been a very valuable part of the program. The officers that we have assigned to the team provide a valuable service and are also able to use their training and skills on a day-to-day basis with their peers and in the community. The team gives officers the opportunity to reach out to a peer support member from another agency if they don't want to discuss matters with a co-worker.

— Michael Marks, Chief of Police, Whitehall Township Police Department

RECOMMENDATION: Agencies should provide mental health and wellness services to their employees. Even smaller agencies can find ways to make wellness-related services available, such as partnering with other nearby agencies. Officer well-being should not become a focus only after an OICI. There should be options, as one size does not fit all officers.

Reintegration Processes

As noted in 5: THE CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS, automatically keeping an officer out of work for an extended period after an OICI, while waiting for an official decision on whether criminal charges will be filed, can be detrimental to that officer's mental health; it can also create significant challenges for small departments or those experiencing staffing issues. But as Wichita (KS) Police Department Commander Jason Bartel notes, "Regardless of whether an officer wants to and is able to return quickly, it's important to make sure there won't be failure to engage or other types of officer safety concerns when [that officer is] back on the street."

One way to guard against this is to implement a reintegration process that responds to individual officers' needs and ensures they are mentally and physically ready to engage in the full range of duty activities. Although some agencies are better resourced than others, every agency can implement simple processes (such as having officers requalify with a firearm on the range, rather than using a simulator) to lessen the likelihood that officers will under- or over-respond on the street.

Agency management should carefully review the type of case the officer was involved in when the OICI took place (e.g., going through the door while executing a warrant or approaching a vehicle on a traffic stop) and the extent of similar immediate future engagement when they first return to duty. Minnesota Bureau of Criminal Apprehension Deputy Chief Scott Mueller notes:

After an officer is involved in the use of deadly force and is physically and mentally ready to come back to work, we will sit down and talk for a while about the job, work plan, etc. Regardless of the great job an officer does, we're likely going to hold off putting the officer in the exact same position for a while and will slow down the transition back until they feel comfortable returning to the same duties as before the incident.

Sending an officer back to work after evaluating their mental state but without thoughtfully considering what their reintegration will look like may set them up for failure.

Denver Police Department's Reintegration Process

The Denver Police Department (DPD) operates a comprehensive reintegration program out of its police academy. DPD Sergeant Bobby Waidler, who helped develop the program, explains, "Basically, this reintegration process is a tactical pause. It's a chance to reset your nervous system and work on your self-care. Officers usually get a lot of tactical training, but we want to make sure they get some of the mental and emotional training as well."¹¹⁴

Peer support counselors guide officers through the program, and while each step of the process has a minimum length of time, an officer can take as long as they need to feel confident and capable before moving to the next step. Officers go through increasingly complex scenarios, with a virtual simulator and live scenarios, which trainers assess for under- or over-responses.

Officers also revisit the scene of the OICI with the Wellness Team so they can work through any issues in a controlled and private environment.

In addition, the Wellness Team works with officers to determine the best placement while they are on modified duty. When officers return to full street duty, they are initially partnered with a mentor who can communicate with the department about any lingering issues or needed support.

¹¹⁴ Deborah Takahara, "Denver PD offers unique reintegration program to officers injured in the line of duty, Fox 31 KDVR, October 15, 2019, <https://kdvr.com/news/local/denver-pd-offers-unique-reintegration-program-to-officers-injured-in-the-line-of-duty/>.

Wellness Webinar Series

In 2024, PERF sponsored a webinar series: Supporting Officer Wellness: Examples from the Field.¹¹⁵ The series focused on innovative practices agencies across the country are implementing to protect the mental health of their employees.

One webinar, Supporting Officers After a Critical Incident: Model Programs, featured speakers from the Metropolitan Nashville Police Department, the Washington, D.C. Metropolitan Police Department, and the Dallas Police Department.¹¹⁶ The speakers addressed officers' pervasive exposure to life-affecting events, separate and apart from OICIs. Each speaker shared promising practices and addressed OICI-related issues such as counseling, funding, and confidentiality.

RECOMMENDATION: Agencies should implement a reintegration process for involved officers that responds to individual officers' needs and ensures they are ready to engage in all full-duty activities.

115 Police Executive Research Forum, Officer Wellness Webinar, 2024, [Supporting Officer Wellness: Examples from the Field \(policeforum.org\)](https://policeforum.org/supporting-officer-wellness-examples-from-the-field)

116 Police Executive Research Forum, Supporting Officers After a Critical Incident: Model Programs, 2024, [Supporting Officers After a Critical Incident \(policeforum.org\)](https://policeforum.org/supporting-officers-after-a-critical-incident)

Conclusion

Over the past decade, PERF has done extensive work to improve police use-of-force policy, training, and practices, including our 2016 *Guiding Principles on Use of Force* report,¹¹⁷ our 2024 *15 Principles for Reducing The Risk of Restraint-Related Death* publication,¹¹⁸ and our 2016 Integrating Communications, Assessment, and Tactics (ICAT) training.¹¹⁹ While this focus on avoiding force and saving lives is essential, there still will be critical incidents in which officers use force. A single, poorly handled OICI can wipe out the community trust an agency took years to cultivate, so PERF is providing the field with new and emerging best practices for managing these incidents.

Consistency, transparency, and fairness are central to every recommendation in this guidebook. An ounce of prevention is worth a pound of cure – leaders from the smallest to the largest agency need to prepare for OICIs and have plans in place so that when an incident occurs, they are not left grappling with what to do in front of a public that rightfully expects answers.

Using the guidance in this book, **before** an OICI ever takes place, agencies should:

1. ASSESS THEIR CURRENT PRACTICES AND POLICIES because every agency, regardless of size, can benefit from a thorough review.
2. ENGAGE IN PROACTIVE TRANSPARENCY by publishing as much information as possible about OICIs, use of force, and the agency's response in one place on the agency website.
3. MEET WITH STAKEHOLDERS proactively to ensure these crucial meetings are not delayed until after an OICI.

117 See Police Executive Research Forum, "Guiding Principles on Use of Force," March 2016, <https://www.policeforum.org/assets/guidingprinciples1.pdf>.

118 See Police Executive Research Forum, "15 Principles for Reducing The Risk of Restraint-Related Death," 2024, <https://www.policeforum.org/assets/Restraint.pdf>.

119 See Police Executive Research Forum, "ICAT: Integrating Communications, Assessment, and Tactics," <https://www.policeforum.org/icat>.

Regarding how best to manage an OICI **after** one takes place, agencies should consider:

4. TRANSPARENCY PRACTICES and have concrete plans and policies for whether, how, and when information will be released to the public.
5. THE CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS, and the fact that *three* different investigations must occur after any OICI.
6. OFFICER EDUCATION AND WELLNESS, and the importance of educating officers about the investigative processes that will take place if they are involved in an OICI, as well as the need for robust wellness practices at the agency.

The guidance outlined in this publication will help ensure that every law enforcement executive makes decisions grounded in consistency, transparency, and fairness, which can, in turn, help to maintain community trust and officer wellness during these often-volatile critical incidents.

The Police Executive Research Forum

The Police Executive Research Forum (PERF) is an independent research organization that focuses on critical issues in policing. Since its founding in 1976, PERF has identified best practices on fundamental issues such as reducing police use of force; developing community policing and problem-oriented policing; using technologies to deliver police services to the community; and developing and assessing crime reduction strategies. Over the past decade, PERF has led efforts to reduce police use of force through its guiding principles on use of force¹²⁰ and innovative Integrating Communications, Assessment, and Tactics (ICAT) training program taught at the ICAT Training Center in Decatur, IL.¹²¹

PERF strives to advance professionalism in policing and to improve the delivery of police services through the exercise of strong national leadership; public debate of police and criminal justice issues; and research and policy development.

The nature of PERF's work can be seen in the reports PERF has published over the years. Most of these reports are available without charge online at <https://www.policeforum.org/free-online-documents>. All of the titles in the *Critical Issues in Policing* series can be found on the PERF website at <https://www.policeforum.org/critical-issues-series>. Recent reports include *Transforming Police Recruit Training: 40 Guiding Principles*¹²², *Embracing Civilianization: Integrating Professional Staff to Advance Modern Policing*¹²³, and *Rethinking the Police Response to Mental Health-Related Calls: Promising Models*.¹²⁴

120 Police Executive Research Forum. (March 2016). Guiding Principles on Use of Force. <https://www.policeforum.org/assets/guidingprinciples1.pdf>.

121 Police Executive Research Forum. ICAT: Integrating Communications, Assessment, and Tactics. <https://www.policeforum.org/icat>.

122 Police Executive Research Forum. (November 2022). Transforming Police Recruit Training: 40 Guiding Principles. <https://www.policeforum.org/assets/TransformingRecruitTraining.pdf>.

123 Police Executive Research Forum. (July 2024). Embracing Civilianization: Integrating Professional Staff to Advance Modern Policing. <https://www.policeforum.org/assets/Civilianization.pdf>.

124 Police Executive Research Forum. (October 2023). Rethinking the Police Response to Mental Health-Related Calls: Promising Models. <https://www.policeforum.org/assets/MBHResponse.pdf>.

In addition to conducting research and publishing reports on our findings, PERF performs management studies of individual law enforcement agencies; educates hundreds of police officials each year in its Senior Management Institute for Police,¹²⁵ a three-week executive development program; and provides executive search services to governments that wish to conduct national searches for their next police chief.

PERF's work benefits from its status as a membership organization of police officials who share information and open their agencies to research and study. Members also include academics, federal government leaders, and others with an interest in policing and criminal justice.

All PERF members must have a four-year college degree and subscribe to a set of founding principles emphasizing the importance of research and public debate in policing, adherence to the Constitution and the highest standards of ethics and integrity, and accountability to the communities that police agencies serve.

PERF is governed by a member-elected president, a Board of Directors, and a Board-appointed Executive Director.

To learn more about PERF, visit: www.policeforum.org

¹²⁵ Police Executive Research Forum. Senior Management Institute for Police. <https://www.policeforum.org/smip>

The Motorola Solutions Foundation

As the charitable and philanthropic arm of Motorola Solutions, the Motorola Solutions Foundation partners with organizations around the globe to create safer cities and equitable, thriving communities. We focus on giving back through strategic grants, employee volunteerism, and other community investment initiatives. Our strategic grants program supports organizations that offer first responder programming and technology and engineering education, and align with our values of accountability, innovation, impact, diversity, and inclusion. The Foundation is one of the many ways the company is solving for safer communities.



Motorola Solutions
Foundation

For more information on the Foundation, visit:
www.motorolasolutions.com/foundation

Appendix A1

Links to Agencies' Public OICI Policies¹

Agency	Link to Policy
Albany (OR) Police Department	https://public.powerdms.com/ALBANYOR/documents/200110
Alliance (NE) Police Department	https://public.powerdms.com/All6514/tree/documents/2058530
Bainbridge Island (WA) Police Department	https://public.powerdms.com/All6514/tree/documents/2058530
Bakersfield (CA) Police Department	https://content.civicplus.com/api/assets/99813e37-550e-494c-95b5-5c530d38d942
Baltimore County (MD) Police Department	https://resources.baltimorecountymd.gov/Documents/Police/policiespdnet/fieldmanual202201.pdf
Beloit Police (WI) Department	https://www.beloitwi.gov/vertical/Sites/%7B662E25CC-A6A0-4B38-B151-A18A081D6A0A%7D/uploads/BPD_Policy_305_Officer-Involved_Deaths_Critical_Incidents.pdf
Boston (MA) Police Department	https://police.boston.gov/rules-procedures/
Buffalo (NY) Police Department	https://www.buffalony.gov/DocumentCenter/View/7570/CHAPTER-11---PUBLIC-ASSEMBLAGES-EMERGENCIESpdf
Burlington (VT) Police Department	https://www.burlingtonvt.gov/sites/default/files/DD05%20Statewide%20Policy%20on%20Police%20Use%20of%20Force%202023.pdf
Charlotte-Mecklenburg (NC) Police Department	https://www.charlottenc.gov/cmpd/News-Resources/Resources
Chula Vista (CA) Police Department	https://www.chulavistaca.gov/home/showpublisheddocument/26609/638253825517870000
Concord (NC) Police Department	https://public.powerdms.com/ConcordPolice/documents/2616110/05.03%20Officer%20Involved%20Critical%20Incidents
Corona (CA) Police Department	https://www.coronaca.gov/home/showpublisheddocument/23540/638131826286800000
Denver (CO) Police Department	https://denvergov.org/files/assets/public/v/48/police-department/documents/operations-manual/om_book.pdf
Des Moines (IA) Police Department	https://public.powerdms.com/DesMoines/tree/documents/1127111
Dunwoody (GA) Police Department	https://public.powerdms.com/DPOLI/tree/documents/826927
Eau Claire (WI) Police Department	https://www.eauclairewi.gov/home/showpublisheddocument/39955/637957236013370000
Edgartown (MA) Police Department	https://www.edgartownpolice.org/divisions/resources/policies-procedures
Edmonton Police Service (Canada)	https://edmontonpolicecommission.com/1-2-3-inquiries-before-the-commission/
Elgin (IL) Police Department	https://public.powerdms.com/ELGPD/tree/documents/943731
Fargo (ND) Police Department	https://download.fargond.gov/0/305-officer-involved_critical_incidents_22.pdf

¹ This list contains the OICI policies of every agency that responded to the PERF Survey *and* publicizes its OICI policy on line.

Fayetteville (AR) Police Department	https://www.fayetteville-ar.gov/DocumentCenter/View/21445/136-Officer-involved-Shooting
Fresno (CA) Police Department	https://www.fresno.gov/wp-content/uploads/2023/06/PolicyManual-Redacted-June-2023_Redacted.pdf
Green Bay (WI) Police Department	https://greenbaywi.gov/DocumentCenter/View/9310/Green-Bay-PD-Policy-manual-Aug-2022
Huntsville (AL) Police Department	https://public.powerdms.com/HSVPS/tree/documents/37
Indiana University Health Department of Public Safety	https://psia360.iu.edu/sites/generalorders/#generalorder_preview
Kansas City (KS) Police Department	https://www.kckpd.org/files/sharedassets/police/v/1/documents/1.02-use-of-force.pdf
Kaysville (UT) Police Department	https://www.kaysville.gov/746/OIS-Policy
Kirkland (WA) Police Department	https://www.kirklandwa.gov/files/sharedassets/public/v/1/police/police-pdfs/pd-release_20201124_t101728_kirkland_pd_policy_manual.pdf
Lawrence (KS) Police Department	https://lawrenceks.org/police/policy/
Littleton (CO) Police Department	https://www.police.littletonco.gov/About-LPD/Littleton-Policy-Manual
Long Beach (CA) Police Department	https://citydocs.longbeach.gov/LBPDPublicDocs/DocView.aspx?id=131219&dbid=0&repo=LBPD-PUBDOCS
Loveland (CO) Police Department	https://public.powerdms.com/LOVEPD/tree
Lynchburg (VA) Police Department	https://public.powerdms.com/lynch/tree
Maple Grove (MN) Police Department	https://www.maplegrovern.gov/DocumentCenter/View/1208/Officer-involved-Shooting-or-Critical-Incident-Response-and-Investigation-PDF?bidId=
Metro Transit Police Department (MN)	https://www.metrotransit.org/Data/Sites/1/media/police/manual/chapter-3_8-5-22.pdf
Milpitas (CA) Police Department	https://www.milpitas.gov/DocumentCenter/View/1459/Department-Policy-Manual-PDF
Milwaukee (WI) Police Department	https://city.milwaukee.gov/ImageLibrary/Groups/mpdAuthors/SOP/453-OFFICER-INVOLVEDDEATHSANDOTHERCRITICALINCIDENTS1.pdf
Minneapolis (MN) Police Department	https://www.minneapolismn.gov/government/departments/police/mpd-policy-procedure-manual/policy-manual/
Moore (OK) Police Department	https://www.cityofmoore.com/departments-divisions/police-department/police-policy-manual
New Bern (NC) Police Department	https://public.powerdms.com/NBPD/documents/1276787
Newark (CA) Police Department	https://www.newark.org/home/showpublisheddocument/8466/637895776309970000
Omaha (NE) Police Department	https://public.powerdms.com/OPDEP1/tree/documents/838819
Oxnard (CA) Police Department	https://www.oxnardpd.org/wp-content/uploads/2023/06/2023-Oxnard-Police-Department-Policy-Manual.pdf
Pensacola (FL) Police Department	https://public.powerdms.com/PENSPD/tree
Piedmont (CA) Police Department	https://cdns5-hosted.civiclive.com/UserFiles/Servers/Server_13659739/File/PD_Policy_Manual_1_13_2022.pdf?v=x4USRr8RT&v=x4USRr8RT
Pittsburg (PA) Bureau of Police	https://pittsburghpa.gov/files/police/orders/ch1/12-10-Critical-Incidents-Involving-Police.pdf

Port Orchard (WA) Police Department	https://lf.portorchardwa.gov/WebLink/DocView.aspx?id=192143&dbid=0&repo=PortOrchard&cr=1
Portland (OR) Police Bureau	https://www.portland.gov/policies/police-directives
Prince George's County (MD) Police Department	https://www.princegeorgescountymd.gov/sites/default/files/media-document/General%20Orders%20Volume%20II%2010-30-2023.pdf
Redmond (OR) Police Department	https://public.powerdms.com/REDMONDOR/tree
Riverside (CA) Police Department	https://riversideca.gov/rpd/sites/riversideca.gov.rpd/files/pdf/manual/RELEASE_20230404_T171407_Riverside%20PD%20Policy%20Manual.pdf
Sanger Police (CA) Department	http://www.ci.sanger.ca.us/DocumentCenter/View/2543/Sanger-PD-Policy-Manual-2023
Santa Monica (CA) Police Department	https://public.powerdms.com/SANTAMONICACA/tree/documents/273649
Santa Rosa (CA) Police Department	https://www.srcity.org/DocumentCenter/View/35348/Policy-Manual-32422-SRPD
Seattle (WA) Police Department	https://public.powerdms.com/Sea4550/tree
Sparks (NV) Police Department	https://cms7files1.revize.com/sparksnv/Document_Center/Sparks%20Police/Polices%20and%20Directives/9.1-Use-of-Force.pdf
Spokane (WA) Police Department	https://www.spokanecounty.org/DocumentCenter/View/6338/SIIR-Team-Critical-Incident-Protocol?bidId=
Springfield (MO) Police Department	https://www.springfieldmo.gov/DocumentCenter/View/51884/SOG-10311-Lethal-Force-Investigations-and-Follow-up_Redacted?bidId=%20%20https://www.springfieldmo.gov/DocumentCenter/View/51906/SOG-2048-Critical-Incident-Response-Team?bidId=
Springfield (OR) Police Department	https://springfield-or.gov/wp-content/uploads/2021/11/1-5-1.pdf
Springville (UT) Police Department	https://www.springville.org/police/about/policies/
St. Petersburg (FL) Police Department	https://police.stpete.org/generalOrders/section-3/iii-42-PoliceActionDeathOrSeriousBodilyInjuryInvestigations.pdf
Thornton (CO) Police Department	https://public.powerdms.com/ThorntonPDCO/tree
Tucson (AZ) Police Department	https://www.tucsonaz.gov/Departments/Police/General-Orders
University of Wisconsin-Madison Police Department	https://uwpd.wisc.edu/content/uploads/2020/10/1.5-OICI-Redacted.pdf
Utah Transit Authority Police Department	https://www.rideuta.com/-/media/Files/Rider-Info/Public-Safety/Police/Officer_Involved_Shootings_and_Deaths2021.ashx
Vancouver Police Department (Canada)	https://vpd.ca/wp-content/uploads/2023/02/regulations-and-procedures-manual.pdf
Washougal (WA) Police Department	https://cityofwashougal.us/DocumentCenter/View/1400/Washougal-Police-Department-Policy-Manual-53-MB?bidId=
West Linn (OR) Police Department	https://westlinnoregon.gov/sites/default/files/fileattachments/police/page/7273/release_20230809_t135044_west_linn_pd_policy_manual.pdf
Wichita (KS) Police Department	https://www.wichita.gov/WPD/Pages/Policy.aspx
Wilmington (DE) Police Department	https://www.wilmingtonde.gov/home/showpublisheddocument/10709/637848468618570000
Yakima (WA) Police Department	https://yakimapolice.org/assets/Yakima-Police-Department-Policy-Manual.pdf

Appendix A2



Albany Police Department

Officer Involved Shooting/Critical Incident CHECKLIST

*This checklist is intended to provide basic reminders to a supervisor at the scene.
It neither replaces nor supersedes the procedures outlined in Policy 0290: Law Enforcement Employee-Involved Critical Incidents.*

Officer injured? ☐ Yes ☐ No

Others injured? ☐ Yes ☐ No

IMMEDIATE CONSIDERATIONS:

- ☐ Secure scene
- ☐ Request ambulance if needed
- ☐ Crime broadcast
- ☐ Request additional personnel
- ☐ Obtain preliminary statement from involved Officer
- ☐ Locate and identify witnesses
- ☐ If firearm used, ensure weapon is secure
- ☐ Advise involved Officer of right to Association representation/Notify APA Representative
- ☐ As soon as practical, relieve involved Officer of duties

NOTIFICATIONS:

- ☐ Patrol Lieutenant/Watch Commander will notify the following...
 - ☐ Chief
 - ☐ Captains
 - ☐ Investigations, LINE, and Admin Lt
 - ☐ District Attorney
 - ☐ TRUST Team, Chaplain
 - ☐ Oncoming Shift Sergeant
 - ☐ Support Services Manager
 - ☐ APA
 - ☐ PIO
- ☐ Division Commander of involved Officer will
 - ☐ Assign Companion Officer
 - ☐ Assign Transport Officer
 - ☐ Ensure involved Officer is transported to APD
- ☐ Investigations LT will notify the Officer's family, if hospitalized

INCIDENT COMMAND:

- ☐ Establish command post if necessary
- ☐ Record action taken
- ☐ Brief personnel
- ☐ Establish perimeter security
- ☐ Press relations: *Only information authorized by the Chief shall be released*

SPECIALIZED UNITS & EQUIPMENT (as necessary):

- ☐ Drone/UAS
- ☐ Medivac
- ☐ SWAT
- ☐ SAR
- ☐ Public Works (e.g. barricade roads)

CHRONOLOGICAL DOCUMENTATION:

- ☐ Date and time call received
- ☐ Names, badge numbers, rank of Officers involved
- ☐ Current assignment and details
- ☐ Uniform or plain clothes
- ☐ Types of vehicles
- ☐ Description of scene including background

PERSONNEL AT SCENE:

- ☐ Identify all law enforcement personnel at scene
- ☐ Name, rank, badge number, current assignment
- ☐ Name of first supervisor at the scene
- ☐ Other related persons, e.g., ambulance

SUSPECTS:

- ☐ Include all known information
- ☐ Description
- ☐ Prior record
- ☐ Parole/Probation information

NOTES:

01/15/2022

ALBANY POLICE DEPARTMENT
FORCE RESPONSE INVESTIGATIVE ELEMENTS (CRITICAL ACTION/OIS)

NOTIFICATION LIST

- | | | | |
|---|--|---|---|
| ☐ Field Supervisor | ☐ Patrol LT | ☐ Investigative LT | ☐ Detective SGT |
| ☐ Support CAPT | ☐ Operations CAPT | ☐ Chief of Police | ☐ On-call DA (Linn/Benton) |
| ☐ APA Union Rep | ☐ Chaplain | ☐ Trust Team | ☐ PIO |

CIRCUMSTANCES

- | | | | |
|---|---|--|---|
| ☐ Location | ☐ Call for Service | ☐ Self-Initiated | ☐ Environment |
| ☐ Weapon access by (S) | ☐ Weapon used by (S) | ☐ Vehicle as Weapon | ☐ No Weapon Used |
| ☐ Officer Injured/Deceased | ☐ Suspect Injured/Deceased | ☐ Witnesses Available | ☐ BWC/IVRS |
| ☐ Search Warrants Needed | ☐ Social Media | ☐ Civil Unrest | ☐ Policy Issues |

CRIME SCENE

- | | | | |
|---|---|---------------------------------------|--|
| ☐ Scene Security (inner & outer) | ☐ Scene Log | ☐ Area Canvass | ☐ Search Warrant (Y/N) |
| ☐ FARO scan/drone overheads | ☐ Video Walk-Through | ☐ All-Hazards | ☐ Multiple Crime Scenes |

EVIDENCE COLLECTON

- | | | | |
|---|---|---|---|
| ☐ Police Equipment | ☐ Officer Uniform | ☐ Officer Vehicle | ☐ Suspect Vehicle |
| ☐ Officer Handgun/mags | ☐ Officer Patrol Rifle | ☐ Suspect Weapon(s) | ☐ Suspect clothing |
| ☐ Shell Casings (# & location) [officer & suspect] | ☐ Position of Suspect(s) | ☐ Position of Officer(s) | ☐ Fingerprints |
| ☐ Rounds/trajectory | ☐ Firearm ballistics | ☐ Suspect firearm- IBIS | ☐ Police Radio Traffic |
| ☐ DNA Standards | ☐ Blood Spatter | ☐ 911 call(s) | ☐ BWC/IVRS |
| ☐ Social Media Preservation | ☐ Surveillance cams | ☐ Civilian Cell Phones | |

PHOTOGRAPHS

- | | | | |
|---|--|--|---|
| ☐ Crime Scene/Evidence | ☐ Involved Officer(s) | ☐ Uniform/Equipment | ☐ Officer Vehicle(s) |
| ☐ Suspect | ☐ Suspect Vehicle | | |

SUSPECT ACTIONS

- | | | | |
|--|---------------------------------------|--|---|
| ☐ Statements by suspect | ☐ Threats made | ☐ Behaviors/movements | ☐ Type of resistance |
| ☐ Assaultive behaviors | ☐ Injuries | ☐ Weapon(s) possessed | ☐ Weapons used |

SUSPECT HISTORY

- | | | | |
|---|---|--|--|
| ☐ Criminal History | ☐ Parole/Probation/DOC | ☐ Mental Health | ☐ Substance Abuse |
| ☐ Family | ☐ Military | ☐ Employment | ☐ Medical |

INVOLVED OFFICER ACTIONS

- | | | | |
|---|---|--|--|
| ☐ Call for Service | ☐ Actions of Officer | ☐ De-escalation | ☐ Backup Requested |
| ☐ Tactics Employed | ☐ Verbal Commands | ☐ Officer Perception | ☐ Perception Distortion |
| ☐ Options Considered | ☐ Thought Process | ☐ Emotions felt | ☐ Weapons(s) Used |
| ☐ # of Shots | ☐ Injuries sustained | ☐ Attempt to Render Aid | |
| ☐ Supervisor Requested | ☐ EMT Requested | ☐ Information known at the time | |

AUTOPSY

- | | | | |
|--|--|---|---------------------------------|
| ☐ Date/time | ☐ Death Certificate | ☐ Toxicology | ☐ Photos |
| ☐ All tests conducted | ☐ Injuries/Trauma to body | ☐ Medical Issues | |
| ☐ Entrance Wounds | ☐ Exit Wounds | ☐ Stippling | |

INTERVIEWS

- | | | | |
|--|---|---|--|
| ☐ Involved Officer(s) | ☐ Witness Officer(s) | ☐ Witness(es) | ☐ Responding Officer(s) |
| ☐ Suspect | ☐ AFD | ☐ Hospital Nurse | ☐ ER Physician |

INVESTIGATION FILE

- | | | |
|--|---|--|
| ☐ Chronological Log | ☐ Initial Reports | ☐ Evidence List |
| ☐ FD-EMS Reports | ☐ Medical Records | ☐ ME Report |
| ☐ OSP Forensic Lab | ☐ CAD/Event | ☐ Administrative Review Memorandum |
| ☐ Media Release Log | ☐ Media Coverage | ☐ 911 call transcript |
| ☐ MDT chat logs | ☐ BWC/IVRS | ☐ Cell Phone Recordings/Surveillance Recordings |
| ☐ FARO scan | ☐ Internal Memorandums | ☐ Miranda Warnings |
| ☐ Radio log transcript | ☐ Garrity Warnings | ☐ Involved Officer Interview Transcripts |
| ☐ Toxicology | ☐ Relevant Gos | ☐ Suspect Interview Transcript |
| ☐ TASER Download Report | | |

INVOLVED OFFICER RECORDS

- | | |
|--|--|
| ☐ Training Records
DPSST Academy & Certifications
Outside/In-House Training
Handgun/Rifle Qualifications
Use of Force Policy Training | ☐ Personnel Records
Commendations/Complaints
Use of Force Investigations
Early Warning System
Last Performance Evaluation |
| ☐ LE Employee-involved Critical Incident Policy | ☐ Oath of Office/Code of Ethics |

ALBANY POLICE DEPARTMENT
CRITICAL INFORMATION WORKSHEET (PATROL)

CASE	DATE	LOCATION	TOC	TOA
INVOLVED PATROL OFFICERS				
PRIMARY OFFICER	BWC Y N	BADGE	CELL	CURRENT LOCATION
PATROL SGT	BWC Y N	BADGE	CELL	CURRENT LOCATION
ADDITIONAL OFFICER	BWC Y N	BADGE	CELL	CURRENT LOCATION
ADDITIONAL OFFICER	BWC Y N	BADGE	CELL	CURRENT LOCATION
ADDITIONAL OFFICER	BWC Y N	BADGE	CELL	CURRENT LOCATION
ADDITIONAL OFFICER	BWC Y N	BADGE	CELL	CURRENT LOCATION
VICTIM(S) INFORMATION				
V1 NAME	DOB	ADDRESS	NOTES	
V2 NAME	DOB	ADDRESS	NOTES	
V3 NAME	DOB	ADDRESS	NOTES	
SUSPECT(S) INFORMATION				
S1 NAME	DOB	ADDRESS	NOTES	
S2 NAME	DOB	ADDRESS	NOTES	
S3 NAME	DOB	ADDRESS	NOTES	
WITNESS INFORMATION				
W1 NAME	DOB	ADDRESS	NOTES	
W2 NAME	DOB	ADDRESS	NOTES	
W3 NAME	DOB	ADDRESS	NOTES	
VEHICLE(S)				
LIC PLATE	MAKE/MODEL	COLOR	NOTES	
LIC PLATE	MAKE/MODEL	COLOR	NOTES	
LIC PLATE	MAKE/MODEL	COLOR	NOTES	



ALBANY POLICE DEPARTMENT

OFFICER INVOLVED SHOOTING/CRITICAL INCIDENT MANUAL

OIS100

QUICK REFERENCE GUIDE

Effective: 03/14/2022

INVOLVED OFFICERS

- Render scene safe
- Notify dispatch of critical incident
- Render first aid to injured person(s)
- Protect crime scene/preserve evidence (including firearm if applicable)
- Provide Public Safety Statement

PATROL SERGEANT

- Assume command of scene until relieved
- Ensure medical aid to any injured person(s)
- Initial effort to locate/apprehend suspect(s)
- Establish initial crime scene
- Obtain Public Safety Statement
- Notify Lt and request additional resources
- Secure body worn cameras for involved officers
- Request Nixle alert
- Identify witnesses

PATROL LIEUTENANT

- Respond to assist Patrol SGT w/ field duties & tactical command of scene
- Notifications up chain of command
- Ensure Patrol staffing for remainder of shift & crime scene security
- Assign transport for Involved Officer(s) back to APD

COMMUNICATIONS CENTER

- Dispatch additional Patrol Units and Patrol Supervisor to scene
- Stage medics
- Create 911 & radio traffic recordings for investigators

OPERATIONS CAPTAIN
• Notify Chief of Police, Support Services Captain, and all police supervisors • Respond to scene • Brief the Chief of Police • Establish incident command post • Coordinate the logistics at APD • Transport involved officers to APD
SUPPORT SERVICES CAPTAIN
• Request Major Crime Team activation • Brief Chief of Police of incident/investigation updates • PIO support • Issue memos for critical incident leave and court unavailability • Contact CIS • Email/Text to all internal police department employees • Notify OR-OSHA
CHIEF OF POLICE
• Respond to the scene • Decide investigative agency • Check on all working employees • Prepare coordination with DA, investigating agency for news release • Notifications to Albany officials
INVESTIGATIONS LIEUTENANT
• Begin detective call out • Begin investigative timeline • Request outside agency investigation (if applicable) • Serve as liaison between investigating agency and APD • Involved officer family notifications, if hospitalized • Hospital considerations

DETECTIVE SERGEANT

- Assume crime scene command
- Relieve field supervisor
- Make assignments to ensure crime scene integrity/evidence
- Area canvass

SUPPORT SERVICES MANAGER

- Respond to communications center
- Coordinate APD recordings
- Obtain 911 recordings
- Restrict APD recordings
- Process approved reports

PUBLIC INFORMATION OFFICER

- Initial media release
- Create Joint Information Center w/ responding/assisting agencies
- Regular media updates
- PIO release log

Appendix B1

MEMORANDUM OF UNDERSTANDING BETWEEN THE OHIO ATTORNEY GENERAL AND CITY OF VANDALIA, DIVISION OF POLICE

WHEREAS, it is the desire of the CITY OF VANDALIA, DIVISION OF POLICE (“VPD”) to assure that an independent, professional, unbiased and prompt investigation is performed after sworn personnel of the VPD are involved in a discharge of a firearm (not including the shooting of an animal, training accidents, or accidental discharges where no injuries occur); a use of force resulting in life-threatening injury or death that occurs as a result of persons being taken into custody, while in custody, or while being detained by sworn personnel of the VPD (hereinafter collectively referred to as a “Critical Incident”); and

WHEREAS, the Ohio Attorney General’s Office, Bureau of Criminal Investigation (“BCI”), in certain circumstances, provides such investigative services to law enforcement agencies; and

WHEREAS, to assure that an independent, professional, unbiased and prompt investigation is always performed, the VPD desires that BCI perform all investigations of Critical Incidents for the VPD involving their sworn personnel who are duly authorized to carry a firearm; and

WHEREAS, it is thus the desire of the VPD and BCI to set forth the terms under which BCI will perform such an investigation for the VPD; and

NOW, THEREFORE, be it agreed by the parties hereto, each in consideration of the mutual promises and obligations set forth herein, that:

I. PURPOSE

The VPD seeks to increase the legitimacy of Critical Incident investigations with the public through impartial, unbiased, timely, and transparent investigations. Accordingly, VPD desires that BCI perform all investigations of Critical Incidents.

II. AUTHORITY

A. BCI has the authority to conduct investigations of criminal activity in the state that is of statewide or intercounty concern, when requested by local authorities pursuant to Ohio Revised Code (R.C.) 109.54 *et seq.*

B. The superintendent of BCI has the authority to recommend cooperative policies for the coordination of the law enforcement work and crime prevention activities pursuant R.C.109.55.

III. VPD RESPONSIBILITIES

Upon the occurrence of a Critical Incident as described in this Memorandum of Understanding (the “MOU”) the VPD shall:

- A. Immediately submit an official request for investigation of the Critical Incident investigation to BCI from the VPD Chief of Police, or his/her designee by calling BCI’s communications center, at 855-BCI-OHIO (855-224-6446).

- B. Provide the following information:
- 1) An overview of the incident, including the number of involved employees and witnesses.
 - 2) An agency contact name and that contact's direct phone number. The contact person shall be an individual who has been at the scene or one with the most knowledge about the incident and shall perform this function until an Investigations Supervisor from the VPD is assigned to the Critical Incident.
 - 3) The number and location of scenes; GPS-recognizable addresses are preferred.
 - 4) The current location and status of the individuals involved, whether those involved are deceased, at the hospital, in custody or at large.
 - 5) Environmental details, i.e., indoors or outdoors, any hazards or special circumstances such as weather conditions that could alter evidence, multiple scenes or a large volume of evidence.
- C. Provide the following assistance:
- 1) Ensure that the safety and well-being of the public, employees, subjects and investigators are maintained. Summon medical assistance for the injured.
 - 2) Ensure that any and all involved VPD personnel remain on scene until BCI investigators release them.
 - 3) Preserve the crime scene. Establish and maintain an adequate perimeter with physical barriers (crime scene tape, for example) and preserve all evidence without disturbing or moving it. Remove nonessential personnel from the scene.
 - 4) Maintain a crime scene access-control log. Document the people who were within the scene during or after the incident, including all police, fire and EMS personnel.
 - 5) Provide personnel (uninvolved in the incident) to control traffic, crowds and the scene.
 - 6) If necessary, notify the county coroner.
 - 7) Notify the county prosecutor.
 - 8) If necessary, make notifications to next of kin.
 - 9) If necessary, provide uniformed employees to accompany BCI agents when conducting interviews related to the critical incident.
 - 10) The VPD agrees not to conduct any *Garrity* interviews of involved employees until notified by BCI that doing so would not hamper the criminal investigation.
 - 11) Provide a briefing to BCI personnel that omits any *Garrity*-derived statements or evidence.
 - 12) To the extent possible, ensure all witnesses and/or the involved employee(s) are kept apart (though not necessarily alone).
 - 13) Transport the involved employee(s) to a single, safe location (such as a hospital or police facility) to await contact by BCI.
 - a) Direct the employee(s) to remain clothed as the employee was at the time of the incident until the employee is photographed.
 - b) Direct the employee to keep the employee's firearm holstered until it is inspected/collected by BCI.
 - c) Assure that all involved employees remain separated from one another.
 - 14) Make involved employees reasonably available to BCI investigators for interviews when requested.
 - 15) Determine whether any photographs or recordings (including photos or videos from civilian and employee cellphones) were taken prior to BCI's arrival and, if so, obtain and preserve them.

- a) Determine whether any additional physical evidence exists outside of the scene and, if so, identify its location and take steps to assure the evidence is maintained until BCI arrives.
 - b) Should exigent circumstances arise which could lead to the potential destruction of evidence, assist BCI by collecting and preserving said evidence.
- 16) Identify all witnesses and request that they remain available for interviews with BCI, and if need be, detain such witnesses until BCI can attempt to obtain a statement from said witnesses. The VPD will not question the involved employee(s) regarding the incident except as directed in the “Involved-Employee Statements” section of the BCI Law Enforcement Guide to Requesting BCI Investigative Services for an Officer-Involved Critical Incident (“BCI Booklet”).
 - 17) If requested by BCI, and if available for use, bring an VPD mobile command unit to the scene for use by BCI.
 - 18) Take responsibility for filling out the Uniform Crime Reporting (UCR) or Ohio Incident Based Reporting System (OIBRS) information for the incident as well as any additional optional or mandated statistical incident reports.
 - 19) Assign an Investigations Supervisor to serve as a liaison for the investigation in order to facilitate communication.
- D. Provide the following records:
- 1) Audio and video recordings, including dashcam, bodycam, surveillance footage, etc.
 - 2) Incident reports, including any witness statements or use-of-force reports (excluding any *Garrity*- derived reports).
 - 3) Dispatch logs, radio logs, CAD reports.
 - 4) Audio recordings from 911 or other phone calls related to the incident.
 - 5) Photographs, videos (including personal cellphone videos) or other recordings taken by employees, witnesses or anyone else.
 - 6) Radio recordings for the time frame in question.
 - 7) Crime scene log (see BCI Booklet, Page 4 for a sample log).
 - 8) EMS run reports and a list of all first responders.
 - 9) The involved employee’s personnel file (including disciplinary or internal affairs records for previous incidents) but excluding copies of any internal affairs investigation or *Garrity* statements related to the current incident under investigation.
 - 10) The involved employee’s training records.
 - 11) Ohio Peace Employee Training Commission (OPOTC) certification records for any involved employee.
 - 12) Firearm qualification records for the involved employee(s).
 - 13) Copy of agency’s use-of-force policy.
 - 14) Mobile data terminal entries and instant messages from the vehicle of the involved employee(s).
 - 15) Police reports/recordings of any previous law enforcement encounters with the subject(s).
 - 16) Any other pertinent records or recordings that would help provide a complete and accurate understanding of the incident under investigation.

IV. BCI RESPONSIBILITIES

Upon receiving a request from VPD as described herein, BCI shall:

- A. Contact a BCI special agent supervisor, who will contact the VPD's point of contact to gather further details to assist in the dispatching of appropriate personnel. The special agent supervisor shall provide the VPD an estimated time of arrival. A team of BCI special agents from multiple disciplines, to include agents from BCI's Crime Scene Unit and Special Investigations Unit, as determined by the situation, shall respond. The time of day and the agents' physical proximity to the incident location are the primary factors affecting response time. BCI will make every effort to ensure the agents assigned will be free of any perceived conflict of interest regarding the investigation.
- B. Conduct the investigation as a criminal investigation, not internal or administrative, hereinafter called "the investigation." One Investigations Supervisor from the VPD shall be permitted to accompany BCI special agents during most activities to the extent that his/her participation does not hamper the investigation, that independence is maintained, and that *Garrity* information does not impact the criminal investigation. Regardless, no employee of the VPD will be permitted to be present during interviews with the involved employee(s).
- C. Coordinate and lead the investigation. Allowing the presence of a representative from the VPD is a courtesy that can be revoked. The investigation takes precedence over any internal or administrative investigation. BCI does and will work independently of the VPD's policies, procedures and chain of command in the investigation. In order to preserve BCI's independence, professionalism, lack of bias and promptness, BCI is not and will not be bound by any collective bargaining agreement between the VPD and the union(s) representing their sworn personnel.
- D. Collect all evidence secured by the VPD and maintain all evidence gathered during the course of the investigation at a facility controlled by BCI.
- E. If, during the course of the investigation, BCI learns of any issues of an exigent/emergent nature which could pose a danger to police or public safety, BCI shall inform the VPD Chief of Police of their concerns. This would include provision to the Chief of Police of a copy of any additional video footage of the incident discovered during the course of the investigation. Additional video footage will be provided only after the BCI investigation has been completed.
- F. Prior to releasing the scene, but at the conclusion of the on-scene investigation, BCI will notify the VPD and allow the assigned Investigations Supervisor and the VPD Chief of Police or the designee of the Chief to conduct a walk-through of the scene.
- G. Make no determination or provide any opinion on whether a use of force was legally justified. After the investigation is completed, BCI will provide the completed investigative report to the appropriate prosecutor's office and, with the prosecutor's approval, to the VPD.
- H. Investigate potentially related crimes only when the investigation into the employee-involved critical incident leads to evidence of other potential criminal conduct by the employee(s) involved in the Critical Incident, or upon request by the VPD, and with approval by BCI, when the employee involved Critical Incident and related crimes are inextricably intertwined with the employee involved Critical Incident, the VPD upon request from BCI will assist with the investigation of these potential related crimes. Otherwise, the VPD is responsible for any investigation, filing of charges and prosecution of other potential crimes leading up to, contemporaneous with or subsequent to the employee-involved Critical Incident.
- I. BCI, with the assistance of the VPD, will coordinate with the union(s) representing VPD's sworn officers to arrange the formal interview of any involved employee(s). As part of the interview process, BCI at a minimum will provide the employee with an admonition (Criminal Investigation Notification – BCI-INVEST-34) informing the employee that the investigation is criminal, not

internal; that the employee's participation in the interview is voluntary; that the employee has the right to refuse to answer any questions; and that, the employee is not compelled to cooperate. At the investigating agent's discretion, the *Miranda* warning may also be read to involved individuals. The interview shall be recorded, and the employee(s) shall be afforded his/her right to legal counsel should the employee express such desire verbally or in writing.

V. EVIDENCE

A. All evidence pertinent to the Critical Incident investigation shall generally be stored under the control of the BCI's property room in accordance with established evidence collection, preservation, and storage procedures. VPD shall be responsible for storage, transportation, and handling costs of extraordinary items such as, but not limited to, vehicles and hazardous materials.

B. No evidence pertinent to the Critical Incident investigation shall be released or destroyed without consent of the prosecutor charged with reviewing or prosecuting the case. Once the criminal review or prosecution is complete, all property will be returned to the VPD for proper storage, return, or disposal.

VI. CUSTODIAN OF RECORDS

BCI shall be designated as the custodian for all records for Critical Incident investigations. All original reports, statements, and other documentation shall be filed and maintained by BCI. Investigative reports authored by VPD shall be written in accordance with BCI's report writing standards.

VII. CONFIDENTIALITY

A. To maintain the integrity of the investigations, VPD shall not discuss or disclose any information or material outside its obligations under this MOU without the prior written consent of BCI.

B. Any information gathered and/or report(s) generated by the VPD during the course of its investigations that are maintained by the BCI, VPD, a prosecutor, the Attorney General, or a special prosecutor, except those designated as public records under applicable law, is deemed a confidential law enforcement investigatory record for purposes of Ohio Revised Code Section 149.43.

C. This Confidentiality Section does not, however, affect or limit the right of discovery granted under the Ohio Revised Code, the Rules of Criminal Procedure, and/or the Rules of Juvenile Procedure.

VIII. CASE ASSIGNMENTS

A. The BCI supervisor with designated oversight for operational and investigative matters will be responsible for opening, monitoring, directing, and closing Critical Incident investigations in accordance with existing BCI policy and the applicable Ohio Attorney General guidelines.

B. Assignments of cases to personnel will be based on, but not limited to, experience, training and performance, in addition to the discretion of the BCI supervisor with designated oversight for operational and investigative matters. For BCI administrative purposes, Critical Incident investigations will be entered into the relevant BCI computer or case management system.

IX. CONFLICT OF INTEREST

It is of vital importance that VPD and BCI maintain the integrity of all Critical Incident investigations by only including professional, independent, unbiased, and conflict-free investigators on each investigation. While it is understood that conflicts will periodically arise, it is imperative that any conflicted personnel be excluded from any significant investigative activity or privileged information regarding the conflicted matter. As the manner in which any conflicts or perceived conflicts are addressed can have serious implications for the Critical Incident investigations, the recusal of a personnel shall be documented by the VPD and/or BCI.

X. MISCELLANEOUS

- A. Liability. Each Party to this MOU shall be responsible for its own acts and omissions and those of its officers, employees and agents. In no event shall any Party be liable to any other Party for indirect, consequential, incidental, special, or punitive damages, or lost profits.
- B. Media. Media releases regarding any of the Critical Incident investigations will be coordinated through the Ohio Attorney General's Office public information officer. VPD is to refrain from conducting their own releases of information. This MOU does not preclude the right of VPD to conduct their own media releases, however, it is requested that BCI be consulted prior to any substantive release of information that may hamper the integrity of the investigation.
- C. Entire Agreement. This MOU constitutes the entire understanding between the parties. Neither party may further modify or amend the terms of this MOU except by a written agreement signed by both parties. Neither this MOU, nor any rights, duties, or obligations described herein, shall be assigned by either party hereto without the prior written consent of the other party. This MOU shall be construed under the laws of the State of Ohio. No modification, amendment, alteration, addition or waiver of any section or condition of this MOU shall be effective or binding unless it is in writing and signed by an authorized representative of the VPD and BCI.
- D. Expenses. VPD shall be responsible for any necessary and actual expenses incurred by their respective employee, including, but not limited to wages, overtime, insurance of every type and description, expenses incurred for food, lodging, or travel, and any other necessary and actual employee associated expenses during the course of Critical Incident investigations. Except as expressly provided herein, no Party shall have the right to bind or obligate another Party in any manner without the other Party's prior written consent.
- E. Headings. The headings in this MOU have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this MOU.
- F. Term and Termination. This MOU is made effective as of the latest date of signature below, and shall continue in effect for three (3) years from the date this agreement is signed. Either party may terminate this MOU upon sixty (60) days prior written notice to the other party for any reason whatsoever.
- G. Applicable Law. This MOU is made and entered into in the State of Ohio and shall be governed and construed in accordance with the laws of Ohio. This MOU is not intended to confer any

rights, privileges, or benefits upon individuals or entities in excess of those conferred and permitted by law.

IN WITNESS WHEREOF, the parties have executed this MOU as of latest day and year written below.

AGREED:

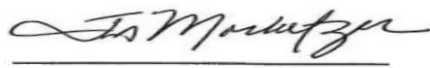
CITY OF VANDALIA


By: Dan Wendt, City Manager

Date: Aug 11, 2021


Approved as to Form

Ohio Attorney General


Joseph A. Morbitzer, Superintendent, BCI

Date: August 13, 2021

Appendix B2

(Name of Individual Law Enforcement Agency) Milwaukee Area Investigative Team

MEMORANDUM OF UNDERSTANDING

INVESTIGATION OF LAW ENFORCEMENT INVOLVED FATALITIES/GREAT BODILY HARM

The above identified agency agrees to enter into this Memorandum of Understanding, dated this _____ day of _____. This Memorandum of Understanding is entered into and agreed to by and between participating law enforcement agencies and state prosecutor's offices in Milwaukee and Waukesha Counties. The aforementioned agencies will be referred to as Participating Agencies for the rest of this memorandum.

PURPOSE

The purpose of this Memorandum is to establish a formal protocol among the participating agencies for the following types of investigations:

- 1) Officer-involved, duty related applications of deadly force which result in death or wounding of a subject,
- 2) Death, or injury which may result in death, to a subject while in police custody, detention or control; and
- 3) Officer initiated actions or omissions in which death, or injury which may result in death, including traffic accidents resulting from police pursuits.
- 4) Any other officer involved critical incident that involves suspected criminal action that results in death, or injury which may result in death; including but not limited to off duty or non-duty related incidents.
- 5) In instances where the severity of the injury to the subject resulting from the officer involved action is uncertain, the provisions of WI. §175.47 should be applied.

The Milwaukee Area Investigative Team, with representatives from each of the law enforcement agencies subject to this agreement, is hereby created to investigate the aforementioned situations.

DESIGNATION OF LEAD INVESTIGATOR

The law enforcement agency that employs the officer involved in one of these situations shall notify their dispatch to initiate a call based on one of the following;

1. Participating Agencies will generally call the commander of the Milwaukee Area Investigative Team to activate a response.
2. Participating Agencies will generally call The Wisconsin Department of Justice – Division of Criminal Investigation as the secondary response team.
3. The Milwaukee Area Investigative Team may call on the DOJ Crime Scene Response team to conduct scene investigations.
4. Participating Agencies will contact the Wisconsin State Patrol, the Milwaukee Police Department, or the City of Waukesha Police Department Crash Reconstruction Unit if the

incident is traffic related.

5. Any Participating Agency may use the Milwaukee Area Investigative Team.

A minimum of two investigators and a supervisor from the Milwaukee Area Investigative Team, who are not members of the involved agency, will respond and the team supervisor will hold the designation as the lead investigator as explained in WI. § 175.47. If a situation involves more than one agency, the team supervisor / lead investigator and the secondary investigator(s) shall not be from either agency.

The responsibilities of the involved agency, responding officers, team supervisor / lead investigator duties, and other stake holders in the investigative process are outlined in the Protocol to Investigate Officer Involved Critical Incidents in the Milwaukee area.

The involved law enforcement agency shall designate the necessary personnel and support staff to assist in the initial investigation, securing evidence and interview of witnesses. They shall also assist in any subsequent follow-up investigation that is needed to complete the case. Additional manpower as necessary may be called up under this MOU or through current established mutual aid or SMART agreements.

If the district attorney determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the Team Supervisor / Lead Investigator conducting the investigation shall release the report. The Team Supervisor / Lead Investigator will be required to address the findings with the victim's family along with the District Attorney.

Each agency participating in these investigations shall be responsible for any associated costs required by their own personnel (i.e., salaries and overtime pay). Each involved agency will make available to these investigations the use of their equipment and facilities as requested/required by the Milwaukee Area Investigative Team, and as reasonable.

INTERNAL AFFAIRS INVESTIGATION

Nothing in this memorandum of understanding shall prevent or limit any law enforcement agency from conducting a separate internal affairs investigation of these officer-related situations that result in death or great bodily harm as long as it does not interfere with the criminal investigation as outlined in 175.47(3)(c).

MUTUAL AID DESIGNATION

Authority is granted to enter into the mutual aid agreement pursuant to the law of the State of Wisconsin in Section 66.0313 and shall be in effect during the course of the entire investigation. Pursuant to S66.0301, S66.0313 and S 66.0513 Wis. Stats., law enforcement personnel who provide mutual aid assistance shall be deemed an employee of the requesting agency for the purpose of S895.35 and S895.46 Wis. Stats.

REVIEW AND REVISION OF MOU

This MOU shall remain in effect for three years from the date of the last signature, but shall automatically renew for subsequent one year terms unless modified or terminated as set forth herein. This MOU will have an automatic review no less than six months from the time it is placed into initial service and if no change is necessary, any subsequent request to modify, review or revise this agreement must be done in writing and must be agreed to by all the parties. Any party can withdraw

from participating in this agreement by giving written notice to all other parties at least 30 days in advance.

IN WITNESS WHEREOF, this agreement has been duly executed by the following party on the _____ Day of _____, _____:

Municipality / Legal Jurisdiction

Chief of Police

The District Attorney's Office shall continue to respond to the scene of the investigation in the delineated situations identified in the Memorandum of Understanding. The prosecutor shall provide legal advice at the scene to the Team Supervisor / Lead Investigator.

District Attorney
Milwaukee County

Date

District Attorney
Waukesha County

Date

Appendix C1

Green Bay Police Department



Critical Incident Employee Handbook

Critical Incident Investigations 3-3
12-16-2011

Green Bay Police Department Critical Incident Services and Protocol

The department recognizes that even though stress is inherent in policing, occasionally employees become involved in what has been described in our policy as a critical incident, which places them under emotional stress. All people react differently to stressful situations and no one response should be considered as the norm. No matter how much you prepared for this day, there will be concerns and questions you may have. The purpose of this handbook is to provide you and your loved ones information in assisting you with dealing with the aftermath of this incident. The Green Bay Police Department values its employees and understands that every employee will deal with the emotions of an incident differently. This information is being provided to you and your families to let you know what you can expect in the upcoming days and weeks.

Critical incidents are typically sudden, powerful events, which fall outside the range of our ordinary human experiences. Because they happen so abruptly, they often have a strong emotional impact, even on an experienced, well-trained officer. In law enforcement, officers generally don't have the luxury of fleeing in a life or death situation, when a threat is perceived, or the unthinkable is witnessed. We are trained, and have taken an oath, to sometimes run towards the danger, when most others would run away. This handout is meant to assist the involved officers, their families, and other department employees in understanding and coping with a critical incident. Your support group extends beyond your immediate family, but your family members or significant others are encouraged to accompany you to your required meetings with the department's mental health professional and avail themselves to the professional's services.

[At the time of the incident](#)

- ✚ You will be asked to provide preliminary information to the first responding supervisor so they can follow through with their responsibilities and the best and most credible investigation can be done. The information that is requested of you is listed in the Critical Incident Investigations Policy 310.5.2:
 - Any injuries to any person or officer
 - Any witnesses and their locations.
 - If anyone has fled the scene.
 - The direction of any gunfire and the officer's location at the time force was used.
 - The scope of the scene, where it began and where it ended.

Policy 305
Updated 3-17-16

- ✚ If you used your firearm you should holster it and not remove the magazine or reload your gun. If you used a rifle you can leave it at the scene if you dropped it or can turn it over as directed by the first responding supervisor.
- ✚ Once the scene is secured and stabilized take a step back from the scene and gather your thoughts. Take mental notes of your surroundings, do some autogenic breathing, and slow yourself down. You have done your part; it is now up to others to do theirs.
- ✚ You will be allowed to have a companion officer called to be your partner through the remainder of the incident. This can be anyone not involved in the incident. They can respond to the scene or meet you at the station. This officer will help provide for physical needs, contact people you wish contacted, and support you.
- ✚ You will be given a ride from the scene by another officer or supervisor. This will get you away from what is probably a chaotic scene and from having any accidental involvement with the investigation.
- ✚ You will be allowed to call family members as you see fit. If you want one of them to respond to the station to meet you that can be arranged through your companion officer.
- ✚ One Detective Supervisor will be assigned to be a liaison and your point of contact through the incident. They will be the liaison to you, providing updates, handle evidence as needed, and make arrangements with you for your interview and other meetings.
- ✚ At the station your firearm, and possibly your magazines, will be collected by a investigating supervisor, if it was used. You will be provided with a replacement weapon immediately.
- ✚ At the station you will be given a quiet area to meet with your representatives, family, and the mental health professional. You can change out of your uniform for the remainder of the process.
- ✚ If the mental health professional was able to immediately respond you will have your first mandatory meeting with them (Education and Support Debriefing). This purpose of this session is to provide you with information and support.
- ✚ If a voluntary walk through was not done initially with investigators, you will be asked to go back to the scene to do this with the investigators. It will not be recorded and a GBPPA representative will be present during any walk through. It will help you to start putting the pieces of the incident back together and it will help you recall the incident when you give your statement. The purpose of the walkthrough is to locate evidence.
- ✚ If you agree to it, a voluntary blood draw will be arranged by the detective supervisor.
- ✚ Your point of contact, who do you want us to call to get messages or make arrangements for interviews:

_____ Ph. _____

After the incident

The following things will occur, generally in this order, after the incident:

Policy 305

Updated 3-17-16

Education and Support Debriefing – w/in 24 hours

Immediately after or within 24 hours after the incident, if at all possible, you will be required to meet with the department's mental health professional. The purpose of this meeting is to allow you the opportunity to meet with someone trained in the body's response to critical incidents and allow you the chance to express your feelings if you wish. They will discuss with you some of the feelings you may have had and will educate you on some of the feelings that may occur in the future. Your family may come with you but the debriefing will be a private, individual meeting. Your family members can also meet with the health care professional at this time if they would like to discuss their feelings or if they have questions. This is no cost to you or your family.

Administrative Assignment

You will be placed on administrative assignment to allow you to develop the coping skills needed to help you deal with the impact of the incident and meet the other requirements that will be expected of you the next several days. The length of the assignment will be determined by the Chief but you can expect to be back to work within 72 hours of the official interview. If you are unable to return to work at that point we will work with you and the MHP to arrange an appropriate time for your return. Research has shown that returning to work sooner than later is usually best for the Officer. You will not be rushed back to work, and when you return it will be on administrative assignment. When you return to work on administrative assignment you will be assigned to station duty. You may return to your shift and assignment, or you may ask to be assigned to any other shift or duty. When assigned, the Shift Captain or supervisors have the discretion to assign what duties you will perform. Everyone handles these incidents differently and it is our goal to work with you through this. The shift supervisors should give you duties that are meaningful and purposeful and will depend on the shift and type of work available.

While on administrative assignment you are encouraged to arrange time on shift with a firearms instructor to do some shooting. This is not for any training purpose but is to help you again transition back into your patrol duties.

The time spent on administrative assignment should not be construed as discipline or a finding of any fault. The Green Bay Police Department has elected to place you on administrative assignment to allow you and your family the time to begin the process of recovering from this highly emotional incident. Your pay, benefits, and any vacation or compensatory time are not affected while on administrative duty.

Many of your co-workers will want to show their support as your critical incident is being investigated. It is your decision how you want to inform them of how you are doing but you cannot discuss the incident with them while it is being investigated, unless they are listed in the critical incident investigation policy. You may decide to have your companion officer be your point of contact for your co-workers to avoid numerous calls and questions from co-workers.

While on administrative assignment you are encouraged to contact your investigative supervisor assigned as your point of contact with any questions related to the investigation. Please forward all questions and concerns to that individual to avoid and confusion or conflicting information.

Interview with Investigators

You will be asked to provide a statement to investigators. The decision to do so is yours. Absent extenuating circumstances and a waiver by you, that statement/interview will not occur prior to 2 sleep cycles after the incident, approximately 48 hours. The interview will take place in a private area of the

Policy 305
Updated 3-17-16

department and you will be allowed to have a union representative and/or union attorney present, and/or a private attorney of your choice present during the interview.

This interview will act as your statement and details about the incident. The interview will probably be held in the conference room on the second floor and will be done by Det. Supervisors or personnel. The transcripts of the interview will be typed up and you will be allowed to make corrections and additions later, as you normally would with your details.

Individual Debriefing while on Administrative Assignment

After your interview, and while you are still on administrative assignment, you will be required to meet with the MHP. It has been suggested that you consider inviting your spouse or significant other to attend the session with you as a support person. This may be very beneficial to your family.

Case Updates

The Detective Supervisor assigned as your liaison will provide whatever updates they can to you on the status of the investigation and when you can expect your firearm back. The investigation that is being done is being done as quickly and efficiently as possible. The investigation will be thorough and complete, and will eventually be released to the public. As some point, after you have notified your family members, the public will be provided with your name and some basic employment information. This is public record and must be released.

CIRB

The Critical Incident Review Board is made up of numerous department employees of all ranks. They will review the investigation and issue findings and make recommendations to the Chief. The Chief will determine the disposition at that time. There will not be an automatic internal affairs investigation, but the Chief may order one if he deems it necessary.

Return to full duty status

You will return to full duty status when determined by the Chief, after the conclusion of the incident investigation. When you return to full duty status your work assignment and any special requests to ride with a partner, etc., will be accommodated and handled by the shift commander or your immediate supervisor if you are not a shift officer or supervisor.

District Attorney Review

The final report will be forwarded to the District Attorney for his/her review and decision.

Follow-up Services

Follow up care is encouraged for all Officers, and their families, to the extent they are comfortable. There are eight free sessions available to you and your family at the EAP center. All contacts and services are confidential between you and the provider. Your meetings with the department mental health profession are also covered by our insurance carrier and you can discuss with the professional the specifics of coverage.

Policy 305
Updated 3-17-16

Six and 12 Month Meetings with MHP

By policy, you will be mandated to meet with the department mental health professional at approximately six and twelve month mark after the incident. This is to check on how you are doing and to offer any other services to you and your family. These meetings are confidential and the department is only notified that you did attend the meeting. These meetings will be arranged by the Professional Standards Division.

Department Point of Contact

Your department point of contact: _____

Phone Number's: _____

Appendix C2

Officer(s) Involved in a Shooting or Other Serious Incident

If you have been directly involved in a shooting by firing your weapon, if you are present at a shooting and have a deficiently loaded magazine, or if you are the focus of any other potentially criminal serious incident, you can expect the following things to occur:

- **If you wish to speak to your attorney prior to being interviewed, you will be given the opportunity to do so. In addition your attorney may be present at your interview, if you so desire.**
- A cover officer will be assigned to stay with you. Their job is to look after your welfare and to protect the integrity of the investigation. The cover officer will not let you out of their sight, even if you need to use the rest room. The cover officer must maintain custody of any evidence you may have on your person (weapon, magazines, soiled hands, face, clothing, etc.). The cover officer will also help find a comfortable place for you to wait, and will attend to your needs (water, etc.). As soon as possible a detective will replace your cover officer.
- You will be permitted to make one phone call in the presence of your cover officer. You may advise whomever you call that you have been involved in an incident and your status. After that, your personal and department phones will be powered off and you will not be permitted to power it back on until the conclusion of the investigation. Your cover officer will provide their phone number for any necessary updates.
- If you have been involved in a shooting, the Homicide supervisor or Incident Commander may direct that you be removed from the scene and taken to a separate location, C19 or another designated location where you can be comfortable. This decision will typically depend on what evidence needs to be collected. Prior to you being removed from the scene you will be photographed by a Crime Scene Specialist who will also process any evidence on your person that could potentially be lost in transport. Evidence on the hands and face must be recovered prior to you washing them.
- You may have preliminary contact with a union representative and your attorney if you choose to. If at the scene, this will occur at the perimeter of the scene and in the presence of a cover officer. This may also occur at a substation, in the presence of a cover officer. Keep in mind that this is not a private conversation.
- Soon after the investigative detail (typically the Pima Regional Critical Incident Team) arrives, they will meet you at the designated location to collect evidence from you (gun, magazines, clothing, photos, etc.). The detective's interest is in collecting evidence at this time.
- After the detectives have collected evidence from you, arrangements will be made for you to speak privately with your attorney if you wish.
- Depending on the investigation, you may be advised of your *Miranda* rights, and you will be asked if you want to submit to an interview with a PRCIT detective and if you are willing to assist with a walk through of the scene. OPS may also interview you, however, that interview will be administrative in nature and will occur after your interview with the PRCIT detectives.

These are guidelines intended to give you an overview of what to do and expect. These guidelines may be altered due to the specific circumstances of any incident.

These procedures are necessary to protect the integrity of the involved officers and of the agency. As an agency, we must not only conduct these investigations correctly, but we must ensure that others perceive that these investigations are done correctly.

The Carjacking Crisis: Identifying Causes and Response Strategies

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