
Officer-Involved Shootings and Deaths

304.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an officer.

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

304.2 POLICY

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

304.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

304.4 CONTROL OF INVESTIGATIONS

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

304.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The criminal investigation of the suspect's actions shall be conducted in accordance with the Officer-Involved Incident Protocol of the Tenth Judicial District (Tenth Judicial District Critical Incident Team protocol herein).

304.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation shall be conducted in accordance with Tenth Judicial District Critical Incident Team protocol.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

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304.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

304.5 INVESTIGATION PROCESS

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

304.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved PPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

304.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved PPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any PPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Watch Commander and the Communications Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional PPD members until properly relieved by another supervisor or other assigned personnel or investigator.

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- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 - 1. Each involved PPD officer should be given an administrative order not to discuss the incident with other involved officers or PPD members pending further direction from a supervisor.
 - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

304.5.3 WATCH COMMANDER RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Watch Commander shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or a Bureau Chief.

All outside inquiries about the incident shall be directed to the Watch Commander.

304.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Services Bureau Chief
- Tenth Judicial District Critical Incident Team rollout team
- Outside agency investigators (if appropriate)
- Special Services Division Captain
- Civil liability response team
- Psychological/peer support personnel
- Coroner (if necessary)
- Officer representative (if requested)
- Highest Ranking Officer On Scene

304.5.5 INVOLVED OFFICERS

For the purpose of this policy, a *directly-involved officer* is an officer who uses deadly force, whether it results in any injury or death to a person. A *peripheral officer* is an officer who did not use deadly force, but was physically present in the immediate vicinity of another officer using deadly force and was at risk of serious bodily injury or death during the deadly force incident. When questions arise, all final decisions about whether an officer is considered a "peripheral officer" will be made by a deputy chief.

The following shall be considered for both the directly-involved officer and the peripheral officer:

- (a) Post-incident services for the officer, and his/her family and significant others, is available from the PPD Peer Support Team, Employee Assistance Program, and other resources.

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- (b) Any request for legal or union representation will be accommodated.
 - 1. Officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to and with respect to providing a formal interview or report.
 - 2. Requests from non-PPD officers should be referred to their employing agency.
- (c) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (d) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information.
- (e) Post-incident intervention with a licensed psychotherapist is available through the PPD Peer Support Team.
 - 1. Post-incident intervention sessions with a licensed psychotherapist will be considered privileged, and are separate and distinct from any fitness-for-duty assessment or administrative procedures that may follow.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the officer providing a formal interview or report. However, officers shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to and with respect to providing a formal interview or report.
- (f) The PPD Peer Support Team will be made available to provide peer support services to officers and other affected members.
 - 1. Communications with a peer support team member will be considered privileged to the extent provided in CRS § 13-90-107.

Steps to ensure the physical and psychological safety of officers at the scene of a deadly force incident are contained in this policy as well as the Tenth Judicial District Critical Incident Team protocol. Care should be taken to preserve the integrity of any physical evidence present on the officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

A directly-involved officer shall be given six days of paid administrative leave following an officer-involved shooting or death. The purpose of the administrative leave is to provide the directly-involved officer with time (three days) to attend to his/her psychological well-being, and time (three days) to complete all tasks associated with the investigation and required of the officer to return to duty. Peripheral officers are required to have three days of paid administrative leave for the purpose of psychological well-being. Administrative leave does not include scheduled days off; it is in addition to any scheduled days off during that period of time. It shall be the responsibility of the applicable captain to make schedule adjustments to accommodate such leave.

Prior to returning to full duty, directly-involved officers shall complete the following:

- (a) Meet with a licensed psychotherapist, provided by the Department.
 - 1. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

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- (b) Demonstrate firearms proficiency as follows:
 - 1. Achieve a minimum passing score (qualify) on a prescribed course of fire with a firearm from the equivalent firearm platform that was used in the officer-involved shooting.
 - 2. Demonstrate proficiency with all other department firearm platforms.
- (c) On the day they return to regular duties, directly-involved officers performing patrol functions as their regular duty assignment are required to be paired with another officer for a minimum of one shift. With watch commander approval, this arrangement can be extended up to four shifts. The purpose of this temporary arrangement is based on best practices for reintegration back to duty after a deadly force incident. It is an additional support to directly-involved officers, not an oversight or evaluation of them. Therefore, it is most beneficial when directly-involved officers are allowed to choose the person with whom to be paired, except that the person with whom the officer is to be paired shall not be a family member and must be assigned to the same working shift.

In addition to the actions listed above that are required of directly-involved officers, there are several other considerations for both directly-involved officers and peripheral officers prior to their return to duty following a deadly force incident. The following considerations are suggestions, and an officer's use of these options is completely voluntary:

- (a) While directly-involved officers are required to demonstrate firearms proficiency as listed above, officers may consider a practice session at the firearms range with a mental health professional or a peer support team member. The purpose of this practice session is to allow for the officer to effectively address any psychological triggers that may come up when firing their weapon for the first time following a deadly force incident.
- (b) Officers may consider returning to the scene of the deadly force incident with a mental health professional, peer support team member, or other support person. Again, the purpose of this suggestion is to effectively address any psychological triggers that may come up when the officer is in the same or similar environment as the deadly force incident.
- (c) Officers may consider requesting a temporary duty assignment other than their regular duty assignment. This temporary duty assignment is not the modified duty type that is used for employees with injuries or medical conditions, but rather an assignment in which the officer will be in a full-duty capacity. Officers will make this request to their bureau chief. A temporary duty assignment under this directive is limited to a two-week timeframe. The purpose of this temporary duty assignment is to allow the officer to return to full duty in an assignment that does not have the same likelihood of exposure to the circumstances that resulted in the use of deadly force.
- (d) Officers may continue to seek ongoing support from available resources, such as the PPD Peer Support Team, Employee Assistance Program, etc.

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304.6 CRIMINAL INVESTIGATION

The Tenth Judicial District Critical Incident Team is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death. This includes responsibility for the incident scene. Department members shall relinquish control of the scene to the Tenth Judicial District Critical Incident Team.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the Tenth Judicial District Critical Incident Team to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews.

The following shall be considered for the involved officer:

- (a) Internal Affairs Section personnel should not participate directly in any voluntary interview of PPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

304.6.1 REPORTS BY INVOLVED PPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved PPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved PPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

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

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Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

304.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, to the extent that such is not handled by the Tenth Judicial District Critical Incident Team, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

304.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Criminal Investigation Division supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the Tenth Judicial District Critical Incident Team and may be assigned to separately handle the investigation of any related crimes not being investigated by the Tenth Judicial District Critical Incident Team.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Criminal Investigation Division supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Bureau Chief.

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304.6.4 MULTI-AGENCY INVESTIGATION

The Pueblo Police Department conforms to the Tenth Judicial District Critical Incident Team protocol for investigating officer-involved shootings. All officer-involved shooting incidents shall be investigated. The Chief of Police or the authorized designee shall ensure this protocol is posted on the Pueblo Police Department website and is available to the public upon request (CRS §16-2.5-301).

304.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved PPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Internal Affairs Section and will be considered a confidential investigative file as set forth in the Personnel Files Policy.

Interviews of members shall be subject to department policies (see the Personnel Complaints Policy) and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
 - 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
 - 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her Garrity rights and

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ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.

5. The Internal Affairs Section shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

304.8 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

304.9 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn or other known video or audio recordings of an incident shall not be viewed by any department member until the administrative and criminal investigations are complete and a decision has been rendered by the Chief of Police and the Pueblo County District Attorney's Office, respectively. This policy does not pertain to department members who are part of an administrative or criminal investigation team conducting an investigation of the incident.

Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Attorney's Office, as appropriate.

304.10 DEBRIEFING

Following an officer-involved shooting or death, the Pueblo Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

304.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Operations Bureau Chief is responsible for organizing the debriefing. Notes and recorded statements should not be

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taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including Internal Affairs Section personnel.

304.10.2 TACTICAL DEBRIEFING

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

304.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation, and coordinated with the Department Public Information Officer. Releases will be available to the Watch Commander, Services Bureau Chief and Highest Ranking Officer On Scene in the event of inquiries from the media.

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

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

304.12 REPORTING

The Records Manager, with the assistance of the Services Bureau Chief, shall report the data required by CRS § 24-33.5-517 regarding officer-involved shootings to the Colorado Department of Public Safety by September 1 each year.

304.13 REVIEW

The Special Service Captain, or his/her designee, shall ensure that the Officer-Involved Shootings and Deaths Policy is reviewed on a biennial basis and, if necessary, update the policy to reflect current best practices and available resources.

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304.14 PRE-INCIDENT PREPARATION AND TRAINING

The Department will provide the following to officers on an ongoing basis:

- (a) Information about the procedural process that follows an officer-involved shooting or critical incident,
- (b) Information on the resources available to involved officers following an officer-involved shooting or critical incident, and
- (c) Training and education about normal and problematic post-traumatic reactions commonly associated with officer-involved shootings and critical incidents.