

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	1 of 17
	Approval:	PKF

1. PURPOSE

The purpose of this policy is to establish the process to thoroughly and objectively investigate a critical incident, as defined in this General Order, including the criminal and administrative procedures for the investigation of use of force and other police actions that result in death or serious bodily injury.

2. PERSONS AFFECTED

All sworn personnel.

3. POLICY

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

4. DEFINITIONS

4.1. **Critical Incident** – Any incident involving sworn personnel acting under the color of authority that results in the death or serious bodily injury (defined by Section 707-700, H.R.S. as amended) of any person(s) as a result of use of force or other police actions.

4.1.1. For the purposes of this policy, the following will also be considered critical incidents:

- a. Death or serious bodily injury of any person(s) in the process of being arrested or while in custody.
- b. Discharge of a firearm towards any person(s) by sworn personnel acting under color of authority, even when death or injury does not occur.

5. INVESTIGATION

5.1. The following Sections/Units shall have investigative authority and responsibility for critical incidents:

5.1.1. The Criminal Investigation Section shall conduct the criminal investigation.

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	2 of 17
	Approval:	PKF

5.1.2. The Office of Professional Standards shall conduct a Critical Incident Inquiry and/or the administrative investigation.

5.1.3. The Traffic Enforcement Unit shall conduct investigations involving vehicular collisions.

6. INVESTIGATIVE FORMAT AND RESPONSIBILITIES

6.1. Investigations of these matters must be performed under two separate investigative formats:

6.1.1. The criminal investigation, and

6.1.2. The critical incident inquiry and/or administrative investigation.

6.2. The criminal investigation has investigative priority over the Critical Incident Inquiry and/or administrative investigation and begins immediately after an incident has occurred.

7. FUNCTIONAL RESPONSIBILITIES

7.1. The organizational and functional responsibilities of the on-scene supervisor or senior officer on-scene, shall be to:

7.1.1. Assume the role of the scene commander;

7.1.2. Identify injured parties and request for medical attention;

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CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	3 of 17
	Approval:	PKF

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- b. Injured suspects and injured personnel shall be separated and/or taken to independent medical facilities, if possible;
 - c. The medical care and treatment of any injured suspect and/or injured employee shall be paramount, and nothing in this section shall be construed to compromise that care.
- 7.1.3. Notify the on-duty watch commander or in the absence thereof, the District/Division Commander:
- a. The on-duty watch commander in the absence of the District/Division Commander, shall notify and brief:
 - The Lieutenant or Detective of the appropriate Area I or Area II Criminal Investigation Section.
 - The Office of Professional Standards Commander or designee.
 - The SHOPO – Hawai‘i Chapter Chairperson, if unavailable the Vice-Chairperson, and if unavailable, the designated union representative (the SHOPO representative shall not be required to leave the area or scene merely because of that representative’s union status).
- 7.1.4. Initiate the action necessary to render the scene safe from hostile suspect(s) action, and/or persons sympathetic to the suspect(s).
- 7.1.5. Coordinate efforts to locate and apprehend any suspect(s).

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	4 of 17
	Approval:	PKF

7.1.6. Assign an officer to maintain the Critical Incident Checklist and Log.

7.1.7. The following shall be accomplished with the involved personnel:

- a. Obtain a preliminary account of the incident and the actions taken for the Criminal Investigation;
- b. Assign an uninvolved officer (or “Companion Officer” of the involved officer’s choosing) to accompany and remain with the involved officer. The companion officer shall not discuss any details of the incident with the involved officer;
- c. The involved officer should be removed from the scene as soon as practical and transported to the station or other designated location as determined.
- d. The first uninvolved scene supervisor shall promptly recover all body-worn cameras (BWCs) from any involved officers and return the BWCs to a Transfer Docking Station (TDS) so footage may be uploaded.

7.1.8. Conduct a briefing for investigators consisting of names of officers involved, time of occurrence, suspects, and results of preliminary investigation.

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

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CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	5 of 17
	Approval:	PKF

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8. RESPONSIBILITIES OF THE CRIMINAL INVESTIGATION DIVISION

8.1. Organization and Functional Responsibilities – the Criminal Investigation Division, under the supervision of their Assistant Chief:

8.1.1. Shall conduct the required investigation;

8.1.2. Shall assume scene responsibility;

8.1.3. Shall approve the content of media releases.

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	6 of 17
	Approval:	PKF

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

8.2.1. Ensure the perimeter adequately encloses all evidence.

8.2.2. Make the necessary notification and requests for:

a. Body removal, if a death is involved;

b. Prosecuting Attorney;

The Prosecuting Attorney, his/her designee or office will function independently of the Hawai'i Police Department in Critical Incident investigations. Assigned investigators shall be aware of the role of the prosecuting attorney's office for Critical Incidents which may include such duties as reporting to the scene when deemed necessary, being briefed regarding the details of the investigation, review of search warrants when needed, being available for conferral, and receiving the investigation referral for review and disposition upon its completion.

c. Department Crime Laboratory/Evidence Technicians;

d. Traffic Accident Reconstruction Team, if necessary;

e. Any other specialists needed to document/process the scene.

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

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CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	7 of 17
	Approval:	PKF

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

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

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CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	8 of 17
	Approval:	PKF

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- 8.3. Victim and Witness Interviews – assigned investigators from the appropriate Criminal Investigation Division shall be responsible for interviewing all witnesses and victims.
 - 8.3.1. All interviews and statements should be tape recorded and transcribed.
- 8.4. Interviews of sworn personnel – assigned investigators from the appropriate Criminal Investigation Division shall:
 - 8.4.1. Be in compliance with all Federal and State Laws, as well as current Collective Bargaining Agreement during interviews with sworn personnel.
 - a. All Miranda admonitions and interrogations should be tape recorded and transcribed and the police officer(s) shall be advised of such.
 - 8.4.2. Sworn personnel have the same rights and privileges regarding criminal interviews as any other citizen would have, including the right to consult with a representative prior to interview and the right to have the representative present during the interview.
 - a. The representative should be allowed to consult about the facts of incident privately with only one police officer at a time.
 - b. If the representative is not a doctor, lawyer, psychotherapist, or a priest or an agent of such professionals, the content of private conversations between the representative and the police officer are not privileged (i.e. Union Representative, Co-worker, etc.)

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	9 of 17
	Approval:	PKF

8.4.3. During the interview, the following personnel may view the process:

- a. Assigned investigators;
- b. Administrative investigator(s);
- c. Police Officer's legal representative (if any).

8.4.4. Sworn personnel will not be compelled by suggestions of administrative action to answer questions by criminal interviewers, which would be self-incriminating.

8.4.5. Sworn personnel may request the presence of a legal representative. The representative shall not be allowed to ask questions which would obstruct or otherwise interfere with the investigative process.

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

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

8.5.1. Sworn personnel have the same rights and privileges as any civilian would have regarding intoxicant testing.

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

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

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	10 <i>of</i> 17
	Approval:	PKF

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

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

8.6. Miscellaneous – investigators from the appropriate Criminal Investigation Division shall cooperate fully with Office of Professional Standards personnel.

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

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

9. INJURED PERSONNEL PROCEDURES

9.1. In the event any sworn personnel are injured, the scene commander will:

9.1.1. Immediately make notification to the injured officer’s commanding officer.

- a. The commanding officer shall notify the police chaplain to accomplish the following:
 - Assist the involved officer in notifying his/her family.

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

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

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

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	11 <i>of</i> 17
	Approval:	PKF

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

10. DECEASED PERSONNEL PROCEDURES

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

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

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

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

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

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

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

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

11. INVOLVED PERSONNEL STATUS

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

11.2. All personnel involved in a critical incident shall be relieved from field duty and may initially be placed on authorized leave with pay for a period of

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	12 of 17
	Approval:	PKF

time approved by the Police Chief. Personnel shall not return to field duty until the completion of an Administrative Review of the incident.

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

- a. Personnel who were involved in critical incidents other than police shootings shall be required to meet with a department approved psychologist if deemed necessary by the Police Chief or designee.
- b. In the event any involved personnel are in need of extended professional psychological or counseling services, the appropriate reports shall be filed and personnel shall be placed on the applicable leave. In this event, prior to personnel returning to full duty a release shall be granted by the appropriate mental health care professional.
- c. Involved personnel shall be provided with counseling services at the earliest possible convenience after the incident.

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

11.4. If the involved officer was injured or sustained a medical related condition as a result of the shooting, the appropriate reports shall be filed and the officer shall be placed on the applicable.

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

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	13 <i>of</i> 17
	Approval:	PKF

- 11.5. Follow-up contact with the involved officer shall be made every two weeks by the officer's commander or designee until the officer returns to duty.
- 11.6. Prior to an officer whose firearm had been recovered following a critical incident returning to full-duty (after receiving the proper clearance) and/or the issuance of a replacement or their original firearm being returned, the officer shall be required to re-qualify with the weapon.

12. COMPLETION OF CRITICAL INCIDENT INVESTIGATION

- 12.1. Upon completion of the Critical Incident Criminal Investigation, the commander of the Criminal Investigation Division shall:
 - 12.1.1. Review the case to ensure all aspects of the investigation have been completed.
 - 12.1.2. Ensure that all required reports and investigative supplementary reports have been completed.
 - 12.1.3. Refer the investigation to the Office of the Prosecuting Attorney for their review and disposition.
 - a. Notify the Office of Professional Standards Commander or Investigator that the investigation has been referred to the Prosecutor's Office.

13. ADMINISTRATIVE INVESTIGATION

- 13.1. Notification And Response
 - 13.1.1. The on-scene supervisor shall immediately make or cause notification to be made to the Office of Professional Standards Commander or his designee.
 - a. The Office of Professional Standards will be responsible for assigning an investigator.
 - 13.1.2. Upon notification, the Office of Professional Standards Commander and/or the Office of Professional Standards investigator shall respond to the scene of the incident.

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	14 <i>of</i> 17
	Approval:	PKF

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

13.2. At Scene Responsibilities

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

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

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

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

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

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

13.3. Critical Incident Inquiry and/or the Administrative Investigation

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

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

13.3.2. Whenever a firearm is discharged at any person(s) by a police officer or whenever a police officer inflicts death or serious bodily

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	15 <i>of</i> 17
	Approval:	PKF

injury to any person, the investigator shall document the incident involved, the level of force used, the weapon(s) used and round(s) fired, other departmental equipment used, and the training, qualifications, and regulations of the involved employee(s).

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

a. The investigator shall obtain a verbal statement from the involved officer(s) as soon as practical.

- All interviews and statements should be audio recorded.

b. The statements made by the involved officer(s), whether oral or written, shall be subject to the officer(s) Garrity Rights and the existing bargaining unit agreement.

c. Involved officer(s) shall provide statements prior to reviewing BWC recordings.

d. A police officer shall not be required to submit a written report until the officer has had a reasonable period of time, not to exceed four (4) hours, to consult with counsel of choice and/or a union representative under the following conditions:

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

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

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	16 <i>of</i> 17
	Approval:	PKF

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

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

14. EVALUATION OF ADMINISTRATIVE INVESTIGATIONS DEPARTMENTAL POLICY

14.1. The Office of Professional Standards Commander or designee will provide weekly briefings to the appropriate command staff members concerning the progress and results of the administrative investigation.

14.1.1. The Office of Professional Standards will forward any charges against personnel involving violations of departmental policies, procedures, rules and regulations to an Administrative Review Board.

14.1.2. The Office of Professional Standards will conduct the Critical Incident Inquiry and will present its findings to the Special Review Board.

14.1.3. The criminal investigation will be conducted separately and independently of the administrative investigation. The Sections/Units having criminal investigative responsibility shall ensure that a copy of the criminal investigative report(s) is forwarded to the Special Review Board.

14.1.4. The Special Review Board shall conduct a documented review of the Critical Incident and will make recommendations for any procedural and/or policy changes and recommendations for any training issues and/or equipment issues need to be addressed. The documented review will include a review of the Critical Incident Inquiry and the criminal investigation.

14.1.5. Office of Professional Standards personnel will initiate the necessary investigation in the event that any involved personnel refuse to participate in the Critical Incident Inquiry.

CRITICAL INCIDENT	Document Number	GO 604
	Revision Date	11-17-2020
	Revisions	Underlined
	Page Number	17 of 17
	Approval:	PKF

14.1.6. The Critical Incident Inquiry and Special Review Board documented review will be submitted as soon as possible to the Police Chief.

15. TRAINING

15.1. The Training Section shall ensure that personnel responsible for managing Critical Incidents receive process training. The process training should be designed to help prepare sworn supervisors for managing critical incident scenes from the inception through the investigative process, to include methods for being able to take control and mitigate the risks of rapidly evolving situations.

15.1.1. Sworn supervisors shall receive initial and annual training.

15.2. The Training Section shall ensure that all personnel potentially impacted by Critical Incidents receive awareness training. The awareness training should be designed to raise awareness of the impact that stress and trauma associated with critical incidents has on personnel, both during and after the incident, and subsequently, the effects on their families, the department and the community. It should also explore strategies to maintain both physical and emotional wellness for personnel by utilizing pre incident education and trained peer support; before, during, and after critical incidents.

15.2.1. Sworn personnel and dispatch personnel shall receive initial training and annual training.