

**GENERAL ORDERS**  
**CHAPTER 103**  
**STANDARDS OF CONDUCT**

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New Materials Underscored

Accreditation Standards:

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**G.O. 103.10**  
**CRITICAL INCIDENT PROTOCOL**

I. PURPOSE

This directive sets forth procedures for the thorough and objective investigation of critical incidents involving police officers and employees of the Maui Police Department. The need for investigative methods not included in this protocol may be necessary. Therefore, the use of these methods shall be permitted.

II. DEFINITIONS

**CRITICAL INCIDENT:** An incident occurring in the County of Maui in which a police officer or employee of the Maui Police Department, acting under color of authority or in the course of official employment and job related duties, is involved in as an actor, witness, or a victim where a fatal or serious bodily injury occurs. Such incidents include, but are not limited to, the following:

Intentional and/or accidental shootings.

Intentional and/or accidental use of any other dangerous or deadly weapons.

Assaults upon police officers who are acting for a law enforcement purpose.

Attempts by police officers to make arrests or to otherwise gain physical control for a law enforcement purpose.

Any fatal or serious bodily injury to a person in police custody or under police control.

Any fatal or serious injury to a person who is a passenger of a police officer (such as ride-along, emergency transports, etc.)

Vehicular collision injury with the following exclusions:

- Off-duty police officers or employees who are not at the time of the incident acting for a law enforcement purpose.

- Solo vehicular collisions in which the only injuries are suffered by a police officer who was the driver and sole occupant of a vehicle.

INVOLVED/ACTOR OFFICER OR EMPLOYEE: A person whose act is the cause of a fatal or serious bodily injury to another person; or a person who intends that his or her act be the cause of a fatal or serious bodily injury to another person.

For purposes of this protocol, this person will hereinafter be referred to as the involved employee.

OFFICER WELLNESS ASSESSMENT (OWA): A confidential debriefing conducted by a licensed psychologist and facilitated by the Department. Based on the debriefing the psychologist will advise the Chief of Police in writing as to whether the employee will:

- Return to full-duty status with no further counseling required,
- Be placed on light duty status and attend additional counseling sessions(s), or
- Be placed on extended leave for further counseling and assessment.

VICTIM: The person injured by the actions of another person. When used in this Protocol, this word does not imply existence of criminality but to designate the person physically injured.

WITNESS OFFICERS OR EMPLOYEES: Any officer or employee, not identified as an involved employee, who was present at the time of the incident.

FATAL OR SERIOUS BODILY INJURY: Fatal injury means an injury which is so severe that death has occurred or is likely to occur. Serious bodily injury means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

### III. INVOCATION OF THIS PROTOCOL

#### A. Automatic and Immediate

Upon the occurrence of an Employee-Involved Critical Incident, the Protocol is automatically and immediately in effect.

#### B. Optional

The Maui Police Department may invoke this Protocol upon the occurrence of any sensitive or critical event involving a police officer or employee, which may have possible safety, criminal or civil liability attached.

IV. INVESTIGATIVE FORMATS

- A. To properly recognize and accommodate the various interests and rules of law involved in any critical incident, investigations of these matters must be performed under two separate investigative formats:
  - 1. The Criminal Investigation; and
  - 2. the Administrative Investigation.
- B. The criminal investigation has investigative priority over the administrative investigation and it begins immediately after an incident has occurred.

V. ON-SCENE SUPERVISOR RESPONSIBILITIES

- A. The responsibilities of the on-scene supervisor or senior officer shall be to:
  - 1. Assume the role of the scene commander until properly relieved.
  - 2. Identify injured parties and request medical attention keeping in mind that emergency lifesaving measure have the first priority.
    - a. If a person is transported to the hospital with injuries, an uninvolved officer should, if possible, accompany the injured person in the same vehicle in order to:
      - (1) Locate, preserve, safeguard and maintain the chain of physical evidence.
      - (2) Obtain a dying declaration; a spontaneous statement; a contemporaneous statement; a statement of then-existing or previous mental or physical state.
      - (3) Maintain custody if the person has been arrested.
      - (4) Provide information to medical personnel about the incident as relevant to treatment, and obtain information from medical personnel relevant to the investigation.
      - (5) Identify relevant people, including witnesses and medical personnel.
      - (6) Be available for contact with the victim's family, if appropriate. A supervisor, police chaplain or ranking officer should be utilized for this purpose also.

- (7) Be available to brief Criminal Investigation Division personnel assigned to respond to the medical facility.
    - b. Injured suspects and injured employees shall be separated during transport and while at the medical facility.
  3. Make the following notifications as soon as possible either directly via telephone or through the Communications Section:
    - a. Element Commander of involved personnel
    - b. Bureau Assistant Chief of involved personnel
    - c. Criminal Investigation Division Commander
    - d. Chief of Police and Deputy Chief of Police
    - e. Internal Affairs Commander
    - f. SHOPO Maui Chapter Chairman or designee
  4. Initiate steps necessary to render the scene safe from hostile suspect(s) action, and/or persons sympathetic to the suspect(s).
  5. Coordinate efforts to locate and apprehend any suspect(s).
  6. Ensure that the scene is secured immediately with a perimeter established a sufficient distance away to safeguard evidence.
    - a. Access to the scene(s) must be limited to only those officials who must enter for an investigative purpose.
    - b. A written log shall be established as quickly as possible to identify all persons entering the scene(s), the time of their entry, and the reason for entry.
    - c. Uninvolved officers shall be assigned to maintain custody of any uninjured arrested suspect(s) remaining at the scene and appropriate steps should be taken to preserve evidence present on suspects; i.e. bag hands, etc. until transport can be made.
- (1) Officers shall not interview or interrogate suspect(s) unless specifically assigned.

- d. When not needed for lifesaving efforts, entry by fire and ambulance personnel should be restricted to the absolute minimum necessary to perform the needed duties.
    - (1) Emergency personnel at the scene should be identified pending further follow-up by the criminal investigators.
  - e. No items shall be moved inside the scene(s) or removed from a scene without approval of the investigators unless absolutely necessary for public and officer safety, or for preservation of evidence. If removal is necessary, the removal must be witnessed and documented. The item should be photographed prior to removal.
  - f. A list of license plates of vehicles parked within or in proximity to the crime shall be recorded for investigative purposes.
7. The following shall be accomplished with the involved employee(s)
- a. Obtain a preliminary account of the incident and actions taken for the criminal investigation against the suspect(s), preserving the crime scene and for protection of the public and police.
  - b. After the incident has stabilized and the scene secured, with no further threat from a responsible who is still at large, the supervisor shall do the following with respect to the involved officer's firearm:
    - (1) Discreetly obtain possession of the weapon from the involved officer.
    - (2) If still in its holster, handguns must not be removed from it and the entire gun belt should be obtained.
    - (3) Make note of whether the appearance of the weapon, mainly the general description and condition and the location of any trace evidence, taking into account, these observations can be made without removing the weapon from its holster.

Make note of whether the firearm's slide is locked back or in the forward position, is cocked, has its safety "on" or "off", has its hammer back, any apparent jamming of either fired or unfired ammunition; the location and position of the weapon's magazine (i.e., fully or partially inserted, completely separate from the firearm, missing, etc.) to the extent possible without removal of the weapon from its holster.

- (4) The weapon and gun belt shall then be kept in a safe location (i.e., locked car trunk) and when practical, turned over to Criminal Investigation Division personnel or evidence specialists upon their arrival.
  - c. The involved employee(s) should be removed from the scene as soon as practical and transported to the station or other designated location. An officer not involved in the incident should be assigned to accompany the involved employee. The accompanying officer shall not discuss any details of the incident with the involved employee.
  - d. In shooting incidents, the on-scene supervisor shall ensure that possible gunshot residue evidence of the involved employee is preserved and safeguarded, i.e. bagging hands, etc.
8. Conduct a briefing for investigators at the scene, consisting of the names of the officers involved, time of occurrence, suspects and results of the preliminary investigation.

VI. RURAL DISTRICT PROCEDURES

Due to the possible delay in Criminal Investigation Division investigators arriving at the scene and the availability of personnel for incidents occurring in the district of Hana, Molokai and Lanai, the supervisor on scene may be required to perform and assign duties normally done by others.

VII. MOTOR VEHICLE CRASHES

Motor vehicle collisions involving death or serious bodily injury shall be investigated by the Maui Police Department's Traffic Vehicle Homicide Unit (VHU). The Criminal Investigation Division may be called upon to assist the Traffic VHU if necessary.

VIII. CRIMINAL INVESTIGATION DIVISION RESPONSIBILITIES

- A. The goal of the criminal investigation is to develop all available relevant information about the incident. This information will be used in two ways:
  - 1. To determine presence or absence of criminal liability on the part of all those involved in the incident. Specifically:
    - a. To determine whether the nature of the conduct involved is prohibited by statutes which provide criminal penalties upon conviction; and
    - b. If criminal conduct does exist, determine the identity of the person(s) responsible for the conduct; and

- c. Determine the degree of the crime(s); the existence of any factual or legal defenses to those crimes; and the presence or absence of any factors which would mitigate or aggravate punishment for any crime.
  2. To provide factual information to the Office of the Chief of Police for its internal use. While the criminal investigators do not direct their investigative attention to administrative concerns, it is recognized that the criminal investigation's results are of proper interest to the department's management for its internal use and those results are fully available for that purpose.
- B. The Criminal Investigation Division shall conduct the required investigation by doing the following:
  1. Assume investigative responsibility.
    - a. Ensure the perimeter adequately encloses all evidence and protects the integrity of the investigation.
    - b. Make the necessary notifications and request for:
      - (1) Body removal, if a death is involved.
      - (2) Prosecuting Attorney or assigned deputy.
      - (3) Department Crime Scene and Evidence Technicians.
      - (4) Traffic Accident Investigations Section (TAIS) to assist in any part of the investigation that requires their expertise.
      - (5) Any other specialists needed to document and process the scene.
    - c. Ensure that the scene is properly documented, photographed, sketched, and diagramed.
    - d. Ensure that all evidence is properly processed and collected and the chain of custody is maintained.
      - (1) Any firearm located within the scene should be photographed and its condition documented, to include position, general description, appearance, loaded or unloaded, hammer cocked, etc.
    - e. Ensure that all rounds fired are accounted for, if possible.
      - (1) Checks should be made of all firearms from officers who were

present at the time of the incident to insure that all discharged firearms are identified and collected, and to specifically document those weapons which were not fired.

2. Victim and witness interviews.
  - a. All interviews and statements should be tape recorded and transcribed when possible.
3. Sworn personnel interviews.
  - a. SHOPO collective bargaining agreement provisions, Article 48, Police Officers' Protection-Criminal Investigations and Interrogations.
    - (1) Employee Who May Be a Suspect – An employee who may be a suspect in a criminal investigation shall be so informed prior to being requested to attend, submit to, or participate in any criminal investigation or interrogation.
    - (2) Constitutional Rights – If the employee about to be interrogated is under arrest, or is suspected of committing a crime, the employee shall be completely informed of all the employee's Constitutional Rights prior to questioning. The employee shall not be disciplined, dismissed, nor discriminated against solely because the employee exercised said Constitutional Rights during a criminal investigation.
    - (3) All involved officers shall be interviewed in a tape recorded question and answer format.
  - b. During the interview, the following personnel may view the process:
    - (1) Assigned investigators
    - (2) Administrative investigator
    - (3) Police Officer's legal representative (if any)
  - c. Police officers will not be compelled by threats of administrative action to answer questions by investigators which would be self-incriminating.
  - d. If and when the interview becomes a custodial interrogation, the rights pursuant to the Miranda decision shall apply.
  - e. The interview shall be conducted in a private location away from sight and



hearing of others who are not part of the investigation.

- f. Every attempt shall be made to fully tape record all witness interviews, whether the witness is an employee or not.
- g. The employee will be considered as a witness or victim unless the circumstances dictate otherwise.
- h. Police officers have the same rights and privileges regarding criminal investigation interviews that any other citizen would have, including the right to consult with a representative prior to an interview and the right to have that representative present during the interview.
  - (1) The representative should be allowed to consult with the officer in private.
  - (2) The representative shall not be allowed to ask questions which would obstruct or otherwise interfere with the investigative process.
  - (3) The representative may invoke Miranda to protect the police officer from self-incrimination.
  - (4) If the representative is not a doctor, lawyer, psychologist, victim/witness counselor, priest or an agent of such professional, the contents of the private conversation between the representative and the police officer are not privileged.
- i. The investigator doing the interview shall be sensitive to the physical needs and emotional well-being of the police officer involved. When appropriate, food and drink may be provided.

#### 4. Intoxicant Testing

- a. Police officers have the same rights and privileges that any citizen would have regarding intoxicant testing. When criminal investigators determine that a police officer's state of sobriety is relevant to the investigation, attempts will be made to obtain the sample in accordance with case law.

Investigators have the following options:

- (1) Obtain the blood and/or urine sample by valid consent.
- (2) Obtain blood and/or urine sample incidental to a legal arrest.

- (3) Obtain a search warrant.
    - (4) When applicable, utilize Hawaii Revised Statutes Chapter 291E for vehicular driving incidents.
  - b. A police officer may volunteer to provide sample(s) for intoxicant testing. Similarly, a person from whom investigators have obtained samples may request that another sample be taken for independent testing. Such a request will be promptly honored.
- 5. Autopsy
  - a. At least one member of the Criminal Investigation Division investigative team will attend the autopsy if a death occurred.
  - b. The pathologist will receive a complete briefing prior to the post-mortem examination. This briefing, which includes all relevant information known at that time regarding the cause and manner of death shall be attended by at least one member of the investigative team.
- 6. Report Writing
  - a. All criminal investigators will write reports documenting their participation in the investigation.
  - b. All involved investigators and technicians will strive for report completion and distribution in a timely manner.
  - c. Involved employees need not submit a written report relative to the incident in lieu of the tape recorded question and answer interview. Witness officers may still be required to submit written reports about the incident as deemed necessary. Further follow-up and tape recorded interviews may be necessary as part of the criminal investigation.
- 7. The Criminal Investigation Division supervisor (Crimes against Persons Lieutenant) will advise and consult with criminal investigators to ensure that compliance with Department General Orders, policy and procedures and the respective employee bargaining unit agreement are adhered to.
- 8. Investigators from the Criminal Investigation Division shall cooperate fully with Administrative investigators.

IX. NEWS MEDIA RELATIONS

- A. The interests of the public's right to know what occurred must be balanced with the

- requirements of the investigation and with the rights of the involved individuals.
- B. The release of information to the press shall be done after approval is given by the Criminal Investigation Division.
  - C. All press release will be distributed by the Department's Public Information Officer, unless otherwise authorized by the Chief of Police.

X. PROSECUTOR'S OFFICE REVIEW AND ASSISTANCE

- A. The Prosecuting Attorney's Office may be asked to assist with the following in critical incident investigations:
  - 1. Assist and advise the criminal investigators on various criminal law issues which may arise.
  - 2. Upon completion of the criminal investigation, analyze the facts of the incident as well as the relevant law to determine if criminal laws were violated and if so, prosecute as appropriate.
  - 3. The Prosecuting Attorney has separate investigative authority. When deemed appropriate, they may perform an independent investigation.
  - 4. The Department may submit a written request for a review of the incident and asked to be advised of the findings in writing by the Prosecuting Attorney's Office.

XI. INJURED OR DECEASED EMPLOYEE PROCEDURES

In the event an employee suffers serious injury or death as a result of a critical incident, procedures set forth in General Order 204.11, Employee Serious Injury or Death Notification and Survivor Assistance shall be followed.

XII. ADMINISTRATIVE INVESTIGATION

- A. In addition to our concern about possible criminal law violations by civilians and our own employees who are involved in an incident, as addressed by the criminal investigation, the Maui Police Department also has a need for information about the incident for the following noncriminal purposes:
  - 1. Administrative Investigation  
Determination of whether or not its employees violated departmental directives.
  - 2. Departmental Improvement

Determination of the adequacy of Department policies, procedures, programs, training, equipment, personnel programs and supervision.

3. Government and Community Relations

To adequately inform the Office of the Mayor and be responsive to comments about the incident from the community and media.

4. Claims and Litigation

Preparing for administrative claims and/or civil litigation that may be initiated against the County of Maui and the Maui Police Department.

B. All information; including reports, statements, information on physical evidence, photographs, tape recordings and leads that are revealed by the criminal investigation shall be made available to the administrative investigators as soon as practical.

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

1. In the event that the criminal investigator does not obtain samples for intoxicant testing, administrative investigators may then seek to obtain samples, however, the criminal investigator has the first opportunity.

D. Interview statements, physical evidence, toxicology test results and investigative leads which are obtained by administrative investigators by ordering police employees to cooperate shall not be divulged to criminal investigators. Other results of the administrative investigation may or may not be privileged from disclosure to others, depending upon applicable law.

E. Administrative investigators are not bound by the same investigative restrictions that apply to criminal investigators.

F. The following SHOPO collective bargaining agreement provisions shall apply:

1. Article 12 – Police Officer’s Protection-Administrative Investigations and Interrogations

2. Article 48 – Police Officer’s Protection-Criminal Investigations and Interrogations

3. Any other article in the SHOPO collective bargaining agreement that may be applicable

G. Internal Affairs Responsibilities

1. Internal Affairs shall be notified of all critical incidents as defined by this protocol.
2. Internal Affairs investigators shall then respond and consult with criminal investigators and/or supervisory personnel at the scene and at other involved locations.
3. The Internal Affairs investigator shall obtain a preliminary account of the incident, the action taken and shall conduct a review of the scene.
4. The investigator shall monitor and review the investigative efforts of all units involved in conducting the investigation of the incident.
5. The Internal Affairs investigator shall conduct an Administrative Investigation of the incident.
  - a. The investigation and subsequent report shall be thorough, covering all aspects of departmental policy in detail. The report shall include but not be limited to, the circumstances of the incident, 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).
  - b. A review and briefing by criminal investigators of statements obtained during the Criminal Investigation shall be made. The Internal Affairs investigator shall determine if further interviews are necessary. If more interviews of departmental employees are necessary, the Internal Affairs investigator shall adhere to policies regarding Garrity Rights and the Employees bargaining unit agreement.
  - c. A review and briefing by criminal investigators of evidence obtained during the Criminal Investigation shall be made. The Internal Affairs investigator shall determine if further evidence collection or testing is needed.
  - d. The Internal Affairs investigator shall include photographs taken of all employees present at the time of the incident in the Administrative Investigation report. These photographs shall document the appearance of the employee during the incident. These photographs shall show all equipment worn by officers at the time.
  - e. The Internal Affairs investigator shall then decide if departmental charges against any employee involved in the incident are necessary. If charges are appropriate, the employee shall be notified according to present policy and

union contract and a list of the charges shall be part of the Administrative Investigation report.

XIII. STATUS OF INVOLVED EMPLOYEE

- A. All employees involved in a critical incident may be relieved of duty and shall initially be placed on authorized leave with pay for a period of time approved by the Chief of Police, unless otherwise directed. An officer placed on authorized leave is a routine procedure and is not to be construed as to have acted improperly.
- B. All employees who are part of a critical incident shall attend a Critical Incident Stress Management briefing. The Commander of these employees shall ensure that this briefing is scheduled as soon as possible after the incident. This briefing will be conducted by personnel trained in Critical Incident Stress Management.
- C. All employees, whether involved or a witness, shall be offered assistance and counseling services at the earliest possible convenience after the incident, and before the officer leaves for the day. These services are available through the County of Maui and the Department. Commanders shall ensure that involved employees are advised of the services available and should encourage their attendance.
- D. Police personnel involved in a use of force incident in an official capacity resulting in serious injury to the employee, or serious injury or death of another person, or any discharge of a firearm in self-defense or in the defense of another person shall attend an Officer Wellness Assessment (OWA) with a licensed psychologist at least 24 hours after, but within one week from the time of the incident, unless otherwise directed by the Chief of Police.
- E. Police personnel involved in an occurrence of any sensitive or critical event, which may have possible safety, criminal, or civil liability attached, shall attend an Officer Wellness Assessment (OWA) with a licensed psychologist, as directed by the Chief of Police.
- F. The appointed psychologist conducting the OWA is required to advise the Chief of Police in writing if the employee will:
  - 1. Return to full-duty status with no further counseling required,
  - 2. Be placed on light duty status and attend additional counseling sessions(s), or
  - 3. Be placed on extended leave for further counseling and assessment.
- G. In the event any involved employee is place on extended leave and in need of further professional counseling or treatment, the employee shall be placed on Injury Leave and the appropriate reports filed by his or her supervisor. In this instance, prior to returning to full duty, the employee must be granted a return to full duty work release by an appropriate

- medical physician.
- H. The Commander of the involved employee shall conduct weekly checks on the welfare and status of the employee and report his or her findings to the Chief of Police. These checks shall be done until the employee returns to duty.

All officers involved in a critical incident intervention should receive follow-up contact via phone or email within the first month, at four months post incident, and prior to the first anniversary of the incident.

- I. The following will be done in regards to officers whose firearms were recovered following a critical incident and who have been cleared to resume normal duty:
1. Firearms which do not need to be retained in evidence, as deemed by the Office of the Prosecuting Attorney and/or the criminal investigators, will be returned to the officer promptly.
  2. If it is deemed necessary to have a Criminalistics Laboratory test and inspect the weapon the officer will be issued another weapon and will be required to qualify with it prior to resuming such duties.

#### XIV. TACTICAL DEBRIEFING

All employees, whether involved or a witness, shall attend a debriefing on the tactical and operational aspects of the incident. This debriefing shall be scheduled as soon as practical and coordinated by the Assistant Chief of the bureau primarily involved in the incident.

#### XV. DEPARTMENTAL REVIEW

- A. The commander of Internal Affairs shall provide updates on the progress of the Administrative Investigation to the Chief and Deputy Chief of Police on a regular basis.
- B. The Department's Administrative Review Board shall then convene on the matter after each board member reviewed the completed Administrative Investigation.
1. If departmental charge were brought against the employee, the board shall render its decision in accordance with General Order 103.7 – Administrative Review Board.
  2. If no charges were brought against the employee by Internal Affairs, the A.R.B. may either concur with the investigator's recommendations or send the investigation back to Internal Affairs for further follow-up or for any recommended charges they may have.

XVI. ACCESS TO REPORTS AND EVIDENCE

- A. Material created or collected in the investigation, including the Crime Laboratory and other participating agencies, will be made available in a timely manner to those agencies, which have an interest in the investigation.
- B. All requests for material shall be made through the Records Section manager who shall release them upon approval from the Chief of Police.
- C. The material will include, but is not limited to:
  - 1. Reports, written and collected.
  - 2. Photographs, diagrams and videotape recordings
  - 3. Audio tape recordings
  - 4. Physical evidence

XVII. CRITICAL INCIDENT INVESTIGATION CHECKLIST

- A. A Critical Incident Investigation Checklist is attached to this protocol. It is to be used as a guide for the investigation of critical incidents.
- B. A criminal investigation will dictate a need for investigative methods not included in this protocol, therefore, the practice in which the investigator utilizes investigative methods undefined by the protocol shall be permitted, as long as these undefined investigative methods are within the law, and rules of evidence.

  
TIVOLI S. FAAUMU  
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