

JOHNSON COUNTY
MULTI-JURISDICTIONAL

**OFFICER-INVOLVED
SHOOTING
INVESTIGATION TEAM**

Protocol and
Procedure Manual

Revised March 2021

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DEFINITIONS

Crime Lab: The Johnson County Criminalistics Laboratory.

District Attorney: The District Attorney of Johnson County.

Employer Agency: The agency employing an officer involved in an OIS. Also referred to as the “involved” agency.

First Assisting Officer: The first non-involved and non-witness officer present at the scene.

Incident Commander: The on-site commander for the involved agency.

Involved Officer: The officer involved either as an actor or victim (or both) in an OIS.

Medical Examiner Office (MEO): The Johnson County Medical Examiner’s Office.

Officer: Commissioned employee of a law enforcement agency.

Officer-Involved Shooting (OIS): See below.

Officer-Involved Shooting Investigation Team (OISIT): Multi-jurisdictional team directed to investigate OIS incidents or other critical incidents and present that investigation to the District Attorney.

OISIT Commander: Person chosen from the OISIT roster to command an OIS investigation; maintains overall investigative supervision.

OISIT Lead Supervisor: Person chosen from the OISIT roster to supervise an OIS investigation; maintains specific incident and investigative supervision.

On-Site Supervisor: Involved agency supervisor responding to an OIS scene.

Police Chief Liaisons: Two Police Chiefs assigned from the Johnson County Police Chiefs and Sheriffs Association that provide administrative support to the Officer-Involved Shooting Investigation Team (OISIT).

Witness Officer: An officer who witnessed at least some of what occurred but did not discharge a weapon or attempt other deadly force against the suspect and is not the victim of an offense by the suspect.

OFFICER-INVOLVED SHOOTING (OIS) DEFINED

The intentional or unintentional use of force by an officer, either as actor or victim, in

which a person is injured or killed or the potential exists for criminal charges to be filed as a result of the discharge (such as aggravated assault). This includes incidents in which the involved officer takes police action while off duty. This does not include intentional or unintentional discharges in which no one is injured or there is no foreseeable possibility of a criminal charge.

MEMBERSHIP

Membership is predicated on a work history of investigative accomplishment and knowledge of major/violent crime investigative techniques. Members must be able to provide loyalty, energy and enthusiasm to the OISIT and its leadership in no less degree than would be afforded to their home agency. Members will use discretion and practice confidentiality; no active investigation shall be discussed outside of the OISIT (with the exception of the team member's home agency chief executive) without the approval of the assigned OISIT Commander.

QUARTERS & SUPPORT

Investigations shall typically be conducted from the assigned Team Commander's home agency. The Team Commander's home agency shall provide administrative support to the team.

ACTIVATION

An agency involved in an OIS should contact an OISIT Police Chief Liaison as soon as possible to request activation of the OISIT.

The Team Commander will assign a Lead Supervisor(s) from the roster. The Team Commander will determine the personnel resources needed and will assign investigators and crime scene investigators from the roster.

Typically, OISIT investigators will not be assigned to incidents involving their home agency.

LENGTH OF INVESTIGATION

There are no fixed time lengths for OIS investigations. Investigations shall generally remain ongoing until the Team Commander determines the incident has been fully investigated.

EXPENSES

Personnel costs for OISIT members, including overtime, shall be borne by the team members' respective home agencies.

Normal office expenses will be paid by the Team Commander's home agency. Unusual investigative expenses will be paid by the involved agency. The involved agency's chief executive shall have the opportunity to approve or deny such expenses before they are incurred.

TEAM COMPOSITION

The OISIT contains specific assignments that provide for a team approach to an OIS investigation. Since many of the duties may involve or impact more than one assignment, and since duties may be delegated as necessary, it's important for every team member to be familiar with each assignment and its corresponding duties and responsibilities.

POLICE CHIEF LIAISONS

Two Police Chiefs assigned from the Johnson County Police Chiefs and Sheriffs Association that provide administrative support to the Officer-Involved Shooting Investigation Team (OISIT).

- Ensure that the procedure manual and rosters are kept up to date.
- Recommend initial and on-going training for team members.
- Provide administrative support to the Commander during an active investigation.
- The liaisons will not be actively involved in the investigation but will be available for administrative, technical or investigative support, if necessary.
- Responsible for communication to the JCPCSA regarding the status of an active investigation.

TEAM COMMANDER

The Team Commander will maintain overall team and investigative supervision. OISIT

members shall accept directives given by the Team Commander as though the directive were being issued from the member's home agency supervisor.

The Team Commander's responsibilities include:

- Assigning and notifying the Lead Supervisor, investigators, and crime scene investigators once an OIS investigation has been activated.
- Responding to the OIS scene and overseeing the investigation, to include coordinating with the involved agency's on-site supervisor and/or Incident Commander.
- Arranging for office quarters and administrative support. (The site location will not be the agency/agencies involved.)
- Determining and obtaining the appropriate resources throughout the investigation.
- Managing and assisting with personnel issues and personal problems of OISIT members.
- Establishing and maintaining liaison with involved support entities, such as the Crime Lab.
- Aiding in mobilizing personnel for press conferences or for other purposes.
- Overseeing the completion and submission of the investigative case file to the District Attorney, to include drafting a cover report that includes a roster of participating OISIT members and the total investigative hours.

LEAD SUPERVISOR

The Lead Supervisor will serve as the chief assistant to the Team Commander by taking direct supervisory responsibility of the OIS scene and all follow-up investigation.

Upon arrival at the OIS scene, the Lead Supervisor should contact the involved agency's OIC and facilitate the timely transfer of investigative responsibilities to the OISIT. OIS incidents are dynamic situations and the Lead Supervisor should work to facilitate a partnership with the involved agency's personnel. Many of the initial duties of the Lead Supervisor may have been started or completed by the involved agency. The Lead Supervisor should expect this and be prepared to assume duties at any stage of completion.

The Lead Supervisor should:

- Determine what information on-site officers have obtained and what actions have been taken. This includes ensuring that the OIS scene has been secured by “police line” barrier tape as needed. A double perimeter may be established, i.e.: a taped and secure inner scene and a much larger barricaded or taped outer area that will serve to keep the public, media, and nonessential personnel away from the investigation.
- Ensure that all scenes have been identified and secured, to include the original felony scene, any escape/chase route, the OIS scene, the involved officer’s vehicle, the suspect’s vehicle, medical facilities, and any other place where evidence may be located. This includes ensuring the “field of fire” has been checked for additional injured persons.
- Determine the most effective way to sequester and interview involved and witness officers, suspects, and witnesses. Audio and/or video recorded statements should be obtained from all witnesses, when possible. Video recorded statements should be obtained from all involved officers and suspects, when possible.
- Assign team personnel as dictated by the unfolding investigation. Scene assignments typically include but are not necessarily limited to:
 - ✓ OIS Scene Investigator.
 - ✓ Crime Scene Investigator(s).
 - ✓ Witness interviews/canvas.
 - ✓ Involved officer contact.
 - ✓ Suspect contact.
 - ✓ Background and intelligence.
- Manage initial OISIT contact with the involved officer. If possible, the involved employee should be moved to an on-site position away from public and press scrutiny. Prior to being removed from the scene it is suggested that the involved officer provide OIS personnel (typically the Team Commander, Lead Supervisor, assigned Investigator, and OIS Scene Investigator) with a brief public safety statement if one has not been thoroughly provided to the involved agency’s Incident Commander or On-Site Supervisor. The public safety statement should generally be limited to:
 - ✓ Injured persons, to include level of injury and medical attention needed, along with the physical and emotional condition of the involved and witness officers.

- ✓ Suspects, to include identity and description, crimes committed vehicle information, area and direction last seen, and level of danger/hazard to the public.
 - ✓ Weapons, to include who fired, number of shots, direction of fire, and current location of weapons.
 - ✓ Identities of those involved: actors, victims, witnesses.
 - ✓ Crime scene(s), to include location and size, along with evidence—identity, location, preservation concerns.
- Coordinate (with the assigned Investigator or CSI) collection of the involved officer's discharged weapon. This typically will occur after the involved officer has been transported to the employer agency. If there are compelling reasons to do so, the weapon may be collected immediately by OISIT investigators or the employer agency's on-site supervisor. If the involved officer is carrying more than one firearm (such as a "secondary" or "back-up" pistol), each firearm shall be secured and turned over to OISIT investigators.
 - After the walk-through, collection of weapon(s), and photographing have been completed, assign an OISIT Investigator to be the involved officer's contact. A comprehensive interview with the involved officer will be scheduled at a time to be determined by the Team Commander.

The Lead Supervisor's OIS specific duties include:

- Keeping the Team Commander informed regarding the progress of the investigation, along with any issues or problems encountered or expected.
- Upon discovery of leads, assigning leads for investigation.
- Monitoring the activities of all team personnel, ensuring that team members report their progress for assigned tasks before following any new line of inquiry.
- Ensuring that prospective witnesses not located or interviewed initially are scheduled for interviews.

Much of the work to be conducted by the Lead Supervisor involves the supervision of other team members. It is crucial that the Lead Supervisor be knowledgeable of the duties and responsibilities of those team members as described in this manual.

OIS SCENE INVESTIGATOR

The OIS Scene Investigator has the responsibility of investigating and documenting the OIS incident as it pertains to the scene and the actions that took place. The OIS Scene Investigator will be considered a “primary” investigator and will work closely with the Lead Supervisor and Crime Scene Investigators.

Once the OIS scene has been released, the OIS Scene Investigator will prepare a comprehensive report that includes, but is not necessarily limited to, the following information:

- Date and time of occurrence.
- Location of occurrence.
- Description of the scene.
 - ✓ *Day or night, lighting issues, weather conditions, terrain, neighborhood, etc.*
- Officers involved in the OIS.
 - ✓ *Name, rank, age, date of hire, assignment, shift and duty status (on or off duty), and injuries incurred, etc.*
 - ✓ *Include those who responded to provide assistance.*
 - ✓ *Locations and reasons for being on scene/in the area should be summarized.*
- Weapons used.
 - ✓ *Make, model, serial number, caliber, capacity, etc.*
- Ammunition used.
 - ✓ *Manufacturer, caliber, type (full metal jacket, hollow point, semi-jacketed), etc.*
- Department vehicles involved.
 - ✓ *Note make and model, VIN, tag number, whether marked or unmarked, damage (if any), etc.*
- Suspect information.
 - ✓ *As much as can be obtained.*
- Suspect vehicle information.
 - ✓ *As much as can be obtained.*

- Witness information.
 - ✓ *Contact information only; witness interviews will be conducted by other OIS investigators.*
- Chronology of the incident.
- Evidence collected.

The OIS Scene Investigator should explore all avenues necessary to complete the scene investigation. He or she should:

- Ensure that an *entry log* is being kept by an officer with the involved agency. The log (or a copy) should be obtained from the involved agency once the scene has been released by the OISIT.
- Participate in the brief public safety statement at the crime scene with the involved officer (or the agency's Incident Commander or On-Site Supervisor) and Lead Supervisor. The OIS Scene Investigator should ask questions, where appropriate and take notes. Since there is a risk of evidence contamination with a walk-through of the entire scene, it is sufficient for the involved officer (or the agency's Incident Commander or On-Site Supervisor) to stand at a location that will allow him or her to point to critical areas and describe the actions and circumstances of the incident. The public safety statement should not be video recorded. The involved officer may be affected by stress caused by the trauma of the incident, and the presence of a video camera may create more stress and in so doing hamper the involved officer's ability to recall details and the order of events.
- Keep in mind that what appear to be conflicting statements may be observations from different angles and locations that produce differing perceptions of what occurred. That is why proper documentation of the location of all persons present is extremely important.
- Involved agency cars on the scene may be equipped with in-car video cameras. Videos from all cars on scene should be recovered, regardless of whether they are initially believed to contain pertinent information.
- Areas should be checked for the installation of video cameras—for example, traffic, automatic teller machines, parking lots, inside of stores, residential and doorbell—because such cameras may yield footage of the incident or the activities of the suspect before or after the incident.

It is of vital importance for the OIS Scene Investigator to work closely with the Crime

Scene Investigator. The OIS Scene Investigator should ensure that a Crime Scene Investigator does the following:

- Upon arrival at the scene, immediately photograph or video record the faces and activities of any bystanders/ witnesses that may be present. This is a preventive measure should the bystander/witness depart before contact, claim not to have been present, or make other unsupported claims.
- Examine and photograph every aspect of the scene; take measurements for use in preparing scene and trajectory diagrams.
- Document and collect all evidence.
- Measure for and prepare a scene diagram.
- Photograph police vehicles; show damage if related to the OIS. Photograph suspect vehicles; show damage if related to the OIS. Photograph pertinent structures; show damage if related to the OIS. Photographs may also be taken of vehicles and structures not obviously struck by gunfire.

A careful and thorough crime scene investigation should be completed. After the initial search and gathering of evidence, a second search should be conducted over a much broader area beyond the established scene to find any additional evidence.

If the OIS occurred at night, regardless of lighting conditions, the scene should be secured and returned to during daylight hours for further examination.

The OIS Scene Investigator should ensure that impounded vehicles are processed for evidence, as is necessary. He or she should obtain approval from the Lead Supervisor for the release of any vehicles.

The Crime Scene Investigator should recommend a list of requested lab testing (fingerprints, DNA, etc.) to the Lead Supervisor, who will forward the list to the Team Commander. The Team Commander will coordinate with the Crime Lab Director for laboratory testing of evidence.

If the OIS scene contains a dead body, whether victim officer or civilian or suspect, it will be managed by the Crime Scene Investigator. A victim officer or civilian or suspect that dies at a medical facility will be managed by the Investigator (and Crime Scene Investigator) responding to the facility. If the Crime Scene Investigator manages a dead body, the following protocol should be followed:

- Photographs and measurements should be completed before the removal of the body. It is not typically advisable to search the body at the scene, although an

immediate search may be dictated by public safety concerns. The optimum time to search the body is just before autopsy.

- The Crime Scene Investigator (or Lead Supervisor, if they have taken on this duty), shall notify the Medical Examiner Office (MEO) to respond to the scene. The current MEO protocols should be followed in reference the body.
- The OIS Scene Investigator and a Crime Scene Investigator will attend the autopsy. The autopsy should include fingerprints, photographs, and a full toxicology. Release of the body following the autopsy must be approved by the Team Commander after consultation with the MEO.

INVESTIGATOR

An OISIT Investigator may be called upon to fill many roles during the scope of an investigation. Assignments may include:

Canvas and/or witness interviews—civilian.

May involve an area canvas (consistent with what would be performed for a major case) and interviews of witnesses. Persons located at the OIS scene, even those claiming to have not seen anything, should be interviewed and recorded (as is practical). If an on-scene person cannot provide photo identification, an attempt should be made to photograph the person. At the very least a description of a person (if not photographed) should be contained in the Investigator's report of the interview.

Witness interviews—police employee.

Police officer interviews should record the officer's name, rank, age, date of hire, assignment, shift and duty status (on or off duty), etc. The officer's locations and reasons for being on scene/in the area should be explored within the context of a comprehensive interview. Civilian employees, such as dispatchers, may be interviewed; as may police officers with non-involved agencies who possess information pertinent to the investigation.

If an officer was present during the event, but did not discharge their weapon, at minimum a "weapon check" or "ammo count" should be performed. This can be done by an OISIT team investigator and/or a Crime Scene Investigator. All weapons, including back-up firearms and spare or back-up weapon magazines, in possession of the non-involved officer at the time of the OIS, should be checked.

Involved officer contact—not injured.

Contact with the involved officer should include an understanding of the stress felt by the officer due to the traumatic incident the officer has experienced. Contact will typically be made in conjunction with the Lead Supervisor and a Crime Scene Investigator (who will collect all necessary evidence and photographs). The involved agency may have a non-involved officer or supervisor accompany the involved officer during his or her contact with the OIS immediately following the incident.

The Lead Supervisor will determine at what point the involved officer's firearm will be recovered. All weapons (including back-up firearms and spare or back-up weapon magazines) in the possession of the involved officer at the time of the OIS should be recovered—even if those weapons were not apparently used. All collected firearms shall be submitted to the Crime Lab for examination and test-firing.

The involved officer will be photographed as he or she appeared at the time of the OIS.

Depending on the circumstances of the incident, it may be necessary to collect some or all of the involved officer's clothing and gear—for example, in a close quarter's combat situation in which blood, other body fluids, and trace evidence may have been deposited on the officer. If the suspect was shot at close range, blood may be present on the officer's firearm. If the weapon was holstered, blood may have transferred to the inside of the holster.

If the involved officer has a recording device, the device should be collected (even if it was not recording during the incident).

The involved officer should be advised that an interview will be scheduled at a later time, to be determined by the Lead Supervisor, the involved officer, and the involved agency.

Involved officer contact—wounded.

If the involved officer has been transported to a medical facility, the Investigator (with a Crime Scene Investigator) will need to accomplish the tasks listed above (for *involved officer—not injured*) in the most practical manner. The Investigator will need to compile a list of persons with whom the officer came into contact during transport to the facility and after arrival (at some point witness interviews will be conducted by the OISIT). Information should be gathered from medical personnel, to include time of admittance, names of attending physicians/support staff, tests and medicines administered injury information and medical status. If the involved officer has not provided information normally obtained during an on-scene public safety statement, an attempt should be made to obtain that information.

Dying declaration:

In cases where the victim officer, civilian, or suspect is seriously injured and death will undoubtedly occur, investigators must be alert to the possibility of obtaining a dying declaration. This can be obtained while waiting for the ambulance, en route to the hospital, or while the individual is in the hospital.

In order to obtain a legally admissible declaration, certain conditions must exist. Kansas Statute (60-460e) provides the following with regards to dying declarations:

Dying declarations. A statement by a person unavailable as a witness because of the person's death if the judge finds that it was made:

1. voluntarily and in good faith and
2. while the declarant was conscious of the declarant's impending death and believed that there was no hope of recovery.

Suspect contact—not injured.

Contact with a suspect will typically be made with the assistance of a Crime Scene Investigator (who will collect all necessary evidence and photographs from the suspect). If possible, standing photographs of the suspect should be obtained prior to booking, and all clothing should be recovered and searched. Every item that has the potential to serve as or yield evidence should be recovered, searched, photographed, and documented.

The suspect should be photographed, in part, to document the absence of injuries. A suspect who has no visible wounds should be subjected to a medical examination in order to document the absence of injuries. Blood samples may be obtained for analysis (this may require a search warrant).

An attempt to obtain a recorded statement should be made, if only to confirm the suspect declined to make a statement.

Suspect contact—wounded.

If the suspect has been transported to a medical facility, the Investigator (with a Crime Scene Investigator) will need to accomplish the tasks listed above (for *suspect—not injured*) in the most practical manner.

The Investigator will need to compile a list of persons with whom the suspect came into contact during transport to the facility and after arrival (at some point witness

interviews will be conducted). Information should be gathered from medical personnel, to include time of admittance, names of attending physicians/support staff, tests and medicines administered medical status, and injury information.

An attempt should be made to recover a blood sample before treatment by medical personnel—particularly before the administration of any type of transfusion that would compromise the results of analysis. Some medical facilities obtain blood samples before providing medical care and may retain the sample until a search warrant can be drawn that will enable the OISIT to recover the sample.

If the suspect is lucid, a practical attempt should be made to interview him or her. The interview should be recorded.

Background and intelligence

May involve the collection of pertinent training and personnel records for the involved officers, obtaining information from the involved agency regarding the agency's approved weapons and ammunition list (and whether the involved officer used approved items during the incident), researching background information and criminal history on suspects and witnesses, obtaining copies of the recordings contained in any personal recording devices for non-involved officers who arrived on the OIS scene, obtaining copies of recordings pertaining to the OIS (incoming calls to 911, dispatch and officer communications, etc.), obtaining printouts of CAD-RMS, MDT, and other computer-generated material pertaining to the incident.

REPORT OFFICER

The Report Officer is responsible for receiving, reviewing, indexing, filing, and summarizing all investigative reports. He or she will work closely with administrative support personnel. This role may be filled by the Lead Supervisor or a second Lead Supervisor assigned to the investigation.

The Report Officer's duties include:

- Ensuring the proper tracking numbers are assigned to the investigation and included on each submitted report.
- Ensuring OIS personnel use and properly complete the forms provided for reporting.
- Receiving and reviewing all reports.

- Generating a database of assigned leads, a database of collected evidence, and a database of names associated to the investigation.

The Report Officer will also serve as a historian for the case by:

- Collecting digital media, including news sources, and social media data of the investigation.
- Watching (when possible) television news reports concerning the investigation. If pertinent, recordings of broadcasts should be obtained. If a potential witness is interviewed on camera, an attempt should be made to obtain a copy of the unedited interview from the originating news station.

At the conclusion of the investigation, the Report Officer should prepare a comprehensive prosecution summary containing the facts of the case, to include a narrative synopsis of interviews conducted and actions taken by investigators. This may be completed within the Team Commander's report.

Additional information pertinent to this assignment can be found in the TEAM INVESTIGATIVE GUIDELINES section of this manual, under REPORTS.

CRIME SCENE INVESTIGATORS

The Crime Scene Investigators will work in cooperation with, and at the direction of, the Lead Supervisor, OIS Scene Investigator, and other investigators. They will assist investigators as is appropriate to their training and experience regarding the identification and collection of evidence.

The Crime Scene Investigators will generally maintain responsibility for the collection of all evidence, the taking of all photographs, the completion of all diagrams, and so on. Usually, more than one Crime Scene Investigator may respond to the scene or scenes.

For information regarding the various activities the Crime Scene Investigators may be called upon to perform, please consult the information contained in the LEAD SUPERVISOR, OIS SCENE INVESTIGATOR, and INVESTIGATOR sections.

CRIMINALISTICS SUPPORT

The Johnson County Sheriff's Criminalistics Laboratory may be called upon to assist with an OIS investigation.

When responding to an OIS scene, lab personnel will work closely with the OIS Scene Investigator and Crime Scene Investigators to facilitate a comprehensive team response to the identification, collection, and preservation of evidence.

The Lead Supervisor will generally provide direction to lab personnel on the scene. The Lead Supervisor may delegate this task to the OIS Scene Investigator and/or a Crime Scene Investigator.

After the evidence has been collected, lab personnel may be called upon to test or examine the OIS evidence. Requests for tests or examinations will be made by the Team Commander to the Crime Lab Director.

ADMINISTRATIVE SUPPORT

Administrative support will generally be provided by the Team Commander's home agency. This position (may be filled by a crime analyst) will work closely with the Report Officer and/or Lead Supervisor to ensure accurate, timely completion and organization of the written work product related to the investigation.

As determined by the Team Commander, support tasks may include:

- Maintaining a database of leads assigned.
- Maintaining a database of evidence collected.
- Maintaining a database of names associated to the investigation.
- Generating written transcripts from recorded interviews.
- Compiling a complete copy of the investigative case file into a presentation for submission to the District Attorney by the Team Commander.
- Packaging the original case file for the Team Commander to present to the involved agency's chief executive.

Upon completion of the investigation, the original investigative case file will be provided to the involved agency's chief executive or that person's designee.

TEAM INVESTIGATIVE GUIDELINES

This material is not all-inclusive, nor is all of it directly OIS-related; some of the material lends itself to any major case investigation. Much of it is very basic and simplistic, particularly when one considers the experience level of OISIT members. Even so, it is included here to provide a method of uniformity for this and future OISITs.

INTERVIEWS

As with other criminal investigations, interviews may be conducted or attempted with suspects, witnesses, and victims. An OIS includes the added dynamic of interviewing police officers.

Whenever possible, OIS interviews should be audio or video recorded; an OIS interview with an involved officer shall be audio and video recorded and transcribed. Interviews should focus on facts, not opinions—although a person's *perceptions* leading up and during an OIS incident may have material value. Recording interviews and generating transcripts allows the District Attorney to read exactly what a person said regarding the incident instead of relying solely on a paraphrased narrative of the interview by the investigator.

Other recorded interviews, if transcribed by support staff, will be reviewed for accuracy by the investigator.

A standard format for recorded interviews typically includes the following:

- Name, job title, and agency of the interviewer.
- Date, time, and location of the interview.
- Name of the interview subject, his or her birth date, home address, telephone number(s), and place of employment.
- Names and titles of others present during the interview.
- The case; for example: "OIS case number 04-01."

If the recorder is turned off for any reason during the interview, the interviewer should record the reason for and duration of the interruption.

At the conclusion of the interview, the time (and date, if changed) should be noted before the tape is turned off.

Suspect interviews should follow normal criminal investigation protocols and standards. If a suspect refuses to be interviewed or otherwise provide a statement, an OIS investigator should make every effort to record the suspect's refusal either on audio/video or in written form.

Witness interviews should be conducted as soon after an incident as possible, while the witnesses clearly recall the events. Any delay may impact the accuracy of the witnesses' recall. Witnesses may be influenced by friends and family members, and

such influence may be reflected in statements to investigators. Consideration should be given if a witness or witness officer could be the subject of emotional “trauma” and an acceptable period of time would benefit before an interview is completed or if a follow up interview needs to be completed.

Witnesses should be allowed to answer questions in their own words. Very specific questions should be asked concerning what was seen and heard—from what specific location and what point during the events leading up to and including the OIS. Distances from (and observations of) victims, suspects, other people, and objects such as vehicles, doorways, and alleys should be discussed. When applicable, possible obstructions to a witness’ view should be discussed, as should lighting and weather conditions. Witnesses should be asked if they know or are related to any person involved in the incident. Witnesses may be asked if they have any medical condition that might have influenced what they observed or heard (for example: poor eyesight, deficient hearing, whether they wear glasses or contacts or hearing enhancements); and may be asked whether they’d taken any prescription medication that may have affected their ability to perceive, observe, or hear. Witnesses may, of course, be asked whether they were under the influence of alcohol or drugs at the time of the incident.

Involved officer interviews are similar in many ways to other interviews. However, a factor that must be considered is that of the emotional “trauma” the officer may have experienced as a result of the OIS. The investigator should remember that traumatic events affect people. An involved officer under stress may start his account with “I responded...” and move immediately to “I shot...” and omit crucial details between the two events. Only a thorough step-by-step interview can reveal all critical material.

Specific officer-related questions may be asked. These questions may include, but are not limited to:

- The officer’s name, rank, duty assignment, and date of employment.
- The officer’s work background, including previous experience and training.
- The officer’s duty status (on or off duty at time of incident), duty hours, days off, and last shift worked.
- The officer’s attire at the time of the OIS: whether the officer was in uniform, plain clothes, or specialized gear (bike patrol, etc.)
- Was the officer’s badge displayed? On what part of body?
- Was the officer wearing a ballistic vest?

Specific incident-related questions may be asked. The involved officer should be allowed to present an uninterrupted narrative account of his or her actions and observations and the actions of the other persons involved in the OIS. Questions should be open-ended in order to elicit as much detail as possible. The use of police codes, police terminology, and slang should be avoided; if the officer uses such terms, ask him or her to explain them. Questions may include, but are not limited to:

- The officer's state of mind before the incident.
- How or why the officer arrived at the scene.
- Description of the incident, including time and place and what happened. This should ultimately be gathered within the context of a detailed chronological sequence.
- Lighting conditions, weather conditions, background, distances, terrain, and so on.
- Names (and titles, if applicable) of all persons who were present at any time during the incident.
- Descriptions of non-employees (if not identified) who were part of the incident.
- Whether the officer was in fear of his or her life or the lives and/or safety of others in the vicinity of the incident.

Specific crime scene questions may be asked. Answers to these questions should provide a detailed description of components of the scene and whether the scene was altered in any manner by police or emergency personnel. Was the weapon moved? Was any evidence disturbed or moved?

Information about firearms involved in the incident should include the firearm's make, model, caliber, and, for officer weapons, whether their firearm was department-issued or department-authorized. Information should include the manufacturer, caliber, and description of the ammunition, the type of bullet (hollow-point, full metal jacket, etc.); magazine capacity; whether the firearm was loaded; how many rounds were in the weapon and magazine; and, for officers, whether the ammunition was department-issued or department-authorized.

Specific officer identity and authority questions may be asked. These questions may include, but are not limited to:

- Did the officer identify himself or herself as a police officer prior to the discharge of the firearm? How many times? How loudly?
- Was it necessary for the officer to identify himself or herself?
- Did the officer have time to identify him or herself?
- Was the officer in uniform? Could the suspect see the officer?
- If in plainclothes or special enforcement clothing, was the officer's badge displayed or were other police-specific markings visible?
- Was the officer responding to a call for assistance?
- Was the officer acting on authority of a search or arrest warrant?
- Was the officer acting on specific orders?

Specific use of force justification questions may be asked. These questions may include, but are not limited to:

- What crimes, actions, or perceived acts of aggression precipitated the use of deadly force?
- What elements of the crime were known by the officer?
- Was the crime in progress, did the situation appear suspicious, or did the officer initiate the event (field observations or traffic stop)?
- What were the suspect's actions and demeanor prior to the incident?
- Did the suspect exhibit aggressive or erratic behavior or appear under the influence of drugs or alcohol?
- Was the suspect armed? If so, what did the weapon look like and where was it observed (in the suspect's hand or elsewhere).
- What was the suspect behavior/action that motivated the officer to react with deadly force?

A verbatim transcript of an involved officer interview should be prepared and reviewed (and corrected, if necessary) by the investigator. The initial transcript (after review and approval by the investigator) should not be altered in any manner.

If the involved officer wishes to provide additional information after the formal interview, another interview should be conducted.

OISIT (criminal) investigators should remember they cannot be provided information by internal (administrative) investigators that were obtained during an internal investigation.

REPORTS

Pertinent information regarding reporting practices of the OISIT is contained in the section entitled REPORT OFFICER.

The Police Chief Liaisons will keep an ongoing log of OIS investigations, which will be sequenced according to the year and number. For example, the first OIS of 2005 would be recorded as "05-01."

OIS case reports may, if necessary, have additional tracking numbers assigned to them. These additional numbers may include the Team Commander's home agency case number (provided the investigation is being managed from the Team Commander's home agency and is using that agency's administrative support) and/or the involved agency's reference case number. There will also be a Niche case number assigned under the OISIT special project area of the Niche RMS.

To be consistent among OISIT investigations, the following title/phrasing guidelines should be adhered to:

An "offender" is someone who, according to the evidence, how-ever preliminary, has committed a crime during the course of the OIS. Even if the suspect has been injured or killed as a result of the incident, he or she remains an "offender" with regards to referral within reports—the person deemed a suspect should never be referred to as a "victim."

An involved officer should not be considered (or referred to as) an "suspect" or "offender" unless and until such time that it has been determined the officer acted with an intent to violate the law. Even though OIS investigations are criminal investigations, they typically are not focused solely on whether particular actions occurred—they also seek to determine officer intent and whether legal justification of the use of force has been articulated.

A "victim" for the purposes of OIS reporting is someone who, without committing a crime, has been harmed, injured, or killed as a result of actions leading up to and including the OIS incident.

INVOLVED OFFICER WELFARE

David Hatch, a retired detective, authored the guidelines (below) concerning the welfare of involved employees:

"An employee involved in a traumatic event should be allowed time to calm down after the initial interview. He or she must be able to organize thoughts and prepare for the taped interview. The trauma of a violent incident can cause an employee to forget critical aspects of the incident or the order in which related events occurred. Allowing the employee time to think about the incident should enable him or her to describe in correct order and sufficient detail the actions of all parties to the incident."

"Homicide investigators have learned from experience that participants in traumatic events should be interviewed and important areas of investigative interest should be addressed initially, and a more detailed interview should be conducted at a later date after the shock of the crime has been absorbed. The employee then should be able to provide a detailed account of what happened."

"The employee interview should be scheduled after all other witnesses have been interviewed, the shooting scene has been processed, and the follow-up investigation is in progress. This will allow the investigator time to gather as much information as possible to guarantee that an informed and thorough interview be conducted. The more facts of the case that are known to investigators at the time of these crucial interviews, the better the chance of obtaining valuable information."

"Some critics will allege that allowing an employee time to gather thoughts and seek the counsel of union representatives or an attorney will lead the employee to produce a 'varnished' version of the incident. This criticism is totally without merit if an investigator interviews the employee at the scene and obtains a full description of the shooting. A subsequent interview simply memorializes the details of the incident on tape and allows the investigator to ask more pointed questions based on additional information obtained after the incident."

"It is not necessary to administer Miranda or Garrity warnings to the employee during the investigative stages of a use-of-deadly-force investigation. Miranda warnings are custodial in nature. Garrity warnings apply only to administrative investigations of employees and are coercive in nature. Neither warning is necessary in the investigative stages following an incident."

"Any agency administering Miranda or Garrity warnings to an employee as a matter of policy during the investigation of an officer-involved shooting is in serious error and should consult with the prosecutor's office for legal advice on the issue. The voluntary nature of any statement made by an employee involved in a violent incident will always be a matter of legal challenge and court interpretation."