



MIDDLETON POLICE DEPARTMENT

DATE
Nov 15, 2013

POLICY
5.3.02

SUBJECT: **Critical Incident Reporting & Review**

REVIEWED
July 27, 2017

Refer to: [6.1.21 – Special Purpose Animals](#), [5.1.01 – Use of Force](#).

History: 1993, Updated 11/2013, 05/2015, 07/2017

[WILEAG \(5th Ed.\) Standards](#): 5.3.2, 5.3.4

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Purpose

The purpose of this policy is to establish an administrative review process for critical incidents to assess the effectiveness and adequacy of policy, training, equipment and personnel.

Critical Incident Reports

All uses of force, unlawful use of force against officers resulting in injury, pursuits, injuries or damaged property caused by Middleton Police canines, off lead deployments of police canines and employee involved traffic accidents are required to be reported on a Critical Incident Report (CIR) Form (see policies on Use of Force, Pursuits, Special Purpose Animals and Traffic Accidents Involving Employees). The CIR shall be reviewed by the Shift Commander to determine whether:

1. The pursuit, use of force, acts or omissions were **within policy**;
2. The relevant **policy** was **understandable and effective** to cover the situation;
3. **Training** was adequate;
4. **Equipment** was adequate; and
5. In the case of accidents, the **accident was non-preventable or preventable**.

The Shift Commander shall report his or her finding on the Critical Incident Report Form and/or recommend that the Critical Incident Review Board (CIRB) review the incident. A CIRB review is required for certain types of incidents. Upon completion, the Shift Commander shall forward the completed Critical Incident Report Form to the Operations Captain as soon as practical.

Upon receipt of Critical Incident Report Forms, the Operations Captain shall notify the Chief of significant incidents consistent with parameters established by the Chief, and shall refer to the

CIRB incidents coming under Board's purview. All Critical Incident Reports shall be retained for a period of seven years and the data derived therefrom shall be annually compiled and analyzed by the Operations Captain to assess the effectiveness and adequacy of policy, training, equipment and personnel.

Critical Incident Review Board

Purview of CIRB

Incidents coming under the purview of the CIRB are:

1. Traffic accidents involving department personnel.
2. Pursuits involving department personnel.
3. An officer is injured in a use of force situation, or injured as the result of an unlawful use of force against the officer.
4. Use of Force where a subject receives an injury requiring medical treatment, whether such treatment is accepted or not.
5. Deadly Force is used.
6. A firearm is discharged, whether on-duty or off-duty. (This standard does not apply to firearms training, hunting, authorized destruction of injured animals or participation in legitimate sporting events).
7. All incidents involving injuries caused by Middleton Police Canines.
8. There is an alleged or actual unauthorized use of force.
9. A review is requested by the Agency Administration or the Shift Commander.
10. An appeal is made to the CIRB in writing by either party to a Type II Citizen Complaint finding.
11. A civil lawsuit or claim for damages is filed.

CIRB Procedures

The CIRB shall consist of at least three and not more than five members of the department and shall be chaired by the Operations Captain or other senior supervisor, as designated by the Chief. Eligibility for service on the Board shall be determined by the Board Chairperson based on the member's experience, training, and related qualifications. The Chairperson may appoint a nonvoting Board coordinator on a permanent or temporary basis for the purpose of processing critical incident reports, scheduling cases for review or hearing, and processing disposition reports, among other tasks. Any member of the CIRB who does not feel capable of making an impartial decision in a particular case shall recuse him or herself from that specific case review.

The Chairperson shall be responsible for establishing Board operating procedures, where not otherwise specified in this policy, subject to the approval of the Chief. The Board chairperson has the authority to call members of the department to testify at Board hearings or to provide written statements necessary for Board review. The Board shall convene as soon as practical following the incident, typically within 30-days. The Board may reach conclusions based on investigative reports and/or statements of witnesses. Findings and recommendations of the CIRB shall be made by a simple majority of at least three members present. The standard of proof is a preponderance of the evidence. The evidence must satisfy to a reasonable certainty by the greater weight of the credible evidence. Greater weight of the evidence means that when weighed against opposing evidence, it has more convincing power. Credible evidence is

evidence, which in the light of reason and common sense is worthy of belief. Discipline does not come under the purview of the CIRB.

CIRB Findings

The Board shall make a finding as to whether:

1. The pursuit, use of force, acts or omissions were **within policy**;
2. The relevant **policy** was **understandable and effective** to cover the situation;
3. **Training** was adequate;
4. **Equipment** was adequate; and
5. In the case of accidents, the **accident was non-preventable or preventable**
 - a. **Non-Preventable:** The member/operator exercised reasonable caution to prevent the crash from occurring and observed applicable agency policy, procedures, and training. This includes those accidents that occur as a result of an emergency situation providing the employee performed his/her duty in accordance with Wisconsin statutes 346.03 and the department's policy on vehicle operation.
 - b. **Preventable:** The member/operator failed to observe agency policy, procedures, or training, and/or failed to exercise due caution or defensive driving tactics.

CIRB Report

As soon as practical after completing its review, the CIRB shall submit a preliminary written report of its findings, conclusions, and recommendations to the involved employee(s) and to the Chief or his/her designee. Such recommendations may include but are not limited to the following:

1. remedial or refresher training of the employee;
2. modifications in or evaluation of equipment;
3. modification in or review of policy, procedures, training or tactics; and
4. recommendations for employee optometric, stress, or fitness-for duty evaluations.

When uncontested (see appeal procedures) within 10 days or when otherwise unmodified, the preliminary report of findings and recommendations of the CIRB shall be considered final. When necessary, the Chief or his designee shall forward a copy of the finalized CIRB report to the appropriate unit or supervisor for action considering the findings and recommendations for corrective, remedial, or preventive measures made by the Board.

CIRB Appeal

1. After the preliminary CIRB report is issued, an employee may meet informally with the CIRB Chairperson to clarify CIRB findings and recommendations, or ask questions about the process.
2. Within 10 days of the issuance of the preliminary CIRB report, an employee may provide new or additional information not previously considered by the Board to the CIRB Chairperson. If the Chairperson determines that the new or additional information is material to the Board's findings and recommendations, the Chairperson may convene the CIRB to consider the information as soon as practical, typically within 30 days. Any modifications to original findings or recommendations shall be forwarded to the involved employee(s) and to the Chief or his/her designee.

3. Employees may appeal findings and recommendations of the CIRB by submitting a written appeal to the Chief of Police within 10 days of the issuance of the preliminary report. The appeal shall specify points of disagreement and relevant facts. The time period may be extended if the employee was on leave during the 10 day appeal period. The Chief will render a written finding as soon as practical, typically within 30 days, after completing a review and any inquiries deemed necessary. The method of review and/or inquiry in a specific instance shall be determined by the Chief.