



**MIDDLETON POLICE  
DEPARTMENT**

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POLICY  
**6.3.08**

SUBJECT: **Officer Involved Critical Incidents**

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## **PURPOSE**

Law enforcement personnel may be involved in situations where deadly force is used against them or where their actions may lead to the death or significant injury of another. The purpose of this policy is twofold: first to provide staff guidelines to ensure that all aspects of critical incidents are fully investigated, and second to reduce the emotional impact on all persons involved.

Critical incidents expose officers and support personnel to mentally painful and highly stressful situations that may not be resolved through normal stress-coping mechanisms. Officers involved in incidents that result in the death of or serious bodily injury to a citizen or a fellow law enforcement officer may experience stress disorders. Unless adequately treated, the stress may cause disabling emotional and physical problems to the involved personnel. The Middleton Police Department recognizes that personnel involved in critical incidents risk developing and suffering from post-traumatic stress disorder. The Department's goal is to provide personnel with information on stress disorders and to guide and assist in its deterrence.

It is the goal of the Middleton Police Department to minimize the stress to the personnel involved while fully investigating critical incidents. Therefore, the Department shall take immediate action to ensure that a thorough investigation and an administrative review of critical incidents are conducted, while safeguarding the continued good mental health of all involved personnel. In conducting both a criminal and independent administrative investigation of a critical incident, the psychological impact of critical incidents shall be kept in mind.

While this policy is designed for officer-involved shootings, it may also be utilized in any incident where an officer is involved in an incident that results in death or great bodily harm. This includes, but is not limited to: traffic crashes, in-custody deaths, or any other significant event involving an officer. These incidents may generally be referred to as critical incidents. The procedures for administrative review and post-traumatic stress disorders may be applied to any other significant traumatic event.

## **POLICY**

The Middleton Police Department will conduct thorough administrative and criminal investigations into all incidents which involve the death or serious injury of any person, including law enforcement personnel, whenever an employee of the Department is actively involved in the incident. Depending on the severity of the case, the criminal investigation aspect of the case may be turned over to the Wisconsin Division of Criminal Investigation (DCI), Dane County Sheriff's Department, the Madison Police Department or the County Wide Investigation Team (CWIT). Middleton Police Department personnel will assist in these criminal investigations as requested.

## **DEFINITIONS**

For the purpose of this policy, the following definitions apply:

**Administrative Investigation:**

An internal review to determine if an officer's actions were in compliance with Middleton Police Department Policies, Procedures, and Training Standards.

**Criminal Investigation:**

The conducting of a full investigation to detect any criminal behavior and prosecute offenders for crimes in which they may have been involved. This includes criminal activities that may have occurred prior to the incident and during the critical incident itself. The Criminal Investigation of a Middleton Police Officer Involved Critical Incident can be led by Middleton Police Investigative Services Bureau, the Wisconsin Division of Criminal Investigation, the Dane County Sheriff's Department, the Madison Police Department, or by members of the County Wide Investigation Team.

**Coordinating Supervisor:**

A supervisor, who was not actively involved in the initial incident, whose function is to manage the incident scene and involved personnel until relieved by specialized teams.

**County Wide Investigation Team (CWIT):**

An investigative law enforcement team solely comprised of members of an outside agency other than the incident agency. This investigative team at a minimum will consist of an Outside Incident Commander, Lead Outside Investigator, and Outside Observer. For traffic related death investigations, the team shall also include a crash reconstruction unit. Members of this team will manage, lead, and conduct the investigation of an officer involved shooting or an officer involved death. The investigative law enforcement team will be formed in accordance with Wisconsin state statute 175.47 – Review of deaths involving officers.

**Critical Incident:**

- A. Any use of deadly force by an officer which results in serious injury or death to any person;
- B. Any intentional use of deadly force by an officer, including discharge of a firearm toward another person, whether or not the person is injured;
- C. An in custody death;
- D. Any incident in which an officer is actively engaged, which results in the death or serious injury of any person, including the officer (for example, a serious motor vehicle crash involving a squad car).
- E. A death of an individual that results directly from an action or omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are consistent with his or her law enforcement duties.

**Deadly Force by Law Enforcement:**

The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm. Behavior which justifies deadly force is defined as: Any behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.

**Lead Outside Investigator:**

The lead investigator is accordingly the person in charge of the investigation, who plays a principal, guiding role. The lead investigator must be responsible for the investigation and have hands-on leadership of investigation activities.

**Outside Observer:**

The outside observer will be a commander from an outside agency responsible for observing the investigation from inside the investigative team to make sure that the investigation was thorough, objective, and that the law and best practices were followed.

**Outside Incident Commander:**

The outside incident commander is the person overseeing the investigation in coordination with management from the requesting agency. The outside incident commander will provide a direct link for the lead outside investigator to the chain of command of the agency directly involved with the incident.

**Post-Traumatic Stress Disorder:**

An anxiety disorder that can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress.

**Requesting Agency:**

The requesting agency is the home agency for the primary officer involved in the use of force resulting in death.

**Trauma Specialist:**

A person trained to deal with the stress induced by critical incidents. This may include counselors, specially trained peers and others including mental health professionals whose practice includes dealing with the traumatic effects of critical incidents.

**PROCEDURE**

While this response plan is designed for an officer involved shooting, the principles and procedures outlined below are to be applied, with modification as appropriate, to all critical incident investigations.

**Initial Response**

Whenever an officer is involved in a critical incident, the officer should, as soon as practical, notify the on duty shift supervisor or acting shift commander. The supervisor should ensure that the Chief of Police is notified of the incident as soon as practical. The on-scene supervisor or a primary officer shall protect the scene following established evidence guidelines.

- A. If no officers are injured, the supervisor shall notify the Communications Center to advise non-involved units by MDC.
- B. In the event an officer is injured, the supervisor should immediately notify the Chief of Police and Operations Captain. The Operations Captain should arrange for notification of the injured officer's family following the Critical Incident Notification procedure. The Operations Captain should also arrange for notifications of on duty personnel by telephone or MDC of the employee involved along with his/her medical condition.
- C. The Operations Captain shall ensure that the following personnel are notified:
  - 1. The Chief of Police.
  - 2. The Administrative Captain.
  - 3. The Officer's Immediate Supervisor.
  - 4. The Criminal Investigative Law Enforcement Team (Middleton Police Personnel, DCI or members of the County Wide Investigative Team).
  - 5. Evidence Technicians as needed.
  - 6. A member of the appropriate Union Board.
  - 7. A Crisis Counselor.

### **Scene Management**

A supervisor who was not involved in the incident should immediately respond to the scene and assume temporary responsibility for the scene and the involved personnel. This person is referred to as the Coordinating Supervisor.

- A. The Coordinating Supervisor shall identify all involved personnel.
  - 1. If it has not already been done, the coordinating supervisor shall make arrangements for all necessary medical treatment.
  - 2. If the incident involves the discharge of a firearm or a Department squad colliding with another vehicle or person, the Coordinating Supervisor should make arrangements for the compelled collection of a blood sample for alcohol and/or drug testing from each officer who discharged his/her weapon and the driver(s) of the involved squad(s). The Administrative Investigation Team will follow-up to ensure each sample is tested and that the results are maintained as part of the administrative investigation file.
  - 3. In other cases, the Coordinating Supervisor should encourage the involved employee to submit a blood sample for alcohol and drug testing. The Coordinating Supervisor should make arrangements for a blood sample to be drawn as soon as practical.
- B. The Coordinating Supervisor shall obtain a brief overview, or Public Safety Statement, of the scene and what occurred in the critical incident from the involved officer(s). This information will serve as the basis of the incident investigation and may be used to brief

the lead investigator. The Coordinating Supervisor should keep the following information in mind and advise the officer as appropriate:

1. All supervisors should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
  2. The Public Safety Statement is to be a compelled statement. The Coordinating Supervisor shall compel this brief overview from personnel that are directly involved in the use of force.
  3. Only preliminary questions should be asked about the incident. The officer should be advised that a more detailed interview and a debriefing will be conducted at a later time.
  4. Standard and special investigation steps that will occur concerning the incident should be discussed with the involved officers.
  5. The officer should be advised not to take any stimulants or depressants, including caffeinated coffee and soft drinks, unless medical personnel administer them. Affected employees should be encouraged to drink plenty of water.
  6. The officer should be advised that a union representative or legal counsel is available for assistance.
  7. The officer should be advised not to discuss the incident with anyone except a departmental investigator, union representative, personal attorney, or mental health professional until the conclusion of the preliminary investigation. Discussions with investigators, supervisors, union representatives and co-workers are not privileged.
- C. If the incident involved an officer discharging a weapon, the Coordinating Supervisor shall ensure the security of the weapon until it is collected as evidence. The weapon may be secured in the officer's holster if steps are taken to ensure that its condition is not changed, including changing magazines. (See Criminal Investigation section C.)
- D. Whenever possible, the involved officers should be paired with another officer who was not involved in the original incident and moved away from the immediate scene.
1. If the involved officer has no immediate duties to perform, they should be taken to a secure area away from the immediate scene.
  2. If an involved officer(s) is needed to manage the scene, another officer, who was not involved in the incident should remain with the involved officer.
  3. The Coordinating Supervisor should make arrangements for the officer directly involved in the incident to leave the area as soon as practical.
    - a. If the involved officer is required to remain in the vicinity, but has no immediate duties to perform, he/she should be taken to a quiet area away from the primary scene.
    - b. If required to remain in the vicinity, an officer should be allowed to contact his/her family as soon as practical to let them know they are all right. However, the officer should be ordered not to discuss the details of the incident and reminded that such conversations may not be privileged communications.

E. The Coordinating Supervisor shall coordinate a canvass of the area to locate and identify potential witnesses.

1. Officers conducting the canvass should identify all persons in the immediate area including their home and work addresses and phone numbers, cell phone number and other contact information.
2. All potential witnesses should be interviewed to obtain an overview of what they observed.
3. Officers conducting the canvass should document all conversation with those present and potential witnesses.
  - a. This includes people who were present but “saw nothing” or say they know nothing of the incident.
  - b. Witnesses should be encouraged to remain near the location and available for detailed interviews with the criminal investigative team.
4. Documentation of initial interviews will assist in identifying primary witnesses and help prevent subsequent statements based on information learned after the fact.
5. Officers conducting interviews and canvass should keep the Coordinating Supervisor briefed as to their findings and the identity and location of witnesses.

F. The Coordinating Supervisor shall complete and/or coordinate other activities as required by the circumstances. These may include, but are not limited to:

1. Broadcasting any information regarding suspects/vehicles at large;
2. Maintaining a secure perimeter and coordinating deployment of special units and teams;
3. Photographing the scene as soon as time permits;
4. Completing a sketch of the scene as found;
5. Identifying other responders including medical and fire personnel.

### **Criminal Investigation Team Initial Response**

Upon arrival, the Investigative Services Sergeant or his/her designee, shall take command and responsibility for the on scene investigation. In conjunction with the command team, the determination will be made whether to turn the criminal investigation over to an outside agency, which includes but is not limited the Wisconsin Division of Criminal Investigation, Dane County Sheriff's Department, Madison Police Department or the County Wide Investigative Team. If an outside agency will lead the criminal investigation, all Middleton Police Officers will be directed to cooperate and assist in any way. If the decision is made for the Middleton Police Department to lead the investigation, the following steps will be taken:

A. The Coordinating Supervisor shall brief the Investigative Services Sergeant or his/her designee. This briefing should include, but is not limited to:

1. An overview of events obtained from the involved officer(s);
2. Any information on outstanding suspect(s);

3. A detailed briefing of on-going activities including the location and condition of suspects or efforts to apprehend suspects as appropriate;
4. An overview of the scene including location and description of known evidence;
5. Witness information and the status of the canvass;
6. Current officer assignments.

B. The Investigative Services Sergeant shall be part of a Criminal Investigation Team and shall lead the investigation.

### **Criminal Investigation**

A Criminal Investigation Team shall be formed to conduct a criminal investigation of the critical incident. The purpose of the team is to conduct a full investigation to detect any criminal behavior and prosecute surviving offenders for crimes in which they may have been involved. This includes criminal activities that may have occurred prior to the incident and during the critical incident itself.

A. The Investigative Team should consist of the following personnel:

1. The Investigative Services Bureau (ISB) Sergeant, who should lead the investigation.
2. Any other supervisor assigned by the Operations Captain.
3. Any other detective as assigned by the ISB supervisor.
4. Evidence Technicians, as assigned by the ISB supervisor.
5. If deemed necessary, personnel from the Wisconsin Division of Criminal Investigation, Dane County Sheriff's Department, Madison Police Department, County Wide Investigation Team, or members of another law enforcement agency.

B. The Investigative Team is responsible for conducting an investigation only as it relates to possible criminal violations. The team is not responsible for, nor should they engage in, an investigation to determine if there was a violation of policy and procedures or work rules.

C. A member of the Criminal Investigation Team is responsible for retrieving and taking custody of the weapon(s) used.

1. This should be done discreetly and out of public view. If practical this should be done at the Police Department.
2. Unless there is evidence of criminal wrong doing on the part of the involved officer, the Coordinating Supervisor should arrange for the assignment of a department owned replacement weapon.
3. The officer should be advised that his/her weapon will be returned or replaced as soon as practical, and appropriate.

- D. Only members of the Criminal Investigative Team shall conduct an investigative interview of the involved officers regarding the specifics of the incident while the criminal investigation is continuing.
1. Detailed interviews may be delayed to allow the involved officers time to overcome the initial stress of the incident.
  2. Investigative Team members shall at all times give consideration to the Constitutional Rights of the officer. In the event that the investigators develop probable cause to believe that the officer's actions may constitute a crime, the investigator shall give the officer his/her Miranda warnings prior to continuing the interview and notify the ISB Sergeant or Chief of Police as soon as practical.
  3. The involved officer may be returned to the scene as necessary to meet the needs of the investigation.
  4. The team member interviewing the involved officer shall prepare a typewritten statement of the incident and offer the statement to the officer for review and signature.
- E. If a decision is made for an outside agency or County Wide Investigation Team (CWIT) to lead the criminal investigation, the investigative team will be responsible for:
1. Coordinate and direct evidence collection/scene processing/autopsy;
  2. Liaison with Medical Examiner's Office;
  3. Coordinate interviews with witnesses/officers/suspects;
  4. Direct an area canvass for additional witnesses or video;
  5. Liaison with Dane County District Attorney's Office;
  6. Prepare report (including summary) to be sent to the Dane County District Attorney's Office for review.
    - a. Records created during the course of the investigation will be completed in the Records Management System of the lead criminal investigating agency. A complete copy of these case records will be turned over to the Dane County District Attorney.
    - b. All evidence collected, gathered, found or established will be maintained by the lead criminal investigating agency, unless otherwise modified by the Chief of Police or his/her designee. Investigators will have access to the case evidence as needed. Access will be allowed until the case is adjudicated and/or closed. Evidence access procedures of the Requesting Agency will be followed.
- F. Outside resources may be used if reasonably available and necessary for the investigation.
- G. Within 24 hours of the incident, the Criminal Investigation Team shall prepare a written summary of the incident, pertinent facts, and investigative progress for the Chief of Police and briefing agency personnel.

### **Media and Public Statements and Briefings**

All Middleton Police Department personnel should be advised that they are not permitted to speak with the media about the incident or represent the Department in comments on the incident in a public setting while the incident is under investigation.

- A. Inquiries from the media and all other requests for information shall be referred to the Chief of Police or his/her designee.
  - 1. The Chief of Police or his/her designee shall approve all media releases.
  - 2. Only the Chief of Police or his/her designee shall make statements to the press, grant interviews, or hold press conferences related to the details of the incident.
  - 3. To prevent compromising the criminal investigation, the Chief of Police or his/her designee should confer with the Criminal Investigation Team concerning the contents of news releases and interviews.
  
- B. The Chief of Police's Office will facilitate both defusing and debriefing sessions for affected personnel. (See Section VII for details on Critical Incident Stress Management).
  - 1. Discussing the impact of a critical incident with family, friends and others is part of coping with unusual stress. However, personnel are encouraged to limit such discussions to defusing and debriefing sessions, as described in the Critical Incident Stress Management section of this policy, or with close personal friends or family. Keep in mind that while such conversations are private in nature, they may not be privileged.
  - 2. In the event the name(s) of involved officers are released to the public, those involved officers should have their telephone calls answered by somebody else or screened for several days to protect against crank or abusive calls.
  
- C. As soon as practical, but no later than 24 hours after the incident, agency briefing information should be prepared by the Chief of Police or his/her designee, and provided to all supervisors for dissemination to each shift and work area.
  - 1. Supervisors should brief other agency personnel concerning the incident so that misinformation is kept to a minimum.
  - 2. The Department will make efforts to keep agency personnel informed of developments.

### **Administrative Response**

- A. Officers directly involved in the incident shall be placed on administrative leave with pay. This leave is not a suspension and is in no way construed as disciplinary action or any indication of wrong doing on the part of the officers.

- B. Personnel on administrative leave shall remain available for investigative needs.
- C. The officer(s) shall remain on leave until all the following occurs:
  - 1. The case is submitted to and cleared by the District Attorney;
  - 2. The case is submitted to and cleared by a Coroner's Inquest, if applicable;
  - 3. An initial meeting and debriefing with a Trauma Specialist has occurred;
    - a. A defusing, which occurs shortly after the event, does not replace a detailed debriefing and meeting with a professional Trauma Specialist.
    - b. The involved officer(s) should meet and debrief with a Trauma Specialist within 72 hours of the incident.
  - 4. The officer has been cleared to return to duty by a mental health professional, if applicable.
  - 5. The preliminary administrative review of the incident is concluded.
    - a. An ongoing administrative investigation of a minor procedural error should not preclude return to duty.
  - 6. The officers directly involved in a shooting incident should re-qualify with their duty weapons as soon as practical but before returning to active duty.
- D. Unless a mental health professional explicitly advises otherwise, the officer should be returned to the duty assignment held at the time of the critical incident.

### **Critical Incident Stress Management**

Critical Incident Stress Management (CISM) involves techniques designed to manage the emotional impact of a traumatic or critical incident.

- A. All personnel directly involved in a critical incident will participate in an approved Critical Incident Stress Management (CISM) session. These sessions will not begin until involved personnel have been interviewed by the Criminal Investigative Team. Approved sessions include:
  - 1. Defusing, a group session which occurs shortly after the incident;
  - 2. Group debriefings, occurring between 24 and 72 hours of the incident;
  - 3. Private debriefing, with a Trauma Specialist or a Mental Health Professional, usually held between 24 and 72 hours of the incident.
- B. Critical Incidents can have dramatic effects on co-workers even when they are not actively involved in the incident. Therefore, additional defusing and debriefing sessions will be offered to other personnel as needed. All Middleton Police Department employees are encouraged to participate in appropriate debriefing sessions.
- C. CISM sessions should be scheduled to meet the needs of the individuals involved but should occur within 72 hours.

- D. The Department strongly encourages the families of the involved officers to take advantage of available counseling services, Department defusings or debriefings that may be offered to family members.
- E. All Department personnel are encouraged to show the involved officers their support and concern.

### **Administrative Investigation**

The Chief of Police or his/her designee will appoint an Administrative Investigative Team. The Administrative Investigation should be limited to review of the incident in light of Middleton Police Department Policy, Procedures, and Training Standards.

- A. After conferring with the involved officer's immediate supervisor and other command staff, the Chief of Police will appoint the Administrative Captain to lead an Administrative Investigation into the incident.
- B. Additional supervisory personnel may be assigned to assist in the Administrative Investigation as needed.
- C. The administrative investigation should not actively begin until the involved officer's actions have been reviewed by the District Attorney's Office.
- D. The Administrative Investigative Team shall operate under the sole direction of the Chief of Police and report all findings only to the Chief of Police and/or persons designated by the Chief of Police.
- E. The Administrative Investigative Team shall have access to all reports and shall have authority to compel any employee to answer questions or submit written documentation about any aspect of the incident. Such statements cannot be used as part of the criminal investigation.
- F. The Administrative Investigation findings may be utilized as the basis of future tactical training.
- G. All Middleton Police Department investigations, both criminal and administrative, of the incident shall be concluded as soon as practical.

### **Critical Incident Review Board**

The Chief of Police shall appoint a Critical Incident Review Board to determine the appropriateness of the officer's actions. A secondary focus of the Review Board is to identify and address issues related to training, policy and procedure, equipment, and tactics.

- A. The Chief of Police or his/ her designee shall appoint personnel to the Critical Incident Review Board.

- B. Review Board members should not have a direct working relationship (i.e. same shift and assignment) with the involved officer(s).
- C. The Review Board members should be assigned as directed under Chapter 1, Review of Use of Force Incident.
  - 1. In addition, the panel may be assisted in an ad hoc capacity by:
    - a. A crash reconstruction expert.
    - b. A member of the Training Team.
    - c. A member of the Criminal Investigative Team.
    - d. A member of the Administrative Investigative Team.
- D. The Administrative Review Team Supervisor will present the team's findings to the Critical Incident Review Board.
- E. The Critical Incident Review Board should critically evaluate the specific tactics used by the officer(s), leading up to and during the incident, to determine if the actions were within policy.
  - 1. Each significant action (weapon discharge, significant use of force, etc.) by the officer should be evaluated.
  - 2. The actions should be classified following the guidelines of the Use of Force review policy.
  - 3. If the evaluation identifies deficiencies in tactics, equipment or training that are within policy but may be in need of review and improvement, that information should be forwarded to the appropriate Division for action.
- F. The Administrative Review Panel will report its findings and recommendations to the Chief of Police and refer discipline or remedial action to the appropriate Supervisor for adjudication.
- G. Supervisors are responsible for adjudicating and documenting all discipline, counseling, and other actions.
- H. Documentation of completed actions should be forwarded to the Chief of Police and will become an official part of the investigative file. A copy shall become part of the officer's personnel records.

### **Post-Traumatic Stress Disorder Prevention**

The officers involved in the critical incidents are at risk of developing and suffering from post-traumatic stress disorder.

- A. Post-traumatic stress disorder may not arise immediately, or employees may attempt to hide the problem.

- B. All supervisors and co-workers should monitor the behavior of unit members for symptoms of prolonged stress.
- C. A supervisor may suggest that an employee seek assistance or counseling from a mental health specialist. Upon a reasonable belief that stress may be disrupting the employee's job performance, the supervisor should initiate formal proceedings to ensure that the affected employee receives counseling.

### **Proactive Prevention and Training**

The circumstances of a critical incident and how the investigations are conducted have significant impact on long-term stress.

- A. The Police Department should ensure adequate training of personnel in critical incident response and investigations.
- B. The Police Department should provide employees with training pertaining to post-traumatic stress disorders, stress management and procedures contained in this policy on a regular basis.

### **Related Forms**

The following list of Middleton Police Department forms should be utilized to provide information and guidance during the investigation of an Officer Involved Critical Incident.

- Critical Incident Public Safety Statement
- Critical Incident Post – Information
- Critical Incident Compelled Blood Draw