



**MIDDLETON POLICE
DEPARTMENT**

DATE
Feb 27, 2004

POLICY
13.1.1.08

SUBJECT: **City Employee Involved Incidents**

REVIEWED
October 18, 2018

History: 2010, Updated 02/11; 03/2015
[WILEAG \(5th Ed.\)Standards: 13.1.1.6](#)

INCIDENTS INVOLVING PUBLIC SAFETY & CITY EMPLOYEES

Handling investigations involving City employees or public safety personnel can often present special difficulties since officers will often know the individual personally and share a working relationship. The Police Department's goal in dealing with such situations is to minimize even perceived injustice in the conduct of the investigation and charging decision. Ultimately, the result of an investigation should be the same as if the incident did not involve a City employee or public safety personnel. The policies below are intended to complement other department policies regarding discretion, domestics, and accident investigations to achieve this goal.

When police employees receive a call or otherwise encounter a domestic violence incident, serious traffic or ordinance violation, a criminal violation, a traffic accident, or other serious incident and become aware that a police or city employee is involved, the OIC shall be called to the scene, and is responsible for insuring a proper investigation is done and for making any charging decision. Collegiality often makes these situations difficult. Making the OIC responsible removes line employees from this dilemma. This requirement is not intended to alter the standard practice of referring some types of incidents to outside agencies or having close calls reviewed by a prosecutor or others. If the OIC is not a "bonafide supervisor," or in any case where the employee involved is a ranking officer, the OIC should consult with a member of the command staff.

It is our policy to take enforcement action during accident investigations when evidence exists to satisfy all the elements of a particular offense. (On private property only traffic laws relating to Reckless Driving, Hit and Run, Accident Reporting, and Operating While Under the Influence of Intoxicants or Drugs may be enforced.)

On-duty public safety personnel and street maintenance workers are granted certain exemptions under the traffic code, given the nature of their duties, and the circumstances and conditions they are required to work under. During accident investigations, when contemplating citations to on-duty public safety personnel or street maintenance workers, the law and totality of circumstances should be considered, including, but not limited to, the following factors:

- A. Was the employee engaged in a police, fire, EMS, street maintenance, or utility operation?
- B. What were the circumstances and conditions the employee was required to work under?
- C. Was there a second party involved, an injury, significant damage, or minor damage?
- D. Were warning lights activated and/or the vehicle marked?

- E. Was a second involved party reasonably and prudently attentive to the potential hazards of police, fire, EMS, street maintenance, and utility operations?
- F. Did the actions or omissions of a second party partially contribute to the accident?
- G. Is there substantial evidence the employee committed a non-exempt violation that was the primary contributing factor in the accident?

For accidents involving an on-duty Public Works, Fire, or EMS personnel, the OIC should notify and consult with the supervisor (DPW), Director (EMS), or Chief (MIFD) concerning circumstances, conditions, practices, and exemptions. They may need to know if the involved employee will be cited, won't be cited, or may be cited later. If a traffic citation is going to be issued, or could be issued later, drug and alcohol testing may be required and arranged by those departments, as their policies may require. Such a requirement or arrangement does not supplant police OWI procedures.

Although this operating procedure speaks to situations involving employees and public safety personnel, the principles can and should be applied to other similar situations.