



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **OFFICER INVOLVED CRITICAL INCIDENT**

NUMBER: 6.15

SCOPE: All Sworn Personnel
DISTRIBUTION: Policy & Procedure Manual

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EFFECTIVE: 01/15/2024

RESCINDS

AMENDS

REFERENCE: WI State Statutes: 66.0313, 165.83(1)(b),
165.85(2)(c), 175.40, 175.47

WILEAG 5TH EDITION

STANDARDS: 1.6.1, 1.6.2, 5.1.2,
5.2.1, 5.3.1, 5.3.2, 5.3.3, 6.2.7,
6.2.8, 6.3.8

INDEX AS: Deadly Force Incident Procedures
Legal Services
Officer Involved Critical Incident
Officer Involved Deaths
Officer Involved Shooting Incident
Post-Traumatic Stress Disorder

PURPOSE: The purpose of this Policy & Procedure is to provide guidelines for the sworn members of the Portage Police Department for the investigation of officer-involved deaths and other critical incidents where serious injury that may cause death has resulted from an officer's actions.

This Policy & Procedure consists of the following numbered sections:

- I. DEFINITIONS
- II. POLICY
- III. INCIDENT PROCEDURES
- IV. AGENCY INVESTIGATIVE RESPONSIBILITIES
- V. POST-TRAUMATIC STRESS DISORDER
- VI. LEGAL SERVICES
- VII. ADMINISTRATIVE REVIEW

I. DEFINITIONS

- A. "Law enforcement agency" means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority. (165.83(1)(b).
- B. "Law enforcement officer" means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce. (165.85(2)(c).
- C. "Officer-involved Critical death" means a death of an individual that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while off duty but performing activities that are within the scope of their law enforcement duties. (175.47(1)(c). NOTE...officer involved critical incident includes a death or serious injury to an individual.
- D. "Lead Investigator" means the person or agency in charge of the investigation, which plays a principal, guiding role. The lead investigator must be responsible for the investigation and have hands-on leadership of the investigation duties. The lead investigator should, without limit:
1. Direct the overall investigation and activities of others involved in the officer involved death.
 2. Coordinate with the lead officer/agency conducting any underlying criminal investigation of the event or events that lead to the officer involved death.
 3. Take possession of, or direct the collection of all evidence.
 4. Take or direct the taking of statements of witnesses or interviews of law enforcement officers.
 5. Act as the primary (but not exclusive) contact with the prosecutor's office.
- E. GREAT BODILY HARM: "Bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury." WI State Statute 939.22(14)

II. POLICY

- A. It is the policy of the Portage Police Department to require that an investigation of any Officer-Involved Death or serious injury that may cause death be conducted by at least two investigators, one of whom is the lead investigator and neither of whom are employed by the Portage Police Department.

The Portage Police Department will preferably utilize the Wisconsin Department of Justice Division of Criminal Investigation and in extenuating circumstances other law enforcement agencies to investigate these incidents under mutual aid requests and will respond to assist other agencies by conducting these types of investigations for their agencies upon request, refer to Policy & Procedure 1.07: Jurisdiction.

- B. If the officer-involved death or serious injury which may cause death being investigated is traffic-related, it is the policy of the Portage Police Department to utilize a crash reconstruction unit from an outside law enforcement agency that does not employ the law enforcement officer involved in the officer-involved death being investigated, preferably the Wisconsin State Patrol.
- C. The Portage Police Department reserves the right to conduct an internal investigation into the officer-involved death. However, any such internal investigation will not interfere with and must be independent of the investigation being conducted by the outside investigating personnel/agency.

III. INCIDENT PROCEDURES

- A. The following procedures shall be followed when an officer is involved in an “officer involved death incident” that either causes death or serious bodily injury that may lead to death either to the officer or another person.

The procedures shall also be followed when an officer is responsible for the unintentional or intentional discharge of any firearm (other than on an approved firearms range or for legal hunting purposes), or the unintentional or intentional use of deadly force by any means.

- B. The officer shall:

1. Determine if the scene/incident is now safe – no threat(s) still present.
2. Check self for injuries.
3. Check the subject for injuries and administer first aid if needed.
4. Request EMS personnel.
5. Maintain close personal observation and physical contact with the subject while continuing to provide first aid until relieved by appropriate medical personnel.

- C. A supervisor shall be notified and summoned to the scene of the incident, and shall assume primary responsibility in caring for involved personnel.

1. If a supervisor is not on duty, one will be called in to take command of the incident.
2. If a supervisor is involved in the incident, a second supervisor will be called in to take command of the incident.

D. Responding officers/on-duty supervisor shall:

1. Confirm the scene is safe to approach.
2. Relieve the officer involved in the incident from first aid responsibilities of tending to the injured subject(s) as soon as practical.
3. Establish a perimeter to protect the scene.
4. The on duty supervisor or the one called in to begin to stabilize the situation will refer to the Portage Police Department Officer Injury or death, critical incident form for their respective responsibilities.
5. The supervisor will ask "public safety questions" on scene of the officer involved from the Portage Police Department Officer Involved Critical Incident Public Safety Statement form (due to the immediate need to take action, officers do not have a right to wait for legal or labor representation before answering these limited questions).
 - a) Are you injured?
 - b) Do you know if anyone else is injured? Where are they?
 - c) Number of scenes, where?
 - d) Location of deadly force?
 - e) In what direction did you fire your weapon?
 - f) Are any suspects still at large? What are their descriptions? How many?
 - g) What direction did they leave?
 - h) How long ago did they leave?
 - i) What crime(s) are they wanted for?
 - j) With what weapon(s) are they armed?
 - k) Suspect vehicle(s), Description?
 - l) Does any evidence need to be preserved?
 - m) Where is it located?
 - n) Did you observe any witnesses?
 - o) Where are they?
6. Determine if the suspect(s) is still at large. Obtain a description and request personnel to initiate the search.

7. Establish a Command Post location and staging area for EMS and support units.
8. Identify and control evidence that could be lost.
9. Identify, isolate and control witnesses.
10. Remove the officer involved in the incident as soon as possible.
11. Contact an investigator, request mutual aid, request additional resources as needed, etc.
12. Advise the Chief of Police of the incident. The Chief or designee will arrange for an outside agency to conduct the investigation.
13. Also refer to Policy & Procedure 13.05: Active Shooter for further information.

E. Removing the officer from the scene shall follow the following guidelines:

1. The primary investigators from another agency shall be in charge of the investigation.
2. The officer involved shall be transported as soon as feasible to the Portage Police Department for blood draw, unless medical attention is needed for the officer in which case they will be transported to a hospital. A supportive peer officer will be assigned to accompany and remain with the officer and provide assistance.
3. The lead investigating agency will secure all equipment of the officer involved. The lead investigating agency will photograph the officer involved as they are before taking clothing for evidence purposes. The equipment shall be left in the identical condition as when it was secured. No weapon will be unloaded or changed in condition. The officer's weapon will be replaced with another when it is retained for evidence. The lead investigating agency will be consulted as to whether the weapon is needed for evidence.
4. The Assistant Chief shall arrange to have the officer involved contact family, clergy, and or legal counsel. Under no circumstances will an officer be placed in the rear seat of a squad car. No officer will be held or isolated in any area without a peer support officer.
5. The Chief of Police or designee shall if feasible, personally go to the home of the officer involved making notification to family members and providing transportation to the hospital or other location as required.

If the officer involved is deceased or injured, every attempt will be made to make personal notification. Every effort will be made to assist family members and support persons with transportation.

6. Officers(s) involved should normally not be questioned at the hospital; they are there for medical evaluation.

7. Officer(s) involved may be medicated or provided a sedative to bring down blood pressure, relax and sleep, after primary blood draw.
 8. Officer(s) statements will be better taken 48 hours later after a full nights rest and they are advised of their legal right to seek counsel.
 9. Under no circumstances will officer's home or family information be given to the hospital. They will get the officer's name and the Portage Police Department address.
 10. After medical evaluation and treatment (if required), the assigned support officer shall transport the officer to their home. Under no circumstances will the officer be permitted to drive themselves home.
 11. The officer involved shall be placed on administrative leave or desk duty by the Chief of Police or designee during the investigation of the incident and or until such time as the incident investigation is completed.
 - a) The officer shall be available for interviews and statements regarding the incident and subject to recall to duty.
 12. Department members are encouraged to show the involved officer(s) their concern. They are not permitted to speak with the media about the incident or the officer.
 13. The officer should be advised to have phone calls answered by another person for several days after the incident if the officer's name is released to the public.
 14. The officer who discharges their firearm during a deadly force incident shall be required to re-qualify after being released for full duty.
 15. The officer should be advised not to discuss the incident with anyone except a personal or department attorney, labor representative, medical professional, clergy, or assigned investigator, until the conclusion of the preliminary investigation. This does not prohibit the officer from discussing the incident with their spouse.
- F. At all times, when at the scene of the incident, all staff should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
- G. The Chief or designee should brief other department members as soon as possible concerning the incident so that rumors are kept to a minimum.
- H. Any officer directly involved in the deadly force incident shall be required to contact a department designated specialist for counseling and evaluation as soon as practical after the incident at the cost of the department. Involved support personnel should also be encouraged to contact such specialists after a deadly force incident. After the counseling sessions, the specialist shall discuss with the Chief:

1. Whether it would be in the officer's best interest to be placed on administrative leave or desk duty, and for how long;
 2. What, if any will be the best continued course of counseling.
- I. The department strongly encourages the family of the involved officer to take advantage of available counseling services.

IV. OUTSIDE AGENCY INVESTIGATOR RESPONSIBILITIES

- A. Coordinate with the District Attorney's Office and the Captain in regards to the investigation of the incident.
- B. Perform the following activities (according to mutual agency Memorandums of Understanding):
1. Investigators shall conduct a systematic, thorough, and complete investigation.
 2. Receive a general "walk-through" by the officer regarding the circumstances of the incident.
 3. If a death scene, coordinate with the Columbia County Medical Examiner and conduct a full death investigation, including attending any autopsies associated with the incident.
 4. Officer –Involved Interview(s): Unless evidence of a crime exists an officer is not considered a suspect and shall be treated as a victim or witness.
 - a) The officer is not in custody and will not be given Miranda warnings.
 - b) The officer will be interviewed by investigators and will not be required to submit a written report.
 5. Work with the District Attorney's Office in obtaining any needed search warrants for properties, residences, vehicles, or containers.
 6. Ensure the entire scene is documented via photographs, videotape, and a crime scene diagram.
 7. Ensure the proper collection of all items and substances of evidentiary value.
 - a) Check the weapons and ammunition of all officers present to determine if discharged.
 - b) Locate and secure into evidence any involved officers' weapons.
 - c) Weapons confiscated from officers shall be replaced as soon as practical.
 8. Process all collected evidence, including weapons, and transport to the Crime Lab if appropriate.

- a) Ensure officers' toxicological testing is completed in a timely manner.
 - b) Locate, identify, and interview all witnesses to the incident, including involved medical personnel.
 - c) Locate, identify, and interview all suspects related to the incident.
9. Locate, identify, and conduct separate interviews of all officers related to the incident.
- a) Interviews may be conducted at the department.
 - b) Officers shall be reminded not to discuss the incident with anyone except their attorney, union representative, or department investigator until the conclusion of the preliminary investigation.
- C. Ensure that the case is to be presented to the District Attorney's Office at the earliest possible date.
- D. Prepare all reports regarding the investigation of the event.
- 1. The release of the report will be dependent upon the decision of the District Attorney's Office.

V. POST-TRAUMATIC STRESS DISORDER

- A. As post-traumatic stress disorders may not arise immediately, or the officer may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of department or shift members for symptoms of the disorder.
- B. The Chief of Police or designee may order an officer to seek assistance or counseling from a mental health specialist upon a reasonable belief that stress may be disrupting the officer's job performance.
- C. The department shall provide employees with training pertaining to post-traumatic stress disorders and the uniform procedures contained in this Policy & Procedure.
- D. Supervisors are responsible for making available to department members information about mental health services.
- E. The department will make every effort to provide or make available secondary psychological services for the officer, and/or the officer's family, when an officer is involved in an incident involving injury or death.
 - 1. The purpose of this service will be to allow the officer to express their feelings and to deal with the moral/ethical and/or psychological after effects of the incident.
 - 2. The purpose of attempting to provide or make available this service to the family of the officer is to provide the officer and family with a source of professional consultation to aid them in dealing with the potential moral, ethical, and/or psychological after effects of the incident.

3. Psychological service shall not be related to any department investigation of the incident. The counseling sessions will remain protected by the privileged physician-patient relationship and no reports of the sessions or information discussed will be filed with the department.

VI. LEGAL SERVICES

- A. The department will make every effort to coordinate legal counsel for any officer involved in a deadly force incident involving injury or death.
- B. The attorney, if provided, shall establish a lawyer-client relationship with the officer involved and interview the officer.
- C. The attorney may assist the officer in drafting the officer's personal statement or report as to the underlying facts and the reasonableness, as perceived by the officer, justifying the use of deadly force.
- D. Should the initial lawyer-client interview indicate that the officer has not acted lawfully, in good faith, or within the scope of their duties, the officer will be responsible from that point on for any attorney fees charged.

VII. ADMINISTRATIVE REVIEW

- A. An administrative review of the incident will be conducted by the Chief or designee, with the exception that the on-scene supervisor will not be responsible for conducting the review.
- B. The purpose of the review will be two fold: to determine whether the officer followed established policy, procedure and training, and to determine if any future policy, procedure or training recommendations are necessary.
- C. The administrative review will begin once the criminal investigation has been completed, unless directed otherwise by the Chief.
- D. If the District Attorney determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the investigators conducting the investigation shall release the report.

Keith J. Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

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