



POLICY & PROCEDURE

MCFARLAND POLICE DEPARTMENT

SUBJECT: **OFFICER INVOLVED CRITICAL INCIDENT**

NUMBER: 13.06

SCOPE: All Sworn Personnel

ISSUED: 08/02/2022

DISTRIBUTION: Policy & Procedure Manual

EFFECTIVE: 08/16/2022

REFERENCE: WI State Statutes: 66.0313, 165.83(1)(b), 165.85(2)(c), 175.40, 175.47, 939.22(14)

RESCINDS

AMENDS

WILEAG 6TH 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 McFarland Police Department for the investigation of all 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 the off duty but performing activities that are within the scope of his or her 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 McFarland 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 McFarland Police Department.

The McFarland Police Department will utilize 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 that may cause death being investigated is traffic-related, it is the policy of the McFarland 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.
- C. The McFarland 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 accidental or intentional discharge of any firearm (other than on an approved firearms range or for legal hunting purposes), or the accidental 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 required.
4. Summon EMS personnel if necessary.
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 supervisor will ask "public safety questions" on scene of the officer involved (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) Is Immediate Medical intervention needed?
 - c) Where might there be other injured person, or persons requiring medical treatment?
 - d) Suspect(s) description, direction of travel, vehicle description, time last seen, and what type of weapons(s) did the suspect(s) have?
 - e) Is there any evidence we should know about so it can be protected from loss, contamination, or destruction?
 - f) Evidentiary areas that the investigators need to be aware of for evidence preservation (examples: suspect grabbed on PO's gun, altercation where suspect/officer brushed up against, vehicle, footprints)?
 - g) Description and location of the victims, witnesses, other law enforcement officers?
 - h) Has the scene changed or been altered in any way since the incident?
 - i) What type of force was used?
 - j) In what direction did you fire your weapon?
 - k) A minimal summary of the event in order to address and better understand the above investigative points.
5. Determine if the suspect(s) is still at large. Obtain a description and request personnel to initiate the search.

6. Establish a Command Post location and staging area for EMS and support units.
7. Identify and control evidence that could be lost.
8. Identify, isolate and control witnesses.
9. Remove the officer involved in the incident as soon as possible.
10. Contact an investigator, request mutual aid, request additional resources as needed, etc.
11. Advise the Chief of Police of the incident. The Chief or Lieutenant will arrange for an outside agency to conduct the investigation.
12. 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 and determine if the following is appropriate and the level of cooperation between them and this agency.
2. The officer involved shall be transported as soon as feasible to the hospital for evaluation. A supportive peer officer will be assigned to accompany and remain with the officer and provide assistance.
3. A supervisor will assign a support officer based on selection from involved officer. The support officer will secure all equipment of the officer involved. The support officer will photograph the officer involved as he/she is 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. A supervisor or investigator will be consulted as to whether the weapon is needed for evidence.
4. 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.
 8. Officer(s) statements will be better taken 48 hours later after a full night's 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 McFarland Police Department address.
 10. After medical evaluation and treatment (if required), the assigned support officer shall transport the officer to his/her home. Under no circumstances will the officer be permitted to drive him/herself 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 his/her firearm during a deadly force incident shall be required to re-qualify as soon as practical.
 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, the supervisor should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
- G. Any investigation of the incident shall be conducted as soon and as practical.
- H. The Chief or designee should brief other Department members as soon as possible concerning the incident so that rumors are kept to a minimum. Department members are encouraged to show the involved officers their concern.

- I. 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.
- J. The Department strongly encourages the family of the involved officer to take advantage of available counseling services.

IV. OUTSIDE AGENCY INVESTIGATOR RESPONSIBILITIES

- A. Notify the District Attorney's Office 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 McFarland supervisor or involved officer regarding the circumstances of the incident.
 3. If a death scene, contact the 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 until directed to do so.
 5. Inform the District Attorney of the incident and request assistance 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. Release the report 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 a deadly force incident involving injury or death.

1. The purpose of this service will be to allow the officer to express his/her feelings and to deal with the moral/ethical and/or psychological aftereffects 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 aftereffects 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 provide an attorney-at-law 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 his/her 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 twofold: 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.

Aaron P Chapin
Chief of Police

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

Initial 8/2/2022 JJ