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# University of Wisconsin–Madison Police



**Policy: 1.5**

**SUBJECT: OFFICER INVOLVED DEATHS (OID) AND OTHER OFFICER INVOLVED CRITICAL INCIDENTS (OICI)**

**STANDARD: 11.3.4**

**EFFECTIVE DATE: 11/20/17**

**REVISED DATE: 06/19/19; 11/11/20; 09/15/21; 11/17/21**

**REVIEWED DATE: 8/06/22; 3/15/23**

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**PURPOSE:** Investigations of officer involved deaths and other officer-involved critical incidents place extraordinary demands upon the individuals and agencies involved. The purpose of this policy is to establish the process and guidelines for the investigation and aftercare of such incidents. The intent of this policy is to ensure that such incidents are investigated in a professional, fair and impartial manner and that impacted officer(s) are provided necessary support. This policy shall cover all critical incidents involving department personnel and all department employees shall be subject to it regardless of whether or not they are sworn officers.

## **DEFINITIONS:**

“Administrative Review” is a time-sensitive assignment given to a command staff member to gather the facts of an incident. It may include but is not limited to reviewing initial written reports and video. The purpose of an administrative review is to determine if there are policy or safety issues that require a more thorough internal investigation, or any violation of law. If an internal investigation is not required, training and procedural recommendations may be made.

“Criminal Investigation” is an investigation of a critical incident to ascertain all the relevant evidence as to whether or not anyone committed a crime during the course of the event which led up to and included the critical incident. The criminal investigation is conducted separate but may be simultaneous to an internal investigation.

“Critical Incident Partner (CIP)” is a department member, of an involved officer’s choosing, who is assigned to the officer involved in a critical incident. The CIP will act as a liaison between the officer, their family and the department

“Critical Incident Stress Debriefing” is a small group debriefing which consists of only UWPD Staff directly involved in the critical incident and is facilitated by the department CISM provider. The debriefing should occur 48-72 hours post incident. The debriefing is designed to mitigate acute symptoms, assess the need for follow-up, and if possible, provide a sense of post-crisis psychological closure.

“Deadly Force” is the intentional use of a firearm or other instrument, that when used would result in a high probability of death or great bodily harm.

“Defusing” is a confidential, individual non-evaluative discussion with a mental health professional who specializes in traumatic incidents such as officer involved shootings. This is not a fitness for duty assessment.

“Internal Investigation” is an investigation to gather the facts of an incident in detail. An Internal Investigation may begin as an Administrative Review. For some incidents, the more complete Internal Investigation is required by policy. The Internal Investigation includes gathering information from interviews of the primary personnel related to an incident as well as other officers, arrested persons, victims and witnesses. It may include but is not limited to reviewing written reports, video, reports from other agencies that produced reports, and physical evidence. When it is determined that discipline is a possible outcome, interviews will be in accordance with the discipline process.

“Involved Agency” is the law enforcement agency which employs the officer(s) who are directly involved in the officer-involved death. In the event that officers from more than one agency are directly involved, there can be multiple involved agencies.

“Involved officer(s)” is/are officer(s) who are directly involved in the critical incident as a principal, victim, witness, or is the custodial officer.

“Officer Involved Critical Incident (OICI)” is an event in which an officer is involved as a principle, a victim, or is the custodial officer, where a significant injury likely to cause death occurs or when an officer intentionally discharges his/her firearm at another person.

“Officer Involved Death” is an incident involving the death of an individual that results from an action or omission of a law enforcement officer while the officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of his or her law enforcement duties.

“Outside Agency Lead Investigator” is the investigator who has the statutory authority to oversee and direct the investigation of an officer involved death. The outside agency lead investigator will work with the supervisors of the involved agency in order to accomplish the investigation. The involved agency supervisor(s) will use their formal authority within the agency to assist the lead investigator.

“Public Safety Statement” is a voluntary statement made by involved officer(s) that addresses the level of danger that may still exist, aid the initial operational response to locate suspects and provide initial basic safety information surrounding an officer involved death (OID) and/or officer involved critical incident (OICI) that can be relayed to the community in an expedited manner to address safety concerns.

“Tactical Debrief” is a post-incident debrief with any department members involved which focuses on a review of the actions taken during the incident and the tactics utilized.

## **PROCEDURE:**

### **1.5.1 RESPONSE TO OFFICER INVOLVED DEATH (OID)/OFFICER INVOLVED CRITICAL INCIDENT (OICI)**

- A. Pursuant to Wisconsin State Statute [175.47](#), UW-Madison Police Department shall request that an outside agency conduct the criminal investigation of any officer involved death where a department officer is an involved officer(s). For the purposes of this policy, OICI/OID includes incidents in which a sworn officer is involved as a principal, a victim, or is the custodial officer, where significant injury likely to cause death occurs or when an officer intentionally discharges their firearm at another person. The following provides guidance to personnel in the event an officer is involved in a situation that results in death and/or is involved in a critical incident:
  - B. Directly involved personnel:
    1. Shall render first aid and call for emergency medical assistance, when safe to do so.
    2. Shall control the scene until relieved.
    3. Shall notify dispatch to request a police supervisor and the manager on call.
    4. Shall identify witnesses to be interviewed by investigators. Involved officer(s) shall not participate in the interview of witnesses.
    5. Shall brief responding law enforcement personnel about the incident and consider providing a voluntary Public Safety Statement to the first arriving supervisor.
    6. Shall comply with legal requirements of department personnel investigators assigned to conduct an internal investigation into the incident, including receiving any medical assessment or providing breath, blood and/or urine samples for chemical analysis.
    7. Shall comply with legal requirements of investigators assigned to conduct criminal investigation into the incident.
    8. Are encouraged to participate in a walkthrough of the scene with investigators.
  - C. Responding officer:
    1. Shall assist in the stabilization of the incident.
    2. Shall attend to the medical requirements of officers/suspects.
    3. Shall preserve the scene and identify potential witnesses.
    4. Shall prepare reports as requested.

D. On scene supervisor or designee:

2. Shall initiate incident command protocol.
3. Shall assume responsibility for the security and preservation of the scene.
4. Shall contact officer(s) involved to obtain a public safety statement which will provide immediate information to assist in determining scene and community safety. Involved officer(s) participation is voluntary. The supervisor obtaining the Public Safety Statement will document the information in an incident report and share it with the outside investigating agency, when applicable. If possible, a separate supervisor should take the public safety statement from each of the involved officers who give one. The public safety statement is not an interview and will only address the most basic information regarding the incident, to include:
  - a. Injuries to officer(s), suspect(s) and/ or citizen(s) requiring immediate medical assistance
  - b. Location and description of offender(s)
  - c. Location and description of victims or witnesses
  - d. Use of force, what type of force was used
  - e. Minimal summary of event
5. Shall reference Appendix O: Officer Involved Death (OID)/Officer Involved Critical Incident (OICI) Reference guide for the questions that may be asked.
6. Shall brief the manager on call (MOC).
7. Shall establish a command post in conjunction with other agencies that may be involved in the incident.
8. Shall separate the involved officer(s) a short distance away from, but available to the scene, to a quiet location. If the involved officer(s) are sent to a hospital after an incident, they should be sent to a different facility from involved suspects, if possible. The supervisor or manager shall ensure involved personnel are accompanied by a non-involved Department officer, preferably a supervisor if possible. An assigned non-involved Department member shall remain with the involved officer(s) until relieved by the officer's Critical Incident Partner (CIP) or designee.
9. Shall advise officers any conversations at this point could become part of the investigation. Involved officers should be allowed to make phone calls as needed but should be warned about which conversations are privileged and which are not.
10. The officer(s) should not be given stimulants or depressants (caffeinated beverages) unless it has been directed by medical personnel.
11. Shall identify any public or private cameras or recording devices which may have captured the incident and immediately work to obtain a copy of any such possible recordings.
12. If the supervisor is involved in the incident, shall arrange for another police supervisor to respond to the scene.

A. Command Staff, Manager on Call, or designee:

1. Shall respond to scene.
2. Shall learn the location and condition of involved officer(s).
3. Shall ensure the entire command staff has been notified and has followed the incident notification procedure. Reference Department Policy 11.4.5 Internal and/or University notifications for procedures.
4. If other agencies are involved, shall liaison with them to understand how their investigation will proceed.
5. The response to resistance investigator(s) shall be a police lieutenant or higher authority. The investigator(s) shall conduct interviews and complete the primary incident report. The chief or designee will decide which outside agency will be asked to conduct the external investigation. A lieutenant or higher authority shall be assigned to mirror the external investigation.
6. Shall advise the involved officer(s) that they may seek legal counsel and that they should only discuss the incident with Department officials, personnel conducting an official investigation, or a personal attorney.
7. Shall, if possible, arrange for the officer to be interviewed once by the entity doing the investigation 24-72 hours post incident to avoid potential problems and stress with the officer giving multiple interviews. A command staff member assigned to conduct the internal investigation should be given the opportunity to monitor and observe this interview and provide input, if possible, to gather information related to the internal investigation to minimize the number of interviews of the involved officer(s).
8. Shall restrict video of the incident so that the involved officer(s) cannot view video of the incident prior to an interview. Viewing of the video prior to any interview can affect the officer's memory and perception of the event and should be avoided.
9. Ensure that for officer involved deaths (OID), surviving involved officer(s) shall not complete a written report regarding the incident.
10. If the investigator conducting the criminal investigation does not obtain a blood draw for testing of alcohol and drugs in the involved officer(s), ensure one is obtained for the personnel investigation.
11. Ensure that if death or serious injury to an employee has occurred, the 1.5.5 Line of Duty Death Policy is implemented.

12. Notify the Peer Support Team Coordinator and deploy any on duty Peer Support Officers, if they are not involved in the incident.
  13. Involved officer(s) shall not be involved in any tactical debriefing(s) immediately following the incident.
  14. Ensure recordings of the incident are downloaded in a timely manner and all such recordings are secured so that they are only available to authorized personnel as determined by the Chief of police.
- B. Chief or designee shall:
1. Determine which outside law enforcement agency will conduct the external investigation and make the formal request to that agency.
  2. Notify the Dane County District Attorney in a timely manner.
  3. Issue press releases and hold press briefings as appropriate.
  4. Appoint a Public Information Officer (PIO) to provide information to the public and all involved organizations.
  5. Arrange a mandatory individual defusing session with Critical Incident Stress Management Provider (CISM) for each involved officer(s.) Communications between the involved officer(s) and CISM are privileged and confidential as long as there are no threats of self-harm or harm to others.
  6. Ensure that employee assistance services have been offered to involved personnel.
  7. Assign a non-involved command staff member to conduct an administrative review and/or internal investigation into the incident.
  8. Provide information to the Department concerning the incident.
  9. Arrange a voluntary, but encouraged critical incident stress debriefing for those involved, which shall be facilitated by the department CISM Provider. This debriefing is not privileged or confidential.
  10. Provide information to other Department personnel as to the availability of Employee Assistance regarding Post Traumatic Stress Disorder.
  11. Notify the outside agency conducting the criminal investigation before releasing any video of the incident.

#### **1.5.2 REMOVAL FROM LINE DUTY:**

The following procedures shall govern removal from line-duty assignment following officer involved deaths and/or other officer involved critical incidents:

- A. Any employee whose actions or response to resistance results in a death or serious injury shall be removed from line-duty assignment, pending administrative review of the incident.
- B. Employees involved in a critical or traumatic incident may be removed from line-duty status, depending upon existing circumstances.
- C. Weapons, equipment, and/or uniforms having evidentiary value shall be recovered from Department personnel and secured into evidence, including service weapons, if applicable. If the firearm is a service weapon, the Department member it was collected from will be issued a substitute weapon immediately unless immediate issuance is impractical.
- D. Officers whose actions or use of force which results in death or great bodily harm to another person shall have a sample of their blood, breath and/or urine taken by medical personnel as soon after the incident as possible and within time limits that would make the sample useful for determining chemical levels at the time of the incident. If this blood draw, breath sample and/or urine collection is conducted by the agency conducting a criminal investigation into the incident, the department investigator conducting the personnel investigation shall make arrangements to obtain a copy of the results. If the criminal investigator does not obtain the blood, breath and/or urine sample, the department investigator conducting the personnel investigation shall order the employee to provide the blood, breath and/or urine sample and make arrangements to have it completed.
- E. Employees shall remain in paid status during any administrative review period.
- F. The purpose of line-duty removal shall be twofold: to shield officers who have not exceeded their scope of authority from possible confrontations with the community; and to protect the community's interest when officers have exceeded their scope of authority through action or response to resistance.
- G. Post-event, Department personnel and supervisors should monitor the workplace for signs of stress that are manifesting themselves in performance or discipline issues. The Chief or designee shall arrange return to duty

counseling for officers that were directly involved in the incident.

- H. During the period of paid administrative leave, post-incident debriefing or counseling shall be provided for involved employees as deemed necessary. In some instances, the employee's family may also require assistance. Refer to section 1.5.4 of this policy for further clarification.
- I. The removal process may have a detrimental effect on employees involved if not properly understood. A review of this procedure shall therefore be routinely conducted.
- J. The Department shall direct an internal investigation, and an external investigation of the incident will be conducted by an outside agency in accordance with Wisconsin State Statute 175.47. The Outside Agency Lead Investigator responsibilities are as follows:
  - 1. Per Wisconsin State Statute 175.47, the investigation into an officer involved death must be led by at least two investigators employed by outside agencies, one of whom is designated as the lead investigator. The outside agency lead investigator is responsible and in charge of the investigation.
  - 2. It is not the responsibility of the outside lead investigator to accomplish every single task associated with the investigation. The role of the outside agency leading the investigation is one of oversight and supervision. The responsibility of performing critical tasks lies with the outside agency lead investigator while other tasks may be delegated, if necessary.
- K. Involved officer(s) shall cooperate in the investigation relating to the incident while maintaining rights under criminal, civil and employment law.
- L. Prior to an officer's return to enforcement duties, an examination conducted by a medical professional(s) may be required to determine fitness.

### **1.5.3 DISTRICT ATTORNEY ROLE**

- A. The District Attorney's Office will review all police shootings where injury or death occurs and all incidents that result in great bodily harm or death to a person. Department personnel shall be required to appear at the DA's Office for the review, if requested.
- B. The Chief of Police or designee shall notify the Dane County district attorney as soon as practical once it is determined an officer involved shooting or death has happened involving a department employee.
- C. If necessary, the department administrative review investigator shall present the facts of the case to the assigned District Attorney. However, any testimony from involved officers who may be subject to a criminal investigation and is not given voluntarily but under threat of employment actions shall not be shared with the criminal investigations and/or District Attorney's office.
- D. After the reviewing District Attorney makes a decision, the letter containing their findings will be sent to the Chief of Police.

### **1.5.4 OFFICER INVOLVED DEATH (OID) /OFFICER INVOLVED CRITICAL INCIDENT (OICI) AFTERCARE**

OICI's in their very nature are unique. While officers are trained to respond to critical incidents on a regular basis throughout their career, being an involved officer(s), requires special attention and different demands. The aftermath of a critical incident impacts the entire department and the surrounding community. The goal of these procedures is to minimize disruption of services provided and implement protocol to ensure aftercare is being provided to department members involved, including family members.

- A. **Initial Aftercare Response:** After an Officer Involved Death (OID)/Officer Involved Critical Incident (OICI), involved officer(s) shall be provided an OID/OICI Reference Guide. This guide will provide information on the entire process and resources available. This guide will be maintained and updated as

necessary by the Professional Standards Lieutenant and will be included in the Manager-On-Call resources. The following resources will be available to an involved officer(s):

1. **Peer Support** - Refer to Department Policy 1.4: Peer Support Team, which outlines the role of the Peer Support Team in relation to supporting department members.
2. **Critical Incident Partner (CIP)** - the CIP is a department member of the involved officer(s)'s choosing, who is to focus on the emotional welfare of the officer. The CIP does not have to be a member of the Peer Support Team. The goal of the CIP is to serve as a liaison between the involved officer(s) and other department personnel throughout the investigative process. If appropriate, the CIP will consult with the department's contracted CISM provider. Communications between the CIP and the involved officer(s) regarding the critical incident are not privileged and therefore are not confidential.
3. **Critical Incident Stress Management** - the department has a contracted provider designated to serve as the CISM provider to involved officer(s). Refer to Department Policy 1.4 - Peer Support Team for the procedures involved. Communications between the involved officer(s) and CISM are privileged and confidential as long as there are no threats of self-harm or harm to others.
4. **Division Responsibilities** - It is the responsibility of the Captain of the involved division to ensure the following officer aftercare issues are addressed:
  - a. Coordinate administrative leave with pay as appropriate and coordinate with payroll staff in regards to time entry
  - b. Establish a plan for regular contact with the officer(s) while they are on administrative leave
  - c. Work with the CIP to provide ongoing updates to the officer(s) regarding the status of the investigation(s) and internal administrative reviews.
  - d. Meet with the officer(s) and their CIP to develop a plan to return to duty.
  - e. Monitor the behavior of officer(s) involved in critical incidents for symptoms of acute or prolonged stress and make appropriate referrals, if necessary.
5. **Duties of Professional Standards & Training** - Professional Standards & Training staff will have the following responsibilities in regards to OICI aftercare:
  - a. Review incident specifics to identify any possible training concerns and work with the officer(s) to provide any necessary review or clarification. This will be conducted separately and will have no bearing on any administrative review and/ or investigation.
  - b. The Professional Standards Lieutenant or designee will work with the officer(s) to schedule any mandated consultations prior to returning to duty.
  - c. Training Staff shall evaluate the appropriateness of coordinating scenario-based training for involved officers prior to their return to duty. The goal of this is to provide officers the opportunity to assess their readiness to return to duty and comfort level with respect to deadly force decision-making and weapons handling.
6. **Ongoing Care/Post-Traumatic Stress Disorder Prevention:**
  - a. Officers involved in critical incidents are at risk of developing and suffering from post-traumatic stress disorder (PTSD). Symptoms of PTSD may not arise immediately and in some cases, officers may attempt to hide the problem. All officers involved in a critical incident shall be required to consult with a critical incident/trauma specialist following the incident and at regular intervals as outlined in Appendix O.
  - b. Because of the significant impact that these types of incidents can have on an officer's wellbeing over time and in an effort to provide ongoing support to mitigate the cumulative stress that often occurs in the aftermath of a critical incident, all supervisors and co-workers should monitor the behavior of officers involved in a critical incident for symptoms of acute or prolonged stress. All officers should be informed of and trained as appropriate regarding the nature of these incidents, potential symptoms of critical incident stress, as well as how the necessary investigations that often accompany an OICI are conducted. For this reason, ongoing communication with the officer throughout the

process and following their return to duty is essential in stemming any long-term stress related to an OICI.

**B. Administrative Leave with Pay**

1. Officers involved in a critical incident shall be placed on administrative leave with pay for a time period to be determined by the Chief of Police.
2. Officers shall make themselves available for contact during business hours, Monday through Friday 8am to 4pm. This leave is not a suspension and is in no way to be interpreted as a disciplinary action or any indication of wrongdoing on the part of the officers.

**1.5.5 LINE OF DUTY DEATH OR SERIOUS INJURY**

- A. Personnel providing services and assistance to family members and survivors shall take all possible measures to accommodate their needs, wishes, and desires. Whenever the health of immediate survivors is a concern, emergency medical services should be summoned.
- B. The subsequent procedures shall be followed in cases of line-of-duty deaths and in cases of critically injured personnel with poor prognosis of survival.
  1. The name of the deceased Department member shall not be released to the media or other parties before immediate survivors living in the area are notified.
  2. The Chief of Police, a police manager, or the person designated on the emergency information form shall inform the immediate family of the Department member's condition or death.
  3. Notification of the immediate family shall be made without unnecessary delay.
  4. Notification of survivors in the immediate area shall be made in person or as desired by the immediate family.
  5. If the opportunity exists to get family members who live locally to the hospital prior to the staff member's death, immediate transportation shall be provided.
  6. Communication of information concerning the Department member and the incident should, whenever possible, be restricted to a hard-wired telephone to avoid interception by the media or others. Should the media obtain the Department member's name prematurely, a request shall be made that the information be withheld until proper notification of survivors can be made.
  7. The staff member assigned to make notifications is responsible for the identification of additional survivors outside the area and shall make any notifications as desired by the immediate family. Such notifications shall be made by contacting the law enforcement agency in that jurisdiction and requesting that a personal notification be made, unless other methods are requested by the family.
  8. Whenever possible, the Chief of Police shall join the family at the hospital in order to emphasize the agency's support. The next highest ranking officer to arrive at the hospital shall be responsible for or designate a staff member to be responsible for coordinating the arrival of immediate survivors, Departmental personnel, the media, and others and assume the following responsibilities: arrange for waiting facilities for immediate survivors and a press staging area; ensure that medical personnel provide pertinent medical information on the staff member's condition to the family and that immediate family members are provided with appropriate assistance at the hospital; provide hospital personnel with all necessary information on billing for medical services such that medical bills are directed to the appropriate Department authority and not forwarded to the employee's family or other survivors; and arrange transportation for the family and other survivors upon their departure from the hospital as needed.
  9. In addition, the Chief of Police or designee may perform the following personnel assignments: assist in handling incoming phone calls and inquiries to direct the public to appropriate personnel; ensure that mental health services are available for surviving family members; ensure that personnel are provided the opportunity to participate in critical incident stress debriefings as appropriate; and notify and request assistance from the Law Enforcement Death Response (LEDR) Team through Wisconsin State Patrol, District #1, at: (608) 266-7633.
- C. The assigned Department liaison shall serve as a facilitator between the family and the Department. This assignment includes the following:
  1. Providing oversight of travel and lodging arrangements for out-of-town family members.
  2. Identifying alternative churches and reception halls that shall accommodate the funeral. These alternatives shall be presented to the family, who shall make the final determination.
  3. Coordinating all official law enforcement notifications and arrangements, to include the honor guard, pallbearers, traffic control, and liaison with visiting law enforcement agencies.

4. Assisting family members in dealing with general media inquiries and informing them of limitations on areas that are family or law enforcement sensitive. Ensure that members of the agency are aware of restrictions regarding the release of information that might undermine future legal proceedings.
  5. Ensuring that security checks of the police survivor's family residence are initiated immediately following the incident.
- D. A funeral liaison officer may be appointed. This individual acts as facilitator between the decedent's family and the Department during the wake and funeral. The funeral liaison officer is responsible for:
1. Meeting with family members and explaining his or her responsibilities to them; being available to the family prior to and throughout the wake and funeral;
  2. Ensuring that the needs and wishes of the family come before those of the Department, when possible;
  3. Assisting the family in working with the funeral director regarding funeral arrangements;
  4. Relaying any information to the family concerning the circumstances of the decedent's death and appropriate information regarding any investigation; and
  5. Determining the need for travel arrangements for out-of-town family members and any other special needs of the family during the funeral and reporting this information to the Department Liaison, as well as, if appropriate, briefing the family members on the procedures involved in the law enforcement funeral.
- E. A family support advocate shall also be appointed. This individual serves in a long-term liaison and support capacity for the surviving family. The duties of this individual include:
1. Keeping immediate surviving family members informed of criminal proceedings relating to the death of their family member;
  2. Accompanying surviving family members to criminal proceedings, explaining the nature of the proceedings, and introducing them to prosecutors and other persons as required;
  3. Identifying all support services available to family members and working on their behalf to secure any services necessary;
  4. Maintaining routine contact with family members to provide companionship and emotional support and maintain an ongoing relationship between the Department and the immediate family; and
  5. Relaying the concerns and needs of the family to those individuals or organizations that may provide assistance and encouraging others to visit and help as necessary.

#### **1.5.6 TRAINING AND RESPONSIBILITIES**

- A. All new hires shall be trained in policy 1.5 and Appendix O and electronically sign and acknowledge they understand it.
- B. Training shall be conducted for all personnel annually on OICI/OID policies and procedures and the potential impact this type of event may have.
- C. At a minimum, all sworn managers and supervisors shall complete annual training on implementing policy 1.5 if called on to manage such incidents.