
Purpose

The purpose is to establish policy and procedures for the investigation of an incident in which; a person is injured as the result of a law enforcement use of deadly force or incidents involving a sudden accidental death or traumatic event.

Policy

It is the policy of the Bemidji Police Department to ensure that such incidents are investigated in a fair and impartial manner. Additionally, the Bemidji Police Department intends to take all steps necessary to ensure the officer's physical, emotional and mental well-being. Nothing in this policy is intended to increase, modify or in any way affect the current legal standards nor shall any deviation from these guidelines be considered a breach of any legal standard.

Types of Investigations;

Peace officer-involved shootings involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This office may, however, relinquish its criminal investigation to an outside agency with the approval of the Police Chief or designee.
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency.
- (c) A civil investigation to determine potential liability conducted by the involved officer's agency.
- (d) An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of office policy.
- (e) A licensing investigation by POST to determine if grounds exist for disciplinary action against the officer's license to practice.

Jurisdiction;

Jurisdiction is determined by the location of the shooting or critical incident and the agency employing the involved officer(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

BEMIDJI POLICE OFFICER WITHIN THIS JURISDICTION;

The Bemidji Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation and the administrative investigation. The criminal investigation of the officer-involved shooting will be conducted by an outside law enforcement agency such as the MN Bureau of Criminal Apprehension.

OUTSIDE AGENCY'S PEACE OFFICER WITHIN THIS JURISDICTION;

The Bemidji Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted by this office or an uninvolved outside agency such as the MN BCA. The

officer's employing agency will be responsible for any civil and/or administrative investigation(s).

BEMIDJI POLICE OFFICER(S) IN ANOTHER JURISDICTION;

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Bemidji Police Department will conduct timely civil and/or administrative investigations of its own personnel.

Procedures

The following procedures are guidelines used in the investigation of an officer-involved shooting:

1. Officer involved shooting - IMMEDIATE;

A. OFFICER INVOLVED;

Whenever an officer while in the course of official duties, discharges a firearm other than for training purposes, either accidentally or intentionally; the officer shall notify his/her supervisor of the incident as soon as it is safe and practical, regardless of resulting property damage or injury to others.

In the event that the use of deadly force results in injury to an officer or other person, or death to another, the officer shall:

- a) If appropriate, render first aid to any injured person and request necessary emergency medical aid.
- b) Promptly notify his/her supervisor of the incident. Remain at the scene, unless injured, until cleared to leave by the supervisor and/or investigator, unless circumstances are such that the continued presence of the officer is unsafe or may cause a more hazardous situation to develop.
- c) Protect the firearm or other weapon used and submit it to the investigator.
- d) Do not discuss the incident with anyone except the appropriate supervisors, or other law enforcement personnel assigned to the investigation, the assigned prosecuting attorney, the officer's private attorney, a psychologist, psychiatrist or other mental health counselor, the officer's chosen clergy, the officer's immediate family and others authorized by the Chief of Police.

B. DUTIES OF INITIAL OFFICER ARRIVING ON SCENE;

Upon arrival at the scene of an officer-involved shooting, the first uninvolved officer will be the officer-in-charge and assume the duties of a supervisor until relieved by the responding supervisor, and should:

- a) Secure the scene, identify and eliminate hazards for all those involved.
- b) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- c) Coordinate a perimeter or pursuit of suspects as appropriate.
- d) Request additional resources, units or agencies as appropriate.
- e) Brief the supervisor upon arrival.

C. DUTIES OF INITIAL ON-SCENE SUPERVISOR;

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should continue and complete the duties as outlined above, plus:

- a) Obtain a brief overview of the situation from any non-shooter officer(s).
 - i. In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer.
- b) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.
 - i. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- c) Absent a voluntary statement from any officer(s), the initial on-scene supervisor should not attempt to order any officer to provide any information other than public safety information.
- d) Provide critical safety information to other responding officers. Sensitive information should be communicated over encrypted talk groups.
- e) As soon as practicable, shooter officer(s) should respond or be transported (separately, if feasible) to the station for further direction.
- f) Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.
- g) When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon.
- h) Take command of, and secure, the incident scene with personnel until relieved.
- i) Coordinate all aspects of the incident until relieved by the Chief or designee as well as act as a liaison to the investigative team.

D. ADDITIONAL SUPERVISOR DUTIES:

a) NOTIFICATIONS;

The following person(s) shall be notified as soon as practicable:

1. Chief of Police and Police Captain
2. Detective Sergeant or Outside agency investigators (if appropriate)
3. Psychological/peer support personnel. (CISM Team, E.A.P)
4. Coroner (if necessary)
5. Officer Representative (if requested)

E. INVOLVED OFFICERS – Continued

- a) Once the involved officer(s) have arrived at the station, the Shift Sergeant should direct each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:
 1. A peer / liaison officer will be assigned to the officer(s).
 2. Peers will provide support and assistance.
 3. Peers will not discuss the incident with the involved officer.
- b) Any request for office, legal or union representation will be accommodated..

- c) Discussions with licensed attorneys will be considered privileged as attorney-client communication.
- d) Discussions with organization representatives (e.g., employee association) will be privileged only if otherwise protected by evidentiary privilege.
- e) A psychologist or other psychotherapist shall be provided by the police department to each involved officer, or any other officer, upon request.
 - 1. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that a report is required to determine whether the officer is fit for return to duty.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
- f) Although the department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

F. MEDIA RELATIONS;

All outside inquiries about the incident shall be directed to the Chief or designee.

- a) A single media release will be prepared and distributed to media outlet within a reasonable period of time.
- b) It is the policy of this office to release the identities of involved officers when the release does not hinder a law enforcement purpose, does not reveal the identity of an undercover law enforcement officer and as otherwise required by law (Minn. Stat. § 13.82).
- c) No involved officer shall be subjected to contact from the media and no involved officer shall make any comments to the press unless authorized by the Chief of Police or designee.
- d) Employees receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

G. ADMINISTRATIVE LEAVE;

- a) Any officer directly involved in a deadly force incident shall be placed on administrative leave with pay as ordered by the Chief, Captain or designee, pending the results of the investigation or until the Chief reinstates the officer to active duty. The assignment to administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly.
- b) While on administrative leave, the officer shall remain available at all times for official interviews or statements and shall be subject to recall to duty at any time.
- c) Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting. It shall be the responsibility of the Shift Sergeant to make schedule adjustments to accommodate such leave.

H. CRITICAL INCIDENT STRESS DEBRIEFING;

- a) A critical incident stress debriefing (CISD) will be provided for the officer(s) directly involved as soon as is practical. The CISD may also be attended by other personnel from within the department and outside agencies who were involved and may be affected by the incident. Debriefing with a psychologist or other qualified mental health professional allows the officer(s) to discuss his/her thoughts, feelings and reactions, and provides appropriate feedback to help the officer(s) deal with the psychological after-effects of the incident. The debriefing shall not be used in any police investigation and shall be kept confidential. Additional counseling services will be available to the involved officer(s), if desired, through the employee assistance program.
- b) Before returning to duty, the officer will be required to consult with a Bemidji Police Department-assigned psychologist. Upon returning to duty, the officer may be assigned to non-law enforcement duty for a period of time as deemed appropriate by the Chief after consultation with the officer and the Bemidji Police Department -assigned psychologist.
- c) If appropriate, the family of an officer involved in a deadly force incident will also be offered confidential counseling with an experienced psychologist or mental health professional to aid them in dealing with the potential after-effects of the incident. The services shall not be related to any police department investigation of the incident and will be kept confidential. The consultation sessions will remain protected by the privileged psychologist/client relationship. See Employee Assistance Program for details concerning psychological, social and technical support.

2. USE OF DEADLY FORCE INCIDENT INVESTIGATIONS;

A. CRIMINAL INVESTIGATION;

- a) Use of deadly force by a Bemidji Police Department employee will be criminally investigated by an independent outside agency such as the MN BCA.

B. ADMINISTRATIVE INVESTIGATION;

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation, pursuant to the Allegations of Misconduct Policy, to determine conformance with Bemidji Police Department policy. This internal affairs investigation will be conducted by a supervisor assigned by the Chief and will be considered a confidential investigative file.

- a) Any officer involved in a shooting may voluntarily provide a blood sample for alcohol/drug screening in accordance with the drug and alcohol testing guidelines in the City of Bemidji Substance Abuse and Testing Policy adopted under the authority of Minn. Stat. § 181.950 to Minn. Stat. § 181.957. Absent consent from the officer, such samples and the results of any such testing shall not be disclosed to any criminal or civil investigative agency.
- b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.

1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interview(s).
- c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
- d) Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
- e) If requested, the officer shall have the opportunity to select a union representative or legal representation, to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- f) Administrative interview(s) should be recorded by the investigator. The officer may also record the interview.
- g) The officer shall be provided 48 hours notice and informed of the nature of the investigation, their Garrity and Peace Officer Bill of Rights, and assuming there is no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions.
- h) The administrative interview shall be considered part of the officer's administrative investigation file.
- i) The internal affairs investigator shall compile all relevant information and reports necessary for the police department to determine compliance with applicable policies.
- j) The completed administrative investigation shall be submitted to the Chief of Police or designee.
- k) Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

C. FEDERAL GOVERNMENT RESPONSE;

The Bemidji Police Department will respect the rights of the federal government to conduct an independent investigation to identify any civil rights violations which may have occurred. The Bemidji Police Department will not order or request any of its members who may be suspects to confer with federal investigators without the advice of counsel.

D. CIVIL LIABILITY RESPONSE;

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Bemidji Police Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation. All materials generated in this capacity shall be considered attorney work-product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

E. POST ADMINISTRATIVE INVESTIGATIONS;

The Minnesota POST Board may require an administrative investigation based on a complaint alleging a violation of a statute or rule that the board is empowered to enforce. An officer-involved shooting may result in such an allegation. Any such complaint assigned to this office shall be completed and a written summary submitted to the POST executive director within 30 days (Minn. Stat. § 214.10 Subd. 10)

F. OTHER CRITICAL INCIDENTS –

- a) Often officers are involved in other critical incidents that do not involve the use of deadly force. These incidents can involve exposure to an event such as; a sudden accidental death, a traumatic event which involves near death for the employee or another, accidental deaths, suicides or homicides of youthful victims. In any event as mentioned above the Chief, Captain or Sergeant will speak individually with those officers involved and determine if there is a need for a Critical Incident Stress Debriefing. If so, arrangements will be made to conduct a debriefing with a CISM team or counselor. Affected officers will be required to attend. The Bemidji Police Department will provide Employee Assistance Program information to all employees.
- b) On a case by case basis, the Chief of Police, may place an officer on administrative leave with pay and require that officer to consult with a Bemidji Police Department -assigned psychologist, CISM team or counselor regarding the critical incident. Upon returning to duty, the officer may be assigned to non-law enforcement duty for a period of time as deemed appropriate by the Chief after consultation with the officer and the Bemidji Police Department -assigned psychologist.
- c) The assignment to administrative leave shall not be interpreted as discipline or to imply that the officer has acted improperly.
- d) If appropriate, the family of an affected officer involved in a critical incident will also be offered confidential counseling with an experienced psychologist or mental health professional to aid them in dealing with the potential after-effects of the incident. The services shall not be related to any police department investigation of the incident and will be kept confidential. The consultation sessions will remain protected by the privileged psychologist/client relationship. See Employee Assistance Program for details concerning psychological, social and technical support.

Reference or Revision Date(s):

- A. Minnesota Statutes §214.10 Subd. 10
- B. Minnesota Statutes. § 181.950 to Stat. § 181.957
- C. City of Bemidji policy 201.1001
- D. REVISION DATE(S):