

Use of Force Review Board – Critical Incident

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Milwaukee County Sheriff's Office to review the use of force by its employees during the George Floyd 2020 Protests.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of an incident involving the use of deadly force or an officer-involved death.

301.2 POLICY

The Milwaukee County Sheriff's Office will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

301.4 REVIEW BOARD

The Sheriff or his designee has requested this Use of Force Review Board to investigate the circumstances surrounding any use of force incident during the George Floyd 2020 Protests.

The Sheriff or his designee will convene this Use of Force Review Board as necessary. The members of the Chief Legal and Compliance Office will serve as non-voting chairpersons.

The involved employee's Divisional Commander or supervisor will also ensure that all relevant reports, documents, videos, and materials are available for consideration and review by the board.

301.4.1 COMPOSITION OF THE BOARD

The Sheriff or his designee has selected five Use of Force Review Board members including:

- Training Director
- Internal Affairs Captain
- SWAT Team leader
- MRT Command Representative
- Agency Instructor for the type of weapon, device or technique used
- A supervisor from a different division not directly involved in field operations

301.4.2 RESPONSIBILITIES OF THE BOARD

This Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of any George Floyd 2020 Protest-incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative with them when they appear.

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After investigation, when appropriate, the board may refer matters to Internal Affairs. However, the board will not have the authority to make any recommendation as to discipline.

The Sheriff will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

The review shall be based upon the facts and circumstances of each particular incident. The board shall consider the severity of the crime at issue, whether the suspect posed an immediate threat to the safety of the deputy or others, and whether the individual is actively resisting arrest or attempting to evade flight. The reasonableness of the deputy's actions will be assessed based on the perspective of a reasonable officer in the circumstances. (*Graham v. Connor*, 490 U.S. 386, 396 (1989)). The board will consider those facts which were reasonably believed, known by the deputy at the time of the incident, or should have been known, applying any legal requirements, agency policies, procedures and approved training to those facts. Facts later discovered but unknown to the deputy at the time shall neither justify nor call into question a deputy's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the agency's disciplinary procedures, Internal Affairs Policy (108.00), the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

- (a) Whether the use of force was reasonable given the circumstances.
- (b) Whether the employee's actions were in violation of agency policy and procedure.
- (c) Findings and recommendations as deemed necessary.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Sheriff.

The Sheriff or designee shall review the recommendation, and will determine whether any additional actions, investigations or reviews are appropriate. The Sheriff's final findings will be forwarded to the involved employee's Divisional Commander for review and appropriate action, as needed. If the Sheriff concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be submitted to the Internal Affairs Division and the records shall be maintained in a manner consistent with Wisconsin Public Records Laws.