



Fire and Police Commission

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Memorandum

To: Leon W. Todd, Executive Director

From: Barbara Cooley, Research and Policy Analyst

Date: May 7, 2025

RE: SOP 030 – Written Department Directives
SOP 453 – Officer-Involved Deaths and Other Critical Incidents

SOP 030 – Written Department Directives

All requested amendments are updates in keeping with current technology and practice.

- Removing reference to the Office of Management, Analysis, and Planning (OMAP) maintaining original hard copies of documents as OMAP only receives digital versions through email and these copies are archived digitally on the Directives Intranet.
- Removing reference to the Police, Planning, and Policy Director as OMAP now has a sworn commanding officer.
- Adding reference to where work location commanding officers can locate electronic versions of the full SOP file and Code of Conduct so these can be downloaded monthly in case of an intranet or network failure.
- Updating the reference to the new Topic Acknowledgment web application since this is no longer done in CERTT.
- Adding the Chief of Police now ultimately reviews and approves standard operating instructions so policy matches practice.
- Grammatical cleanup throughout the document.

SOP 453 – Officer-Involved Deaths and Other Critical Incidents

The following requested updates are substantive but noncontroversial. Update 3 is of particular interest because it adds an officer-focused administrative review to the process, as recommended by PERF, the Police Executive Research Forum. Please read the excerpt

included, which can be found on page 57 of the [PERF report](#). (Incidentally, the Milwaukee Area Investigative Team MOU is referenced as exemplary elsewhere in the report.)

1. Removing reference to the Internal Affairs Division (IAD) conducting a walk through at the scene since the walkthrough provides no investigative value for their internal review and investigation. In addition, this only adds to a crowded scene in addition to the stress that everyone on scene is already experiencing. It should be noted IAD would still be notified about every critical incident.
2. Removing reference to the Chief of Police, or designee, notifying the executive director of the FPC of an officer being reassigned or relieved from duty in writing as this does not occur in practice. In addition, SOP 453.20 already requires the Chief of Police to notify the executive director of the FPC and Common Council regarding critical incidents.

Note: Currently, MPD's Chief of Staff notifies the FPC Executive Director of every critical incident by text message or email. Officers involved are placed on either administrative leave or administrative desk duty.

3. Updating the Chief of Police shall cause an officer-focused administrative review (OFA) to be conducted concurrently with the criminal investigation of the incident. Any allegation of a Code of Conduct or SOP violation would still cause a separate personnel investigation. This change is consistent with the PERF (Police Executive Research Forum) 2025 report *Managing Officer-Involved Critical Incidents* that focuses on these types of investigations and MPD would now be in alignment with their recommendations to have a criminal investigation, officer-focused administrative investigation, and agency-focused assessment of every critical incident.

From page 57 of the PERF report:

The purpose of the OFA is not to determine whether the officer committed a crime but to determine whether the officer violated any agency policies, protocols, or training. Although the criminal and OFA investigations both focus on the officer, they differ in significant ways: -

Compelled Statements: Like any other person facing the potential of criminal prosecution, an officer involved in an OICI has the constitutional right to refuse to answer questions in connection with the criminal investigation. The officer cannot, however, refuse to answer questions from the employer as part of the OFA investigation. This has significant implications.

Focus: Regarding shootings, which constitute the vast majority of OICIs, criminal determinations generally center on the moment deadly force was used, because criminal statutes tend to focus on the shooter's beliefs at that critical moment in time. Usually, statutes ask a version of whether, at the time deadly force was used, the officer reasonably believed the subject was using or about to use deadly force against the officer or another person.⁶⁷ OFA investigations, however, allow for a broader, upstream and

downstream evaluation of the officer's conduct before, during, and after the OICI. For example, did the officer needlessly escalate the situation during the time leading up to the deadly force? Were there missed opportunities to de-escalate? Did the officer communicate properly with dispatch? After the OICI, was potentially life-saving care provided swiftly?

Burden of Proof: Proving criminal conduct carries a high burden: a prosecutor must prove every criminal element beyond a reasonable doubt. Proving policy violations is much easier. Additionally, agency policies often require more from officers than the often-cited legal standard of "objective reasonableness."

Because of these dynamics, the outcome of the criminal investigation should not control the outcome of the OFA investigation. A prosecutor may determine that criminal charges against an officer are not viable, but the OFA investigation may reveal issues that call for re-training, discipline of some sort, or even termination. Of course, it is entirely possible that the officer will not have violated any policies or protocols, but the point is that these are separate issues addressed by different types of investigations.

4. Updating that the critical investigation would not be considered closed until an agency-focused assessment is conducted pursuant to SOP 455 Critical Incident Review Board.