

NUMBER: 18- 001	Original Issue: May 1, 2018	Revised Date:	Effective Date: May 1, 2018
SUBJECT: CRITICAL INCIDENTS			Pages: 15

I. PURPOSE

It is the purpose of this policy to provide guidelines for investigating all critical incidents.

II. POLICY

It is the policy of this department that critical incidents, whether on or off duty, be investigated so as to determine whether officer actions conform to law and this department's policy, procedures, rules and training.

III. DEFINITIONS

A. CHOKE HOLD

Includes the following holds: (1) bar-arm control hold- any technique that inhibits breathing by compression of the airway in the neck; or (2) carotid restraint hold- any technique that inhibits blood flow by compression of the blood vessels in the neck; A choke hold shall be considered deadly force.

B. CRITICAL FIREARMS DISCHARGE

A discharge of a firearm by a Warren Police Department officer, including accidental discharges; discharges at animals, other than to euthanize an animal under controlled circumstances; and discharges at persons where no one is struck, with the exception of recreational activities; range activities; discharges into weapons clearing traps; discharges for the purposes of ballistics testing/comparison; and training discharges that do not endanger a person's life or result in a person being struck.

C. CRITICAL INCIDENT

Any incident that involves:

1. A use of deadly force;
2. A use of force resulting in death;
3. A use of force resulting in serious physical injury; or
4. An in-custody death

D. DEADLY FORCE

Any use of force that is likely to cause death or serious physical injury, including, but not limited to, the critical discharge of a firearm, strikes to the head or neck with an impact weapon and/or choke holds.

E. IN-CUSTODY DEATH

The death of an individual while in custody or while attempts to effect custody are being made.

F. INVOLVED OFFICERS

WPD officers, whether on-duty or off-duty status, that used force, engaged in conduct that led to the use of force, authorized conduct leading to the use of force, or witnessed a use of force, to include critical incidents.

G. IMMEDIATE SUPERVISOR

The lowest ranking supervisor that oversees all lower grade officers assigned to his/her span of control during the assigned working turn within the assigned Department Division.

H. MEDICAL PERSONNEL

Refers to non-WPD personnel qualified to provide medical care or provide medical judgments, including, but not limited to, licensed emergency medical technicians, physicians, and nurses.

I. OFFICER

A sworn member of the Warren Police Department who has been awarded a certificate by the Ohio Peace Officer Training Commission attesting to the satisfactory completion of an approved peace officer basic training program, who has satisfactorily met the employment requirements of the Warren Police Department, and who, upon being hired as an employee, has then sworn the oath of office as a law enforcement officer as defined by the ORC.2901 with subsequent duties and powers as defined by the ORC.2935 as well as the codified ordinances of the City of Warren.

J. PUBLIC SAFETY STATEMENT

A verbal statement provided to initial supervisor(s) about issues of public safety following a critical incident (See Appendix I).

K. RANKING OFFICER

The highest-ranking officer present at a scene. The Executive, Command, Supervisory and Line officers of the Department, from the standpoint of rank, are as follows: Chief of Police, Captain, Lieutenant, Sergeant and Patrolman. Where equal rank is concerned, due to the absence of a superior officer, seniority of service in the rank or grade will determine the officer in charge.

L. SERIOUS PHYSICAL INJURY

Bodily injury that creates a substantial risk of death, causes serious or permanent disfigurement, unconsciousness, or long-term loss or impairment of the functioning of any bodily member or organ.

M. SUPERVISOR

An officer who is of Sergeant, Lieutenant or Captain rank.

N. TURN COMMANDER

An officer who is a Lieutenant rank that oversees all lower grade officers assigned to his/her span of control during the assigned working turn within the assigned Department Division.

O. USE OF FORCE REVIEW BOARD

A group consisting of the Division Commanders, Director of Training, a non-voting, advisory member of the City of Warren Law Department, and any other member(s) assigned by the Chief of Police. Subject matter experts may be used at the discretion of the Chief of Police. The function of the Use of Force Review Board is to review all critical incidents to determine whether they were within WPD policy, assess training needs, evaluate relevant policies, and evaluate tactics and equipment. All findings or recommendations of the Board will be based upon a majority vote of the Board members. The Chief of Police has sole authority to approve or disapprove each of the reviews and/or recommendations.

IV. PROCEDURES

- A. A complete investigation will be conducted into any critical incident. The type of investigation that shall be conducted will be at the discretion of the Chief of Police, or his or her designee. In accordance with the following guidelines, the Chief of Police, or his or her designee, shall consider the following elements when determining the type of investigation to be conducted:

1. The type of force used by the officer(s).
 2. The injury sustained by the suspect/civilian.
 3. The cohesiveness of the witness, officer and suspect accounts of the incident.
 4. The potential for criminal charges against the involved officer(s).
 5. The potential for administrative charges against the involved officer(s).
- B. The Chief of Police, or his or her designee, will determine the type of investigation to be conducted at his or her discretion in accordance with the following guidelines:
1. OFFICER INVOLVED SHOOTING;
 - a. On scene criminal investigation by an outside law enforcement agency, i.e. Bureau of Criminal Investigation (BCI), Trumbull County Sheriff's Office (TCSO), etc.; **and** on scene administrative investigation by the WPD Internal Affairs Investigator.
 2. A USE OF DEADLY FORCE, other than officer involved shootings;
 - a. On scene criminal investigation by an outside law enforcement agency, i.e. Bureau of Criminal Investigation (BCI), Trumbull County Sheriff's Office (TCSO), etc.; **and** on scene administrative investigation by the WPD Internal Affairs Investigator.

OR
 - b. On scene chain-of-command use of force investigation conducted by WPD officers in accordance with the Use of Force Policy 96-007; **and** on scene administrative investigation by the WPD Internal Affairs Investigator.

OR
 - c. On scene chain-of-command use of force investigation conducted by WPD officers in accordance with the Use of Force Policy 96-007.
 3. A USE OF FORCE RESULTING IN DEATH;

- a. On scene criminal investigation by an outside law enforcement agency, i.e. Bureau of Criminal Investigation (BCI), Trumbull County Sheriff's Office (TCSO), etc.; **and** on scene administrative investigation by the WPD Internal Affairs Investigator.

4. A USE OF FORCE RESULTING IN SERIOUS PHYSICAL INJURY;

- a. On scene criminal investigation by an outside law enforcement agency, i.e. Bureau of Criminal Investigation (BCI), Trumbull County Sheriff's Office (TCSO), etc.; **and** on scene administrative investigation by the WPD Internal Affairs Investigator.

OR

- b. On scene chain-of-command use of force investigation conducted by WPD officers in accordance with the Use of Force Policy 96-007; **and** on scene administrative investigation by the WPD Internal Affairs Investigator.

OR

- c. On scene chain-of-command use of force investigation conducted by WPD officers in accordance with the Use of Force Policy 96-007.

5. AN IN-CUSTODY DEATH.

- a. On scene criminal investigation by an outside law enforcement agency, i.e. Bureau of Criminal Investigation (BCI), Trumbull County Sheriff's Office (TCSO), etc.; **and** on scene administrative investigation by the WPD Internal Affairs Investigator.

OR

- b. On scene chain-of-command use of force investigation conducted by WPD officers in accordance with the Use of Force Policy 96-007; **and** on scene administrative investigation by the WPD Internal Affairs Investigator.

OR

- c. On scene administrative investigation by the WPD Internal Affairs Investigator.

OR

- d. On scene chain-of-command use of force investigation conducted by WPD officers in accordance with the Use of Force Policy 96-007.

V. RESPONDING OFFICER PROTOCOL

The involved officers in a critical incident shall immediately notify their immediate supervisor, and the immediate supervisor shall immediately notify the Turn Commander of the Emergency Services Division (ESD) about the incident. The immediate supervisor and the Turn Commander of the ESD shall immediately respond to the scene of every critical incident upon notification, unless exigent circumstances prevent him or her from responding. If the Turn Commander of the ESD is unable to respond to the scene of a critical incident due to exigent circumstances, the ranking officer shall respond to the scene to conduct the responsibilities of the Turn Commander. The Turn Commander or ranking officer shall notify the Chief of Police without unnecessary delay. The Chief of Police will make a determination on what type of investigation/s shall be conducted in reference to Section IV Procedures of this policy without unnecessary delay. When the Chief of Police has determined that the critical incident shall be investigated by an outside agency, the scene of the critical incident shall be under the command of the Turn Commander of the Emergency Services Division until it is turned over to BCI or another outside law enforcement agency. Responding officers will secure the scene until properly relieved.

- A. Officers shall, to the degree reasonably possible, take steps to protect their safety and to preserve evidence. The primary responsibilities of all officers include:
 - 1. Attempting to identify and control any remaining threats on scene.
 - 2. Ensuring that medical attention is provided to those in need.
 - 3. Calling for backup officers, if needed. The officer(s) on scene should notify responding backup officers of the task and specific location as to where they are needed.
 - 4. Broadcasting available information. If possible, limit the broadcasting of sensitive investigative information. Use landline, cell phone, or encrypted radio transmissions, if available.

5. Ensuring that all potential witnesses have been identified, separated and asked that they remain on hand to provide a statement. If witnesses wish to leave, officers must obtain their contact information for future communications. If practicable, officers shall begin canvassing the area near the scene, looking for additional witnesses and further investigative information.

B. The primary responsibilities of the Turn Commander include:

1. Ensure that the location of the incident is treated as a crime scene unless otherwise directed by the Chief of Police or his/her designee.
2. Ensure that the Chief of Police or his/her designee is contacted for a determination on how to handle the incident. If the Chief of Police cannot be contacted, the Turn Commander shall proceed with notifications according to the following order of personnel. Once contact has been made with the Chief or one of the following personnel, the Turn Commander's duty of notification ceases, and the notified personnel shall be responsible for making contact with the remaining personnel.
 - a. Chief of Police;
 - b. Criminal Investigation Division Commander;
 - c. Emergency Services Division Commander;
 - d. Internal Affairs Investigator; and
 - e. Criminal Investigation Division Supervisor.
3. Ensure that a Public Safety Statement is collected from the involved officer(s), covering only information that is necessary to focus initial police response and to direct the preliminary investigation (See Appendix I). This statement shall be obtained as soon as practical.
4. Ensure that the involved officer(s) are not left without officer support, unless exigent circumstances demand otherwise. Do not allow gaps in time where involved officer(s) are left alone and isolated.
 - a. The involved officer(s) should be transported back to the police department as soon as practical, based upon the needs at the scene as determined by the Turn Commander.

If the involved officer(s) do not require transportation to the hospital, the involved officer(s) should be transported back to the station, preferably by a supervisor. Once at the station, the involved officer(s) should not be left alone or isolated.

- b. The involved officer(s) should be separated and directed not to discuss any aspects of the shooting among themselves or with others, with the exception of their attorney, a qualified mental health professional, or authorized investigative personnel.
5. Complete a use of force report, without a narrative, in order to document the critical incident. The involved officer(s) will not be required to provide a written narrative as they will be interviewed by the Internal Affairs Investigator as soon as practical after the incident.
- C. Establishing the Crime Scene (For additional reference: WPD Policy #05-002 Procedure for Death Investigation, Preliminary Reports and Crime Scenes)
1. Officers shall identify and determine the scope of the crime scene. Officers must be aware that multiple crime scenes may exist within one incident.
 2. Officers shall maintain a single point of entry and limit entry into the scene to a bare minimum.
 - a. Ensure the adequacy of the inner perimeter by establishing generous boundaries.
 - b. The Turn Commander shall determine whether to establish an outer perimeter to prevent people from entering the scene except those who have a specific function.
 - c. The Turn Commander shall ensure that a crime scene log is created. The Turn Commander will ensure that the names of all those who enter the perimeter of the scene are recorded. The Turn Commander will also ensure that:
 - i. The crime scene log records every entry and exit to the scene.
 - ii. The crime scene log records each person's name, agency and time (who, when and why).

- d. The Turn Commander shall take all reasonable measures to prevent crime scene contamination.
 - i. Perishable evidence shall be collected. Prior to collection, photographs shall be taken of the evidence if possible;
 - ii. Vehicles shall not be moved from the scene, unless exigent circumstances exist;
 - iii. Officers shall locate and secure, as evidence, any clothing or other personal items that may have been discarded or removed from suspect(s) or officer(s) by medical personnel.

- D. The Turn Commander shall locate and secure firearms, ammunition and expended cartridges at the scene. If the scene can be properly secured, all involved firearm(s), ammunition and expended cartridges shall be left in place and are not to be handled or moved.
 - 1. The Turn Commander shall locate and secure, or secure in place, the firearm(s) of the officer(s) who were present and who may have discharged the firearm(s) during the incident, in order to preserve evidence of a discharge.
 - a. Officer(s) who discharged their firearms and have the firearm in their possession should leave the firearm in the holster.
 - b. The collection of the firearm(s) of all officers who may have discharged their firearm on the scene will be conducted by the Turn Commander or his or her designee upon return to the station and prior to relieving the officer from field duty, unless exigent circumstances exist. Details of the firearm collection shall be documented in a Level One report (when, where, from whom, condition, etc.).
 - c. The involved officer(s)' primary duty handgun shall be replaced by the Turn Commander or his or her designee with a similar duty handgun as soon as reasonably possible when taken for investigation.

 - 2. Officer(s) who are transported to a hospital and who are still in possession of their weapon shall be accompanied by another officer at all times.

- E. If the involved officer(s) and/or suspect(s) are transported to the hospital, the Turn Commander shall assign an officer to ride in the ambulance with the injured officer(s) and/or suspect(s), for the following purposes:
1. To record and document spontaneous utterances, unsolicited statements, or dying declarations;
 2. For securing, recovering, and protection of physical evidence;
 3. To retain custodial control of the suspect(s);
 4. To aid, support, and protect the injured officer(s);
 5. To provide information for medical personnel;
 6. To obtain the identification of EMT and emergency room personnel; and
 7. To locate and secure, as evidence, any personal items or clothing that may have been discarded or removed from the involved officer(s) and/or suspect(s) by medical personnel.
- F. For involved officers who are transported to the hospital for medical treatment, the Turn Commander will ensure that notification is made to the involved officer(s) immediate family as soon as possible. The notification shall be conducted in person if reasonable.
1. The notification shall provide the family members with basic information on the status of the officer as well as when and where the family members will be able to see him or her.
 2. Arrangements shall be made by the department for the transportation of the involved officer(s) family members to the hospital, if needed.
- G. If the critical incident is on-going, or if there is an extended on-site investigation, a command post should be established at the discretion of the Turn Commander. The Turn Commander shall do the following:
1. Ensure that a media staging area is established beyond the outer perimeter.
 2. Refer all media inquiries to the Chief of Police or the Public Information Officer.

3. Not release the name(s) of the involved officer(s), without prior approval from the Chief of Police.
4. Debrief all on-scene officers to determine what additional information has been acquired.
5. Prepare all information in order to brief investigators.

VI. CRIMINAL INVESTIGATIVE RESPONSIBILITIES

- A. For criminal investigations handled by an outside agency, the lead investigator shall be assigned by the Chief of Police or his or her designee for investigation until the scene is turned over to the investigating outside law enforcement agency, i.e., Bureau of Criminal Investigation (BCI), Trumbull County Sheriff's Office (TCSO), etc. The lead criminal investigator, whenever possible, shall do the following:
 1. Receive a briefing from the Turn Commander including details of the incident as available, a summary of all actions completed and be provided a walk-through of the incident scene.
 2. Release non-essential personnel from the scene.
 3. Ensure that all items of potential evidentiary value are identified and properly collected, if time and weather conditions deem necessary. Perishable items should be collected immediately.
 4. Ensure photographs are taken of the officer(s), as they appeared at the time of incident, to include any injuries sustained. The location and time the photographs were taken shall be recorded.
 5. Identify all police, witnesses and emergency personnel who were or are present at the scene.
 6. Ensure that efforts are under way to collect and compile information on the suspect(s).
 7. Canvas the immediate area for potential witnesses who have not come forth and obtain information or statements as available.
 8. Obtain audio- or video-taped recordings from suspect(s) and witnesses. Where possible, record interviews with EMTs, fire department personnel, and first responding officers regarding the conditions at the scene of the critical incident when they arrived, to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.

9. Obtain search warrants for any vehicles, containers, homes or vehicles as may be necessary.
10. When applicable, consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy, compile information as available, such as, entrance and exit wounds, estimates of suspect(s)' position(s), the presence of alcohol or controlled substances in the suspect(s)' body, and any other facts that may be deemed relevant.
11. Develop a summary of preliminary information concerning the critical incident to provide to the Chief of Police, Internal Affairs Investigator(s) and any outside law enforcement agency, i.e. Bureau of Criminal Investigation (BCI), Trumbull County Sheriff's Office (TCSO), etc., that may be investigating the incident. This summary of preliminary information shall be provided as soon as it is available and without unnecessary delay.

B. Evidence Collection

1. Ensure that video recordings are made of the entire crime scene as well as those present, including witnesses and bystanders. Determine if video recordings were made by in-car cameras, electronic control weapons, body cameras or surveillance cameras. Secure the recordings as evidence as soon as reasonably possible.
2. Construct a brief diagram, to include: the overall scene, the position(s) of the officer(s), suspect(s), witnesses, and path of projectiles.
3. Take custody of evidence previously collected by responding officers.

VII. RELIEF FROM FIELD DUTY

- A. When a critical incident occurs, the involved officer(s) will, as soon as practical, be relieved from field duty by their immediate supervisor pending a determination by the Chief of Police as to whether the involved officer(s) are placed on administrative leave. The involved officer(s) may be placed on administrative leave at the discretion of the Chief of Police during the period of time that the investigation into the incident is being conducted. The Chief of Police may, at his/her discretion, assign the involved officer(s) to duty inside the police headquarters building. Such relief from duty will not be considered suspension or disciplinary action taken against the officer(s), but rather an administrative course of action for the purpose

of relieving the officer(s) from further performance of field duties while undergoing the extreme emotional stress of having been involved in the incident, and permitting the Warren Police Department time to conduct a complete investigation into the incident.

- B. The Chief of Police or his or her designee shall facilitate contact with the department's designated qualified mental health provider. The involved officer(s) will be required to meet with the designated mental health provider within 72 hours of the incident, unless otherwise directed by the Chief of Police. Critical incidents that are investigated in accordance with the Use of Force Policy 96-007 alone may be exempted from this mental health provision.
- C. The period of time spent on administrative leave or inside duty will be determined by the Chief of Police in accordance with the Collective Bargaining Agreement, and contingent upon the release of an approved licensed medical professional. Administrative leave shall conclude within five (5) working days of the conclusion of the administrative investigation. The Chief of Police may extend the administrative leave by providing his or her reason to the involved officer/s in writing.
- D. Officers who have been placed on administrative leave after being involved in a critical incident involving the discharge of a firearm shall complete and satisfactorily pass OPOTA firearms training and qualification for all authorized firearms before they are permitted to carry and use the firearms.

VIII. ADMINISTRATIVE INVESTIGATIONS

The Chief of Police will determine whether an administrative investigation will be conducted by the Internal Affairs Investigator. If an administrative investigation is conducted by the Internal Affairs Investigator(s) then:

- A. The Internal Affairs Investigator(s) will conduct an independent investigation into all the circumstances surrounding the incident. Administrative investigations must be conducted parallel to any criminal investigations and must be cooperative. Every effort must be taken to ensure the criminal investigation is not tainted by the administrative investigation. The Internal Affairs Investigator(s) will continuously screen all information contained in the administrative investigation and ensure that no information that could compromise the criminal investigation is made available to the criminal investigation team. Before providing any information to the criminal investigation team or prosecuting attorney, the information must first be cleared for such use by the Internal Affairs Investigator(s). Criminal investigators may share information with administrative investigators, but administrative investigators may not share

information with criminal investigators after a *Garrity* statement has been provided.

- B. Any statements taken after *Garrity* warnings and any information obtained based on statements given pursuant to *Garrity* must not be disclosed to criminal investigators or prosecutors. When required by law, all police officers and employees shall be advised of their legal rights by the investigator doing the investigation whether they are the subject of a criminal (*Miranda v. Arizona*) or administrative (*Garrity v. New Jersey*) investigation. *Garrity* warnings are only necessary and should only be given where an Officer refuses to provide a voluntary statement in the course of an administrative investigation.
- C. The Turn Commander, the involved officer(s) and all personnel at the scene of the critical incident will cooperate fully with the Internal Affairs Investigator(s).
- D. The purpose of the Internal Affairs investigation is to determine if the conduct of the officer(s) involved in the critical incident conformed to the rules, orders and policies of the department. Due to the possible serious consequences of a critical incident, a complete and thorough investigation is imperative.
- E. The Internal Affairs Director will continuously screen all information contained in the administrative investigation and ensure that no information that could compromise the criminal investigation is made available to the criminal investigation team. Before providing any information to the criminal investigation team or prosecuting attorney, the information must first be cleared for such use by the Internal Affairs Director.
- F. Involved officer(s) shall be interviewed by the Internal Affairs Investigator as soon as practical after the incident. In these circumstances, the involved officer(s) will not be required to provide a written narrative of the incident, unless a chain-of-command use of force investigation is conducted by WPD officers in accordance with the Use of Force Policy 96-007.

IX. USE OF FORCE REVIEW BOARD

- A. After any critical incident, whether investigated by Internal Affairs or chain of command pursuant to the Use of Force Policy #96-007, the Force Review Board shall review the investigation and determine whether the involved officer(s)' actions were within WPD policy. Whether or not the involved officer(s)' actions were within WPD policy, the Use of Force Review Board shall also:

1. Determine the need for additional training.
 2. Determine the need for policy revisions.
 3. Determine the need for changes to WPD tactics or equipment.
 4. Determine whether the incident may involve criminal conduct by the involved officer(s) or administrative violations.
- B. The Use of Force Review Board shall forward its findings and recommendations to the Chief of Police for final review. The Chief has sole authority to approve or disapprove each of the reviews and/or recommendations. Such review must take place within ten days. Upon review, the Chief must approve or disapprove, in writing, each finding or recommendation, and will forward any findings or recommendations to the appropriate WPD entity for implementation or further action.
- C. The final, completed review will be forwarded to and retained by Internal Affairs.

END CRITICAL INCIDENT POLICY 18 – 001

The aforementioned rules, regulations, policy, procedure, to wit; PO/PR 18-001, be and the same, are ratified, prescribed, adopted, approved, made and promulgated, by me, on this, 1st day, of MAY, 2018, at 9 (AM/PM).

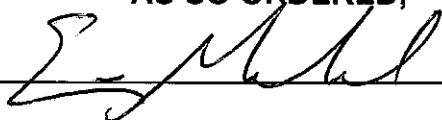
AS SO ORDERED,



**Enzo C. Cantalamessa
Director of Public Service and Safety**

The aforementioned rules, regulations, policy, procedure, to wit; PO/PR 18-001, be and the same, are ratified, prescribed, adopted, approved, made and promulgated, by me, on this, 1st day, of MAY, 2018, at 9 (AM/PM).

AS SO ORDERED,



**Eric J. Merkel
Chief of Police**

Public Safety Statement Questions:

- a. What type of force was used?
- b. What was the direction and approximate number of shots fired by officer(s) and suspect(s)?
- c. What is the location of injured persons?
- d. What is the description of any suspect(s) who are at-large? What is their direction of travel, mode of travel, time elapsed since the suspects were last seen, what crime are they wanted for, and any suspect weapons?
- e. What is the description and location of any known victims or witnesses?
- f. What is the description and location of any known evidence?
- g. Is there any other information necessary to ensure officer and public safety and to assist in the apprehension of any suspect(s) who are at-large?
- h. What was the position(s) of the officers and the suspect(s) at the time of the incident?