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|  | MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES | |
| | Subject CRITICAL INCIDENT RESPONSE | Policy Number GJ-2 Effective Date 10-25-22 |
| Related Information ARS 38-673 GC-22, <i>Critical Incident Stress Management Program</i> GH-2, <i>Internal Investigations</i> GJ-7, <i>Criminal Investigations Operations</i> GJ-11, <i>Serious Diagnosed Illness, Serious Physical Injury or Death of a Prisoner or Inmate</i> GJ-23, <i>Firearms</i> GJ-35, <i>Body-Worn Cameras</i> | | Supersedes GJ-2 (01-11-22) |
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PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures that shall be uniformly applied to promote the proper handling of a critical incident and its resulting investigation.

POLICY

It is the policy of the Office to investigate all critical incidents. Such investigations are conducted to ensure Office Policy was adhered to, determine if Office Policy needs to be updated, and to ensure that state and federal laws were not violated.

Although this Protocol refers to employees throughout, this Office Policy also applies with equal force to all volunteers. Volunteers include, but are not limited to, reserve deputies and posse members.

DEFINITIONS

Critical Incident: Any incident that involves the use of force by an employee resulting in death or serious physical injury of a member of the public, prisoner, or an inmate; any assault upon MCSO employees, by any means, that results in serious physical injury or death; or the intentional and unintentional discharge of a firearm by an employee in the performance of their lawful duties. The term “critical incident,” as used in this Office Policy, is narrowed for investigative purposes and should not be confused with the definition provided in Office Policy GC-22, *Critical Incident Stress Management Program*, which is all encompassing and directly associated with issues of critical incident stress management. A critical incident **does not** include the following and therefore **does not** require protocol activation:

- A. The necessary dispatch of an animal for humane/medical purposes; including discharge of a firearm toward an animal for self-defense of themselves or in defense of others; or
- B. The use of a specialized firearm by the Tactical Operations Unit in order to enhance officer safety, dispense chemical agents, or as an entry device, when no serious physical injury or death to any person occurs.

Employee: A person currently employed by the Office in a classified, unclassified, contract, or temporary status.

Force Investigations Team (FIT): A team of Office investigators from the Major Crimes Division assigned to conduct the criminal investigation of a critical incident. The team of investigators are trained homicide detectives who also have advanced training in Officer Involved Shootings/Use of Force investigations.

Inmate: An individual who has been accepted for confinement in an Office jail facility.

In-process of Arrest Death: Loss of life occurring during an arrest or detention.

Post Critical Incident Session: An appointment, arranged by the Human Resource Services Division, for an employee to receive professional guidance surrounding a critical incident.

Prisoner: An individual deprived of their liberty and kept under involuntary restraint, confinement, or custody, prior to being accepted into an Office jail facility.

PSB Administrative Investigators – Critical Incidents (PSB-CI): Select members of the administrative section of the Professional Standards Bureau (PSB) who are responsible for investigating critical incidents strictly for administrative purposes. The PSB-CI shall be comprised of no less than one PSB Command Staff and two investigators.

Public Safety Statement: A Public Safety Statement is information obtained by an on-scene supervisor or designee at a deputy-involved incident using questions intended to determine existing threats to public safety and identify transitory evidence that must be preserved. The scope of this statement is limited to the collection of such critical, fleeting information in the immediate aftermath of these critical incidents. Responses by the involved employee are mandatory and are not subject to Miranda protections so long as the questioning is narrow in scope and centered on preserving public safety as opposed to eliciting incriminating statements. The root of the Public Safety Statement is grounded in the 1984 US Supreme Court case *New York v. Quarles (467 U.S. 649)*.

Serious Physical Injury: Injury which causes death or creates a reasonable risk of death, severe and permanent disfigurement, severe impairment of health, or loss or protracted impairment of the functions of any bodily organ or limb.

Training Review Committee (TRC): Designated Training Division staff who are responsible for post critical incident administrative processes, as directed by the Sworn Advanced Officer Training Commander. This includes ensuring employees complete specific administrative tasks prior to returning to work following a critical incident; acting as a point of contact between the employee and the Office for follow-up interviews with the FIT and PSB-CI investigators; and reviewing the incident to identify any training needs of the involved employee. The committee does not hold hearings or impose discipline.

PROCEDURES

1. **Critical Incident Investigation Protocol:** The Critical Incident Investigation Protocol was developed to serve as a guideline for investigating critical incidents in the Sheriff's Office. The Critical Incident Investigation Protocol includes lists of activities for use by employees as a guideline when a critical incident has occurred. The Critical Incident Protocol can be found on the Office's shared drive in the Policy Folder for this Office Policy.
2. **Critical Incident Initial Response:** The following procedures shall apply to all critical incidents as defined in this Office Policy:

- A. The supervisor and/or employee on scene of the critical incident shall ensure safety and security of the scene.

- B. The on-scene supervisor shall contact the Communications Division to request notifications be made to the following: the Watch Commander; the appropriate division commander; the appropriate bureau chief; the Chief Deputy; the CISM Team Coordinator; and the on-call FIT Supervisor.
 - 1. The FIT Supervisor should be notified no later than one hour after the actual time of the incident. The Communications Division will advise the FIT Supervisor of the incident details.

 - 2. The FIT Supervisor shall determine if the incident warrants an activation of FIT investigators.
 - a. If the FIT Supervisor determines that FIT investigators will be activated, the FIT Supervisor shall also determine what resources will be needed for the investigation.

 - b. If FIT investigators are not activated, appropriate Office personnel will be directed to the scene to investigate.
 - (1) PSB criminal investigators will normally investigate incidents involving the intentional or unintentional discharge of a firearm where there are no known injuries.

 - (2) If it is unclear as to who shall assume jurisdictional control of the investigation, the Chief Deputy or designee shall make the final decision.

 - 3. The FIT/Investigative Supervisor shall ensure notifications regarding the critical incident are made to the following personnel:
 - a. MCAO Law Enforcement Liaison, or on-call designee who may respond to the scene to act in an advisory capacity;

 - b. PSB-CI Commander;
Crime Lab personnel;

 - c. Command Post;

 - d. Public Information Officer (PIO);

 - e. MCSO Command;

 - f. Training Review Committee (TRC); and

 - g. Firearms Training Unit, in the event a firearm was used.

- C. As soon as practical, the on-scene supervisor shall arrange transport of the involved employee, by a non-involved supervisor or employee, from the immediate area of the incident.
 - 1. The location should be free from distractions of the investigative process.

2. The involved employee shall be monitored to safeguard the integrity of the investigation to ensure they do not talk with others involved, to include witnesses, or third parties who may unintentionally relay information to interviewees and to ensure any privileged conversations are protected.
- D. The supervisor or employee who transported the involved employee will, if possible, remain with the employee until relieved by other designated personnel, as determined by the FIT/Investigative Supervisor. The on-scene supervisor, not involved in the critical incident, shall secure the involved employee's body worn camera, as specified in Office Policy GJ-35, *Body-Worn Cameras*. A replacement BWC shall be provided to the involved employee to be used during the review/analysis of the body-worn camera recordings. The issuance of an auxiliary camera shall be coordinated with the division commander, or designee.
- E. The on-scene supervisor or designee shall ask the involved employee only minimal, preliminary questions about the incident, as outlined in the Public Safety Statement. Answering these questions is mandatory by the employee. If the involved employee declines to provide the information, a supervisor shall order the involved employee to provide the information. The designee shall only be assigned this responsibility in situations where an imminent crucial delay by the supervisor to the scene has occurred.
1. The Public Safety Statement can be found in the Critical Incident Investigation Protocol under Attachment A. These questions should be asked and memorialized on the form as soon as reasonably practical after the incident to ensure public safety. Separate statement forms shall be completed for each involved employee.
 2. The employee shall be advised that a more detailed interview will be conducted at a later time.
- F. The involved employee shall be advised not to discuss the incident with anyone except Office investigators. The primary purpose of sequestration is to protect the integrity of the investigation by ensuring involved and witness employees do not talk amongst themselves, or to third parties who may unintentionally relay information to interviewees and to ensure any privileged conversations are protected.
1. If an employee is involved in a critical incident investigation, statements made during a Training Review Debrief, as performed by the TRC, will not be considered a violation of a Notice of Investigation (NOI).
 2. Inquiries from the media shall be directed to the Public Information Officer.
- G. The FIT/Investigator Case Agent shall be responsible for taking the employees' firearm and submitting the firearm for laboratory analysis, if the employee discharged their firearm. The employee shall be provided a replacement firearm at that time for use throughout the firearm analysis period. Prior to taking the employee's firearm, the FIT/Investigator Case Agent shall coordinate with the Firearms Training Unit armory to locate a firearm of a similar make and model as the employee's duty firearm. The firearm exchange shall take place once the replacement firearm is brought to the employee by the Firearms Training Unit armor, or designee.
- H. The involved employee shall not become a participant in the investigation as an investigator of the incident, except for related report writing or Office interviews necessary to the investigation.

3. **Critical Incident - Administrative Leave with Pay (CI-ALWP):** The PSB Chief may place the involved employee on CI-ALWP. The leave is intended to safeguard the continued mental health and well-being of personnel involved in a critical incident. During this leave, the involved employee may complete administrative processes required following a critical incident.
4. **Post Critical Incident Session:** A TRC liaison shall contact the Human Resource Services Division within 48 hours of the critical incident to request a Post Critical Incident Session for the involved employee. MCSO requires personnel to participate in a Post Incident Session. The involved employee shall attend a Post Incident Session prior to returning to work. The Human Resource Services Division must begin the process to secure an appointment for the Post Critical Incident Session within **three** working days of the critical incident. If the critical incident occurs after hours, weekends, or holidays, the TRC liaison shall contact the Communications Division who will contact the Human Resource Services Division representative.
 - A. The mandatory Post Critical Incident Session is an opportunity for the employee to receive professional mental health counseling and support surrounding a critical incident. A Post Critical Incident Session counselor can make a determination for the employee's fitness for duty.
 - B. Any employee involved in a Post Critical Incident Session is assured of confidentiality. Only one employee is permitted to attend any individual session. To ensure integrity of the investigation, co-workers are prohibited from attending the session with the involved employee.
 1. No employee shall have access to any information derived from a Post Critical Incident Session other than confirmation of the employee's attendance and if a recommendation is made for further referrals.
 2. In the event further referrals are recommended, the Human Resource Services Division and the appropriate bureau chief will determine if continued duty is inadvisable.
 - a. The Human Resource Services Division and the appropriate bureau chief may then order a fitness evaluation to be performed by a professional psychiatrist or psychologist not associated with the Office, at the expense of the Office.
 - b. The Human Resource Services Division shall make the appropriate arrangements for such evaluations.
5. **Employee Return to Full Duty:** An employee involved in a critical incident may not return to full duty until they have completed the administrative tasks identified by the TRC and have completed the Post Critical Incident Session.
 - A. The employee's bureau chief, with the concurrence of the Chief Deputy, or designee, shall determine whether the involved employee should be reassigned to administrative duties or continue CI-ALWP pending return to full duty.
 - B. The employee may return to full duty only with the approval of the Chief Deputy or designee.
 - C. An employee indirectly involved in a critical incident may be allowed to remain in their normal duty assignment, be assigned to administrative duties, or be placed on CI-ALWP, at the discretion of the Chief Deputy or designee.
6. **Criminal Investigation of a Critical Incident:** A criminal investigation of the critical incident shall be conducted parallel and distinct to the administrative investigation. Office criminal investigators will conduct the criminal investigation.

7. **Administrative Investigation of a Critical Incident:** The PSB-CI shall investigate the incident strictly for administrative purposes and shall not be involved in the criminal investigation surrounding the incident. Upon completion of the administrative investigation, the PSB-CI will prepare a written report of its findings. The information and findings contained in the PSB-CI report may be used as a basis for administrative sanctions, civil litigation, management decisions, or training. The critical incident administrative investigation shall proceed under the same guidelines, as specified in Office Policy GH-2, *Internal Investigations*, the PSB Operations Manual, and the Critical Incident Investigation Protocol. Any identified misconduct unrelated to the critical incident shall be addressed as specified in Office Policy GH-2, *Internal Investigations*.
 - A. At the conclusion of the administrative investigation, the PSB-CI shall document the findings regarding:
 1. Whether the use of force was reasonable, necessary, and proportional;
 2. Whether the actions of the involved employees were consistent with Office training and tactics;
 3. Whether the involved employees were in a position to use de-escalation techniques;
 4. Whether other involved employees complied with any applicable duty to intervene;
 5. Whether any of the employees failed to comply with other Office policies;
 6. Whether supervision, command, or control, or the absence thereof contributed materially to the outcome of the incident; and/or
 7. Whether extraordinary or unforeseeable circumstances contributed to the outcome of the incident.
 8. Whether any training, equipment, tactical, or policy modifications may be appropriate. Any concerns relating to training, tactical procedures, equipment, or Office policies shall be documented and forwarded to the appropriate division commander for review.
 - B. The PSB Commander shall document their recommendations for action to include, but not limited to:
 1. No action;
 2. Supervisor intervention, as specified in Office Policy GH-5, *Early Identification System*; and
 3. Discipline.
 - C. The PSB shall cooperate with the Maricopa County Attorney's Office and the Administrative Services Division in any civil litigation resulting from a critical incident.
8. **Responsibilities of the TRC:** The TRC is responsible for post critical incident administrative processes that must be completed by an involved employee, any follow-up interviews required by the criminal investigator or PSB-CI and reviewing the incident to identify any training needs of the involved employee. (The TRC will not be involved in the initial scheduling of investigative interview(s) of the involved employee as these are coordinated by the FIT and PSB-CI investigators.)

- A. Upon notification of a critical incident, the TRC Supervisor shall assigned a TRC liaison to respond to the scene and provide the involved employee with the TRC liaison's contact information. The TRC liaison will ensure that all administrative requirements following a critical incident are fulfilled within a reasonable amount of time without overwhelming the involved employee.
 - B. The following administrative processes and/or interviews will be handled by the TRC liaison:
 - 1. Coordination of the return of a weapon to the involved employee within 48 hours;
 - 2. Ensuring the mandatory initial Post Critical Incident Session has been made and attended;
 - 3. Scheduling follow-up interviews with FIT and PSB-CI investigators, as needed;
 - 4. Scheduling of any additional requested assistance by CISM Team members (this is to include family members of the involved employee, if needed);
 - 5. Scheduling of mandatory Range training (this should take place after the Post Critical Incident Session has been completed);
 - 6. Ensuring a follow-up to the initial mandatory Post Critical Incident Session is scheduled and attended approximately 30 days after the first session.
 - a. The follow-up session shall be coordinated through the Human Resource Services Division.
 - b. Except in those circumstances where the employee has engaged the services of their own licensed psychologist, counselor, or other mental health professional.
 - 7. Any other administrative requirements identified by Office Command Staff.
 - C. The TRC shall review the reports from the investigative case file and information obtained from the PSB investigator to identify any training deficiencies of the involved employee, or any concerns relating to training, tactical procedures, equipment, or Office policies.
 - D. The TRC Supervisor shall complete a *Return to Duty Checklist* for each employee and shall forward the checklist through the chain of command to the PSB Deputy Chief. The PSB Deputy Chief will initiate the return to duty from the CI-ALWP. The Chief Deputy shall determine when an involved employee may return to full duty.
9. **Critical Incident Stress Management (CISM):** The CISM Program was developed to lessen the effects of stress, on both the employee and their family, after a critical incident has occurred. This may be during or following a critical incident.
- A. Team members may respond when there is a reasonable likelihood that an employee may be, or has been, subjected to a significant amount of abnormal stress.
 - B. Any employee involved, directly or indirectly, in a critical incident, or the death or serious injury of a prisoner or inmate incident, and feels they are, or may be, negatively affected as a result of the incident, may take advantage of the CISM Program by contacting the Communications Division, as specified in Office Policy GC-22, *Critical Incident Stress Management Program*.