

**2012 REPORT
ON
MILWAUKEE POLICE DEPARTMENT
FIREARMS DISCHARGES**



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INTRODUCTION

The discharge of a firearm by a police officer is an act that receives the highest degree of scrutiny by the police department and the public. No other act has a greater potential to disrupt community trust than a firearm discharge that is perceived as inappropriate or unnecessary. A confrontation that involves the exchange of gunfire is one of the most traumatic incidents that a police officer may encounter during their career.

Every instance in which a Milwaukee Police Officer discharges their weapon is recorded and evaluated. Information obtained from these evaluations can be used to initiate tactical and strategic changes with regard to how officers use and deploy their firearms. This report, together with detailed statistical analysis of firearms discharges, can be useful for the development of officer training, instructional scenarios, and the adoption of new technology.

This report may also help the community understand the circumstances of an officer-involved shooting in a more detailed context than television and newspaper media reports of an incident. Tracking the specific circumstances of how, when, where, and why officers discharge their firearms is an important tool for the police department and the community. The publication of this report is another method used by the Fire and Police Commission (FPC) and the Milwaukee Police Department (MPD) to increase community trust and work toward the goal of ensuring that deadly force is the only appropriate and necessary option in every instance that it is utilized.

The conclusions contained in this report are suggestions for possible modifications based upon a limited statistical review of a relatively small number of incidents. The Milwaukee Police Department actively works with the Fire and Police Commission on a regular basis to improve or modify policies and procedures concerning all department activities. All of the recommendations contained in this report are already a part of the regular policy review process in which the Police Chief, Executive Director of the Fire and Police Commission, and the associated subject-matter experts work to continually update and improve department operations. The conclusions in this report may represent the desired end state or may encompass the beginning stages of an extensive process to implement modifications. The Milwaukee Police Department is aware of all of the conclusions in this report, and in some instances, has collaborated in formulating certain conclusions.

CATEGORIES OF FIREARMS DISCHARGES

This report contains information compiled from preliminary and final police offense and incident reports, use of force reports, Internal Affairs Division reviews, medical examiner and district attorney reports, and information from various computer databases. As a precautionary note, the very small comparative sample of 2011 and 2012 incidents necessarily limits its usefulness in predictive analysis, together with the ability to draw definitive statistical conclusions from the data. The data does remain useful for a snapshot understanding of the circumstances of firearms discharges in 2012.

Firearms discharges have been categorized into three types of incidents for purposes of this report:

- ◆ Intentional Discharge – Confrontation

When a firearm is intentionally discharged by an officer during a confrontation with a subject.

- ◆ Intentional Discharge – Animal

When a firearm is intentionally discharged by an officer during a confrontation with an animal.

- ◆ Unintentional Discharge

When a firearm is unintentionally discharged by an officer.

USE OF FORCE

The community grants the right to use force to few members of society. Police officers are granted the right to use force in order to conduct their duties of maintaining public safety. A police officer's right to use force is guided by federal and state statutes, department training and policies, and a long history of case law generated by court review of police shootings. Local factors are also considered, and the laws regulating use of force may vary from one state jurisdiction to another. Police officers, unlike private individuals, are obligated to use force, if necessary, to ensure public safety.

A police officer's obligation, or permission, to use force to ensure public safety is not limitless. As a general rule, in Wisconsin a law enforcement officer making an arrest is entitled to use whatever force is reasonably necessary. Guidelines for when officers may use force are published by the Wisconsin Department of Justice's Training and Standards Bureau in a handbook issued to every Wisconsin law enforcement officer. The Wisconsin Law Enforcement Officer's Criminal Law Handbook states that "In any situation the officer should not use deadly force unless he or she reasonably believes it is absolutely necessary and then only as a last resort." The determination of "reasonableness" is a primary consideration when classifying an officer-involved shooting as justified or not justified. The "reasonableness" determination is viewed through the eyes of the officer, under the time, place, and circumstances of the incident that prompted the officer to discharge their firearm. Reasonableness in the context of the use of deadly force is not viewed from the perspective of ideal circumstances generated after days or weeks of intensive investigation after the event occurred. In other words, reasonableness is not judged in hindsight, but rather from the perspective of the officer, under the circumstance of the particular dangerous situation that they were faced with, the risks inherent at the scene, and the requirement to make a split-second judgment during such confrontation.

The Milwaukee Police Department promulgates its rules for the discharge of a firearm to reflect the Wisconsin Department of Justice training standards, together with the applicable federal and state statutes and case law. The Department's Standard Operating Procedure (SOP) 460-Use of Force provides instructions for the proper use of force by officers. SOP 460 states that one purpose of the instructions is to "determine whether the actions of police

members were justified, and to maintain public confidence in the Milwaukee Police Department." SOP-460 requires Milwaukee Police Officers to comply with the State of Wisconsin Defense and Arrest Tactics (DAAT) Disturbance Resolution Model to determine what level of intervention, including deadly force, may be used. The DAAT Model is the standard to which all police officers in the State of Wisconsin are trained with respect to the use of force. The standard is determined by the Wisconsin Law Enforcement Standards Board, a state administrative agency that is responsible for establishing uniform state-wide training standards for police officers.

Milwaukee Police Department SOP 460.15-Amount of Force provides specific rules for the use of force that is intended or likely to cause great bodily harm or death:

AMOUNT OF FORCE

- A. Police members making an arrest are entitled to use whatever force is reasonably necessary. Whether the force used is reasonable depends upon the totality of facts and circumstances in each case. Force that is intended or likely to cause great bodily harm or death, may only be used:
 1. If reasonable under all the circumstances then existing to prevent great bodily harm or death to the officer or a third party; or
 2. When necessary to prevent a suspect's escape **and** the officer has probable cause to believe that the suspect presently poses a significant threat of great bodily harm or death to the officer or others.
 3. To kill an animal if the officer or another person is threatened with serious bodily harm by the animal or otherwise to provide for the safety of the general public.
 4. To kill an animal that has been so badly injured that its destruction would prevent further suffering.
- B. Police members may draw or display their firearms in circumstances where they reasonably believe it may be necessary to use their firearm in the performance of their duties.
- C. The firing of warning shots is prohibited. When feasible, a verbal warning should be given prior to the use of force likely to cause great bodily harm or death.

On December 6, 2012, the FPC approved the above-mentioned addition to SOP 460.15, Section B - Amount of Force, upon recommendation of the Executive Director. Section B of

SOP 460.15 specifies more accurately the necessary general conditions that must be present to justify the display or drawing of an officer's firearm from its holster. This SOP, along with more extensive changes to the use of force reporting requirements, became effective January 1, 2013 (See Appendix D). A detailed discussion of all Use of Force policy modifications is provided separately in the 2012 Use of Force Annual Report published by the FPC.

In addition to the Use of Force policy changes, SOP 455 - Critical Incident Review Board was significantly modified and approved by the FPC on September 9, 2012, effective November 29, 2012 (See Appendix C). The Critical Incident Review Board (CIRB) serves as an advisory body that evaluates firearm discharges and other critical incidents to ensure best practices are in place and to recommend improvements in policies, procedures, and training. The CIRB submits a report to the Chief of Police and Executive Director of the FPC. This revised reporting mechanism allows closer scrutiny by the citizen board.

Milwaukee Police Officers receive initial training in the use of force during recruit school, and a minimum of 40 hours of periodic annual in-service training that includes use of force exercises throughout their career. This training includes classroom, live-fire, and scenario-based exercises that are designed to simulate actual intervention situations that may be encountered. This training cannot foresee every dangerous circumstance that may be encountered, but does intend to develop the mental and physical skill set necessary to make a correct decision about whether and how to use deadly force. This report will assist the department in maintaining a training program that accurately reflects recent circumstances in which deadly force was utilized by MPD officers.

The Fire and Police Commission implemented a revised strategy in 2009 to oversee and monitor the use of force by MPD officers (See Appendix B). A primary purpose of the FPC strategy is to ensure community trust and confidence in MPD. The FPC also publishes an annual Use of Force Report that reviews all means of force deployed by MPD officers during the previous year. The publication of these reports on use of force, including this firearms discharge report, is intended to provide the public with a better understanding of police department operations.

INVESTIGATION OF A FIREARMS DISCHARGE

Every intentional firearms discharge involving a confrontation is investigated as a critical incident. Investigations are conducted in accordance with written guidelines in SOP 460.30-Critical Use of Force Incidents.

Whenever an officer discharges their firearm, a patrol supervisor responds to the incident. The patrol supervisor takes charge of the scene and immediately notifies the chain of command. A Criminal Investigation Bureau (CIB) team of investigators immediately responds to the scene and takes charge of the criminal investigation. Investigations that involve injury or death are supervised by a Police Lieutenant or officer of higher rank. The Milwaukee County District Attorney and Executive Director of the Fire and Police Commission also respond to the scene of all firearms discharges that involve injury or death. Additional investigators from the District Attorney's office and Fire and Police Commission may also respond to the scene as needed. In addition, an investigator from the Milwaukee County Medical Examiner's office responds to all incidents involving a death.

One purpose of this multi-agency response to the scene of critical incidents is to provide the community with an increased level of trust in the MPD. The increased scrutiny by the Milwaukee County District Attorney and the civilian Fire and Police Commission should increase confidence within the community that independent agencies with authority to take direct action are closely reviewing police conduct. This is in contrast to other cities in which it may be legitimately claimed that "the police are investigating themselves." In the city of Milwaukee investigative process, there are now several layers of review to ensure a fair, comprehensive, and effective investigation is conducted. This enhanced process of investigation and review began in 2010 and continues with refinements to policy and procedures as more field experience is accumulated.

The firearms discharge investigation is exhaustive and thorough. The investigation will typically include witness interviews, area searches, evidence collections, evidence photography, scene measurements and sketches, ballistic tests, laboratory tests, hospital interviews, and other investigatory tasks. The results are recorded in an investigation summary and use of force report. Every MPD member that is directly involved in an intentional firearms discharge incident is relieved from all police duty and is assigned to temporary administrative duty with all pay and benefits pending the outcome of the investigation.

REVIEW OF FIREARMS DISCHARGE INVESTIGATION

The Milwaukee County District Attorney reviews all firearms discharges that result in death or injury to a person. The MPD, through a supervisory officer, presents the facts of the investigation that was conducted to the District Attorney. In addition, the District Attorney's office conducts its own independent investigation at the scene, and interviews the officers directly involved in the incident and any other pertinent outside witnesses. The District Attorney then makes a determination whether the use of force was reasonable under the circumstances presented. The District Attorney also possesses authority to issue criminal charges or seek an advisory jury verdict on whether to issue criminal charges through an inquest proceeding.

After the District Attorney's office has made their determination, the MPD assesses the incident for procedural and training issues. SOP 455- Critical Incident Review Board (CIRB) which became effective November 29, 2012, establishes an evaluation board that is comprised of command staff officers, training academy firearms experts, use of force trainers, and a supervisor from the Police Chief's Office of Management Analysis and Planning that reviews the incident. The CIRB's findings and/or recommendations are submitted for review to the Chief of Police and Executive Director. The findings of the CIRB and District Attorney are also submitted to the citizen board of The Fire and Police Commission for review. The Executive Director of the Fire and Police Commission monitors the proceedings and may make independent findings and recommendations.

INTENTIONAL DISCHARGE — CONFRONTATION

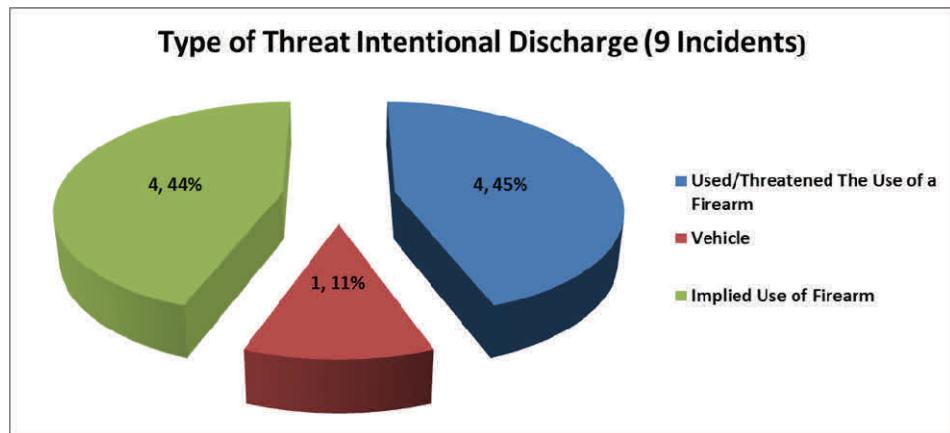
It should be initially noted that when an officer discharges their firearm in a confrontation, it is a statistically rare event. When reviewing the information in this report, it is important to understand the data in the context of the number of police-citizen interactions and weapon-related incidents that occur. The chart below demonstrates the context in which intentional firearms discharges during a confrontation occurred on an annual basis for 2011 and 2012.

INTENTIONAL FIREARMS DISCHARGE CONTEXT

CATEGORY	TOTAL NUMBER 2011	TOTAL NUMBER 2012
City of Milwaukee Population ¹	594,833	594,833
MPD Sworn Officers	1,876	1,890
Traffic Stops	181,513	197,893
Field Interviews	61,201	71,839
Dispatched Assignments	238,657	251,240
Dispatched Assignments Involving Weapons	19,819	21,603
Gun-Related Crimes	4,182	4,460
Guns Confiscated	1,970	1,982
Arrests Involving Guns	1,219	1,440
Criminal Shooting Incidents	485	445
Officer Intentional Discharge of Firearm During Confrontation	15	9
Subjects Shot and Injured	6	3
Subjects Shot and Fatally Wounded	2	1

1. 2010 U.S. Census Bureau data

There were nine incidents of intentional firearms discharge during a confrontation in 2012. This compares to 15 incidents in 2011, a 40% decrease. This is a very significant statistical decrease in the number of intentional firearms discharges compared to the previous year. Summaries of these incidents are located in Appendix A of this report. There were nine subjects involved in these nine incidents. Three subjects were injured and one subject was fatally wounded. One officer sustained minor injuries and no civilian bystanders were injured or killed in 2012 as a result of an intentional firearms discharge.



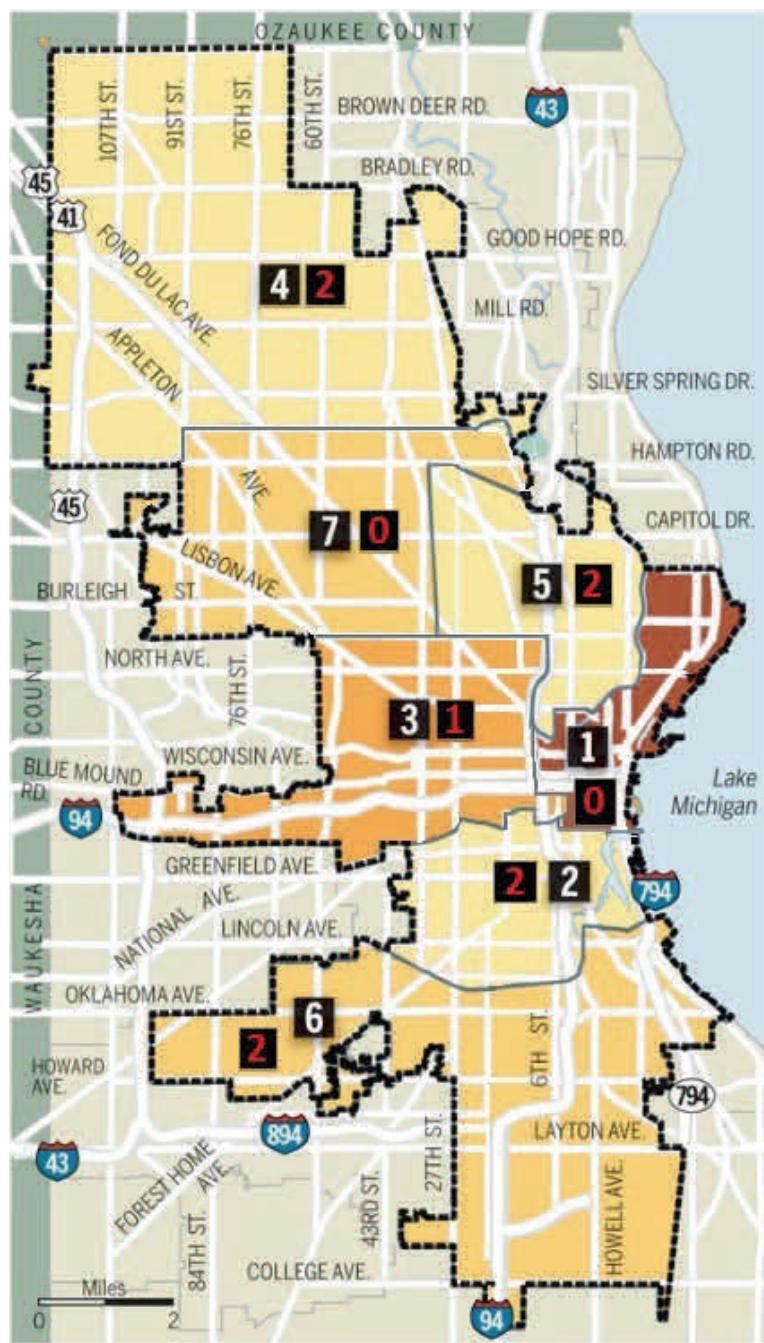
In 44% of these incidents (4) the subjects involved were armed with a firearm. In four incidents the subject was perceived as reaching for a firearm. One incident involved a subject intentionally ramming their vehicle into an occupied squad car.

The eight incidents were distributed over the three primary MPD work shifts, days (8:00 a.m. – 4:00 p.m.), early (4:00 p.m. – 12:00 a.m.), and late (12:00 a.m. – 8:00 a.m.). Two incidents occurred during day shift, six during early shift, and one during late shift. This compares to 2011 when each shift had five incidents.

	DISTRICT 1	DISTRICT 2	DISTRICT 3	DISTRICT 4	DISTRICT 5	DISTRICT 6	DISTRICT 7
2011	1	2	4	1	3	0	4
2012	0	2	1	2	2	2	0

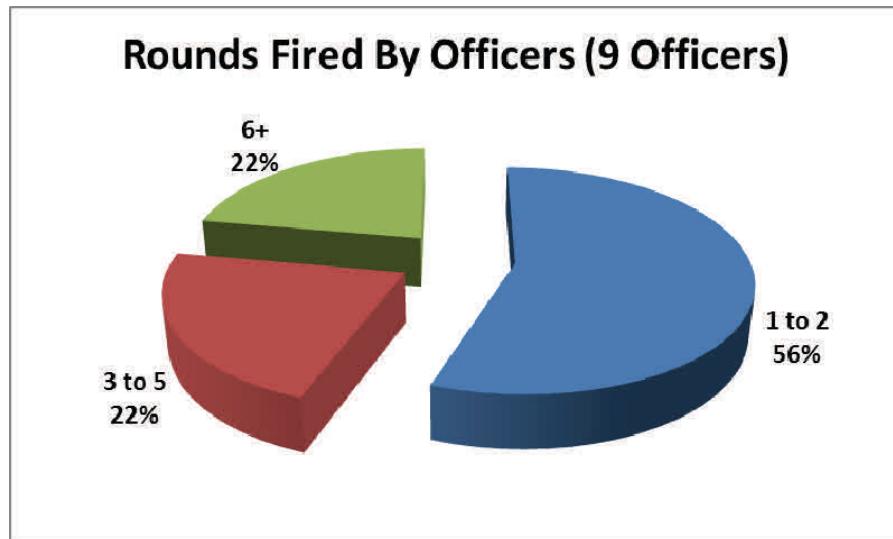
DISTRICT LOCATIONS OF 8 INTENTIONAL DISCHARGES DURING ADVERSARIAL CONFLICT

- ◆ White Number — Police District
- ◆ Red Number — Number of Intentional Discharge Incidents



Most officers (8) were performing patrol duties at the time of the firearms discharge. One officer was off-duty at the time of the incident. Of the eight officers that were performing patrol duties, two were conducting a field interview, two were dispatched for assignment, one was conducting an investigation, two were conducting a traffic stop and one was effecting an arrest.

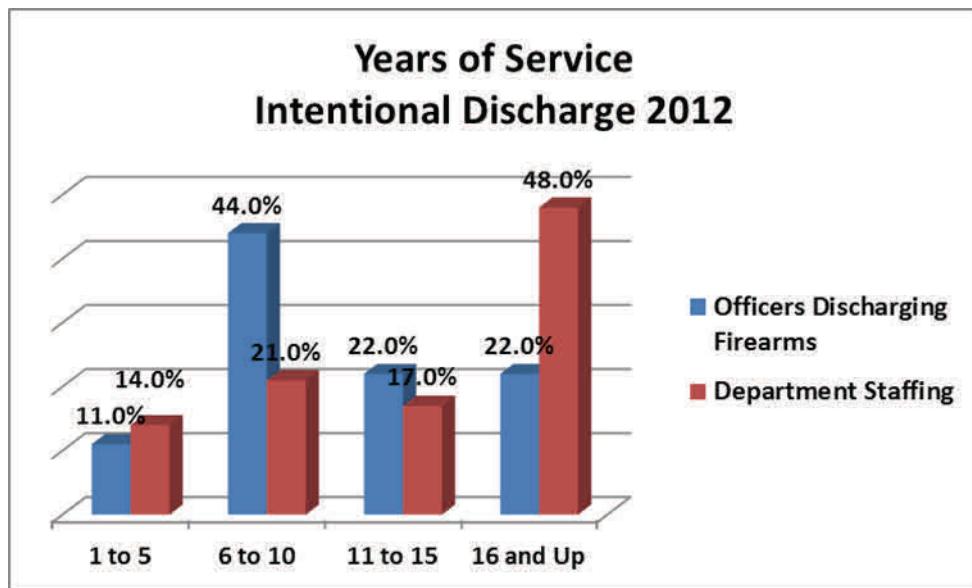
A total of 33 rounds were discharged in 2012. Of officers discharging their firearms during a confrontation, 78% (7) fired five or fewer times during the incident. The median number of rounds fired by officers was three per incident.



When an officer determines that a threat is severe enough to require the use of their firearm, officers are trained that the objective is to stop the threat by discharging rounds into the subject until the threat is eliminated. This is a pass/fail proposition and is measured by the “objective completion rate.” The objective completion rate is determined regardless of the number of rounds discharged in an incident. The objective completion rate uses the sum of subjects wounded or fatally injured as the denominator. Of the nine incidents, officers struck at least one target subject per incident four times, yielding an objective completion rate of 44%. This compares to 53% in 2011.

OFFICERS

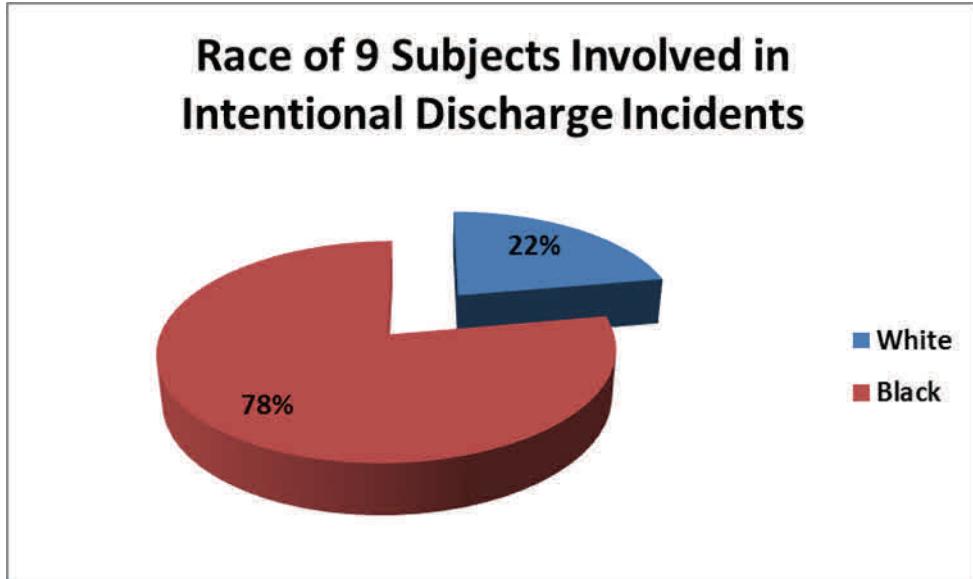
Of the nine officers who intentionally discharged a firearm, 100% were male. This compares to 82% of total MPD sworn personnel that are male and 18% that are female. Fifty-five and one half percent (5) of the officers that intentionally discharged a firearm were white, 22% (2) were Hispanic, 11.1% (1) was African American , and 11.1% (1) was American Indian. This compares to MPD total sworn personnel of 66% white, 19% black, 12% Hispanic, 2% American Indian, and 2% Asian. With respect to the total years of service with the Police Department at the time of the incident, 22.2% (2) of the officers had 11-15 years of service, 22.2% (2) had 6-10 years of service, 33.3% (3) had 5 or less years of service, and 22.2% (2) had more than 15 years of service.



Seventy-eight percent (7) of the officers that discharged their firearm were in the rank of police officer. Nearly 89% (8) of all officers were wearing their full duty uniform. One officer (11.1%) was off-duty and in street clothes. All of the officers discharged their department-issued semi-automatic handgun.

SUBJECTS

The race of a subject is generally determined by the officer that files the reports regarding an incident. This determination may be based on a subject's self-identification, identification cards such as a driver's license, or other information. Of the nine subjects identified by race, 78% (7) were black and 22% (2) were white. This compares to 91% of City of Milwaukee criminal shooting suspects overall in 2012 that were identified by race as black, 5% Hispanic, and 4% white. Eight of the subjects that were fired upon were male and one was female. Of the nine subjects, 11.1% (1) were under the age of 20, 44% (4) were 20-30 years old, 11.1% (1) were more than 30 years old, and 33.3% (3) were unknown. The three unknown-age subjects were individuals that evaded apprehension and were not identified. The median age of all identified subjects was 27 years old. All of the identified subjects that were involved in firearms discharge confrontations had prior criminal records.



CONCLUSION

1. The MPD has adopted procedures that have contributed to a significant one-year reduction in intentional discharges. The MPD should continue to review its firearms training scenarios to maintain the tactical skills necessary to ensure that a perceived threat during a confrontation actually requires a use of deadly force response. Regular and frequent refresher training, using scenarios based in part upon the incidents cited in this report, will help officers prepare for similar encounters. Identifying successful training regimens and procedures that have contributed to the 40% decrease in the number of incidents since 2011 should provide valuable insight.
2. The MPD should review its firearms range proficiency training to ensure that officers are receiving adequate opportunities to hone their accuracy in target acquisition with a handgun, in light of the objective completion rate of 44% for intentional firearms discharge during a confrontation in 2011 and 50% in 2012. While a 6% decline over one year is not statistically significant, the objective completion rate of 44% suggests that there is an opportunity to improve target acquisition accuracy.
3. The MPD should review the Critical Incident Standard Operating Instruction (SOI) issued on December 15, 2011 that specifically delineates the responsibilities of a Criminal Investigation Bureau Detective, Lieutenant, and Captain at the scene and during the course of an investigation of any critical incident. Field experience gained since this SOI was issued should prove valuable in clarifying the role of such department members and further improve upon providing a uniform investigatory process for critical incidents.
4. The MPD should continue to work with the Fire and Police Commission in reviewing the process used with respect to the newly established Critical Incident Review Board, together with its attendant procedures and the continued development of a timely critical incident review process that is responsive to the concerns of the community. A renewed emphasis on tactical decision-making, use of force training, and policy development will optimize the improvements implemented since 2011.

UNINTENTIONAL DISCHARGE

In 2012, there was one incident of unintentional firearm discharge by officers of the Milwaukee Police Department. There was a total of one round unintentionally discharged in this incident. This compares to seven unintentionally discharged rounds from seven incidents in 2011. This is a significant reduction in the number of unintentional discharge incidents compared to the previous year.

On Tuesday, July 17, 2012, at 12:40 p.m. an officer was in the Criminal Justice Facility at 949 N. 9th Street to conduct an interview with an inmate. The officer had placed his service pistol in a secure locker while in the facility. The officer reached over his pistol to grab a 20 ounce plastic soda bottle from the back of the locker. While bringing the bottle out of the locker the officer lost control of the bottle and to compensate grabbed the bottle harder to regain control. While conducting this motion, the officer heard a loud bang and realized that his firearm had discharged into the rear of the locker and resulted in a ricochet out of the locker, ending up 15 feet behind him on the floor.

The service pistol was taken to the Training Division Firearms Section for inspection. The firearm was examined for mechanical and safety failures and a test was conducted to determine if the bottom "nubs" of a full 20 ounce soda bottle were capable of disengaging the trigger safety while pulling the trigger. The test revealed no mechanical or safety defects and determined that the firearm could be discharged in circumstances described by the officer. No officers or subjects were injured during this incident.

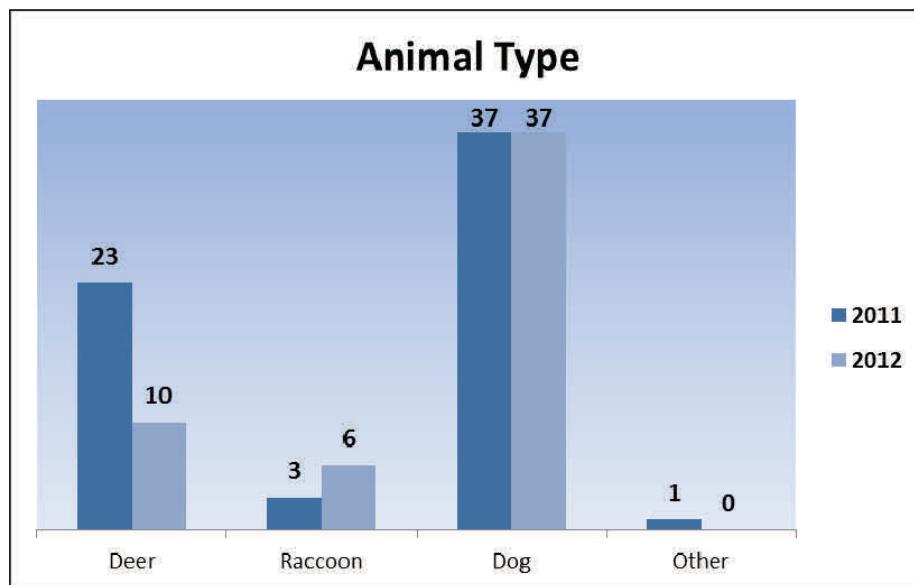
Following this incident, the Department issued an informational memorandum to all work locations to safeguard against future similar incidents.

CONCLUSION

The MPD has taken effective actions to significantly reduce unintentional firearms discharges. The number of incidents has been significantly decreased since 2011. A policy revision recommended by this report last year was implemented. This policy revision introduced a requirement for utilization of an approved holster for off-duty concealed carry. The MPD should continue their training regimen and enforcement of the revised policy in an effort to maintain the current low incident rate.

INTENTIONAL DISCHARGE — ANIMAL

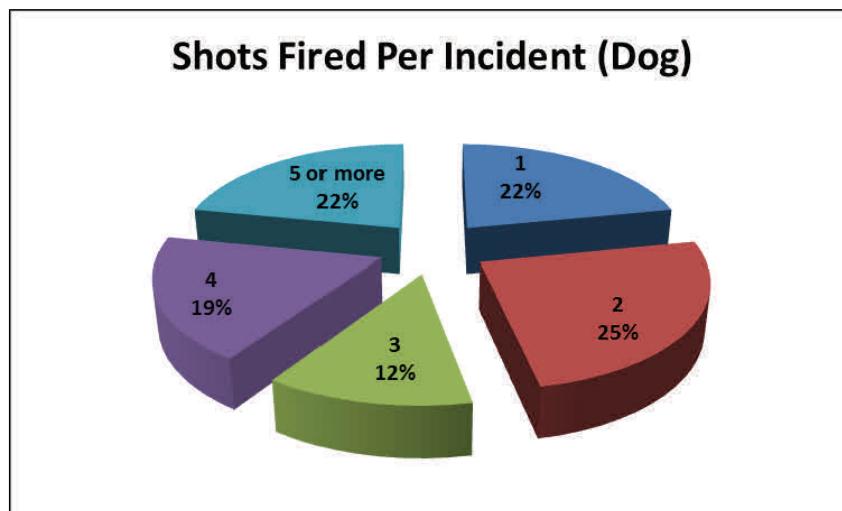
During 2012, the Milwaukee Police Department experienced 48 incidents of intentional firearm discharge with animal targets. This compares to 63 incidents in 2011, a 24% decrease. These incidents involved a total of 53 animal targets (three incidents involved two dogs and one incident involved three dogs). Of the 53 animals targeted, 70% were dogs (37), 19% were deer (10), and 11% (6) were raccoons. Of the 64 animals targeted in 2011, 58% were dogs, 36% were deer, 5% were raccoons, and 2% were opossums. A total of 157 rounds were discharged at the 53 animal targets, most (about 75%) of which were fired at dogs. About 83% of all of the animals (44) targeted sustained fatal injuries, including all of the deer and raccoons, and 28 of the 37 targeted dogs.



A total of 52 officers were involved in the 48 incidents of intentional firearm discharge during an animal encounter. Four of the 52 officers were involved in more than one of the incidents; three officers were involved in two dog incidents and one officer was involved in one dog incident and one of the deer incidents. In about 13% (6) of the incidents, two officers were involved in the encounter rather than just one and in one incident (2%) three officers were involved. All incidents with more than one officer involved dogs. An officer was injured in about 2% (1) of the cases. The Tactical Enforcement Unit (TEU) became involved in less than 5% (2) of the incidents, all of which were dog-related.

INCIDENTS WITH DOG TARGETS

There were a total of 28 dogs killed by an intentional firearm discharge in 2012. This compares to 20 dogs killed in 2011, a 40% increase. There were a total of 32 incidents of intentional firearm discharge with dog targets in 2012. This compares to 36 incidents in 2011, an 11% decrease. These incidents involved a total of 37 dog targets; three of the incidents involved two dogs and one incident involved three dogs. The majority – about 86% (32) – of the dogs targeted were pit-bulls, (84% in 2011). A total of 119 rounds were discharged at the 37 dogs, with an average of 3.2 rounds per dog, (105 total rounds, 2.8 rounds per dog in 2011). About 75% of the dogs (28) were killed in the encounter, 3% (1) sustained major injuries, and 22% (8) were not injured.



Incidents With Dog Targets		
	2011	2012
Incidents	36	32
Dogs	37	37
Injured	11	1
Killed	20	28
Rounds Per Dog	2.8	3.2

A total of 37 different officers were involved in the 37 dog-related incidents. Three officers were involved in three of the incidents. In 16% (6) of the incidents, two officers were present during the encounter, rather than just one. An officer was injured in only one (about 3%) of the cases. In about 5% (2) of the incidents, the TEU was involved in the encounter.

In a comparison of MPD and the New York City Police Department, MPD officers fatally shot more than twice as many dogs as New York City officers. In the chart below, the context of this comparison is demonstrated. While a comparison between two cities is necessarily subject to incongruity due to various reporting and data collection factors, it is a useful tool in this instance for demonstrating an opportunity for improvement.

2012 Canines Killed—Comparison of Milwaukee and New York City		
	MILWAUKEE	NEW YORK ¹
Total Incidents	32	36
Number Dogs Targeted	37	43
Dogs Killed	28	12
Dogs Injured	1	19
Total Rounds	105	79
2 or Less Rounds Fired	47.0%	75.0% ²
Greater Than 6 Rounds Fired	5.4%	0.0% ²
Calls for Service Involving Dogs	3,663	28,000 ³
Population ⁴	594,833	8,175,133
Total Sworn Officers	1,890	34,500 ³

1. Most recent available data from 2011 NYPD Firearm Discharge Report

2. Raw data unavailable

3. Approximately as of year end 2012

4. U.S. Census Bureau 2010 data

INCIDENTS WITH DEER TARGETS

There were a total of 10 incidents of intentional firearm discharge with deer targets in 2012. This compares to 23 incidents in 2011, a 57% decrease. Deer were typically targeted for euthanasia subsequent to being struck by an automobile or injured in some type of human encounter. A total of 25 rounds were discharged at 10 deer targets, with an average of 2.5 rounds per deer, (1.83 rounds per deer in 2011). All 23 of the deer targeted were killed in the encounters.

A total of 10 officers were involved in the 10 deer-related incidents. None of the officers sustained injuries in any of these cases involving deer targets. The TEU was not involved in any of the 10 incidents.

INCIDENTS WITH OTHER ANIMAL TARGETS

There were a total of six incidents of intentional firearm discharge with raccoon targets in 2012. A total of 13 rounds were discharged at six raccoon targets, with an average of 2.17 rounds per raccoon. All six of the raccoons targeted were killed in the encounters.

A total of six officers were involved in these three raccoon-related incidents. None of the officers sustained injuries in these cases with raccoon targets, and the TEU was not involved in any of the six incidents.

CONCLUSION

1. The MPD should develop a departmental strategy for the proper handling of dog-related incidents. This strategy should closely align with the model protocols identified in the August 2011 U.S. Department of Justice Office of Community Oriented Policing Services publication, "The Problem of Dog-Related Incidents and Encounters." The goal of this strategy should be to significantly reduce the use of deadly force in dog-related encounters.
2. The MPD should intensify training on dog behavior and appropriate use of de-escalation techniques and other non-lethal tactical response strategies for dog-related encounters.
3. The MPD should closely review every dog-related encounter that involves the discharge of a firearm to determine if the use of deadly force was appropriate and whether proper non-lethal tactical responses were considered and utilized by officers.
4. The MPD should consider revising the use of force policy to include specific dog-related protocols consistent with a revised training regimen.

APPENDIX A

INTENTIONAL DISCHARGE — CONFRONTATION INCIDENT SUMMARY

The following is a brief synopsis of each intentional firearms discharge that occurred during a confrontation in 2012. The incident descriptions are abbreviated summaries that are intended to inform the reader about the general circumstances of the event. In five of the incidents the officer's actions were found to be in compliance with the applicable rules and procedures. Three incidents remain open investigations pertaining to the use of force review at the time of this report. The three open use of force review investigations are noted in the applicable synopsis. Every officer involved in an intentional firearms discharge is debriefed by the MPD Firearms Instructor, and in addition to any other finding, the MPD Instructor may require the officer to participate in supplemental training.

April 1, 2012

On Sunday, April 1, at 2:34 a.m., at 744 South 39th Street, two uniformed officers responded to a complaint of a man with a shotgun. After arriving at the scene officers learned the subject had threatened two men with a firearm. The officers approached the subject and shouted verbal commands to stop as the subject walked toward the firearm, which rested on the hood of a car. The subject ignored the officer's commands and proceeded to pick up his firearm and make a sudden maneuver toward the officers. One officer fired three rounds from his service weapon at the subject. The subject began to flee on foot while armed and continued to disobey commands to drop his firearm. The subject made a second turn toward the officers with his firearm at which point one officer fired an additional six rounds from his service weapon. The subject fled into his residence where he discarded the firearm. The subject was arrested on scene, sustained two non-fatal bullet wounds, and was conveyed to Froedtert Memorial Lutheran Hospital. Neither officer was injured during this incident.

May 2, 2012

On May 2, 2012 at 9:30 p.m., at 1401 West Mitchell Street, two uniformed officers were on bike patrol, stopped at a gas station, and encountered a car with loud music and temporary plates. As the officers approached the side of the vehicle, one on each side, the driver started the vehicle and the officers yelled at the subject to turn the engine off. The wheels turned

toward the direction of the officer on the passenger side and the driver reached one hand toward the center console. The vehicle began moving toward the officer and the officer fired one round at the driver. The subject fled the area in the vehicle and the vehicle was later found abandoned. No one was injured during the incident and the subject was arrested the following month. This use of force investigation remains open at the time of this report.

July 14, 2012

On Saturday, July 14, at 7:46 p.m., at 2615 North 49th Street, three fully uniformed officers on foot patrol were approached by two citizens with information of an armed man making threats on a nearby porch. The three officers approached the residence and saw two individuals on the porch. The officers told the subjects to show their hands, but neither one followed the orders. As both subjects rose from their seats, the officers could see one man held a firearm in his hand. The officers repeatedly asked the subject to drop his weapon. At the third request, the subject began to lift the gun toward the officers. One officer fired five rounds from his service weapon, striking the subject. The subject dropped his firearm and fell down. The subject sustained three non-fatal bullet wounds. No officers were injured during this incident.

October 18, 2012

On Thursday, October 18, 2012, at 1:15 p.m., at 6708 North 78th Street, two fully uniformed officers were responding to an Entry In Progress broadcast over the radio. As the officers approached the location they observed a subject matching the suspect description enter a vehicle and drive off at a high rate of speed. The officers activated their emergency lights and followed the vehicle until it suddenly stopped. One officer immediately exited the squad car and yelled for the driver to remain in the vehicle but the driver ignored the orders and fled on foot. While one officer remained with the vehicle the second officer pursued the fleeing subject. As the driver fled from the vehicle he could be heard yelling towards the passengers to get the gun. The subject in the passenger seat then slid over to the drivers seat and bent forward reaching towards the vehicle floor. He then turned and raised his shoulder and the officer fired two rounds towards the subject. The subject slumped in his seat and drove off at a high rate of speed. The fleeing suspect was arrested and found to be carrying a firearm and ammunition. The subject in the vehicle avoided apprehension. No officers or subjects were injured in this incident.

November 12, 2012

On Monday, November 12, at 6:25 p.m., on the 2900 block of South 44th Street, an off-duty detective pulled into his driveway and found the side door of his residence had been forced open. The officer dialed 911 and, while on the phone with Milwaukee Police Dispatch, observed a subject appear from the front door and quickly return inside. A few moments later, a subject came out of the side door with a firearm in hand and saw the detective. When the subject raised the firearm and pointed it toward him, the detective fired three rounds from his off-duty weapon at the subject. The subject fled the scene. The officer remained at the location to wait for responding squads. One subject was found hiding in the residence and a felony warrant was issued for the second. The officer and subjects were not injured during this incident.

November 16, 2012

On Friday, November 16, 2012, at 1400 West Locust Street, two officers responded to assist in an armed robbery incident. While responding to the area, the officers came across the suspect vehicle at a stop sign. The two officers parked and exited the squad. As they approached the front of the suspect vehicle they could see two subjects in the front seat. One officer, with weapon drawn, ordered the driver to turn off the vehicle. The driver ignored the order and turned the tires in the direction to drive away. Meanwhile, on the other side of the vehicle, the second officer reported that he could see the passenger leaning down to grab something and begin to raise his shoulder up. Based on reports that the subjects in the car were armed, the officer on the passenger side fired one round from his service weapon as the vehicle drove at him and then away at a high rate of speed. The officers were not injured during this incident and the subjects avoided apprehension. The use of force investigation remains open at the time of this report.

November 24, 2012

On Saturday, November 24, 2012 at 3:45 p.m., on the 3800 block of South 1st Street, a uniformed officer was alerted that a vehicle involved in an armed robbery had crashed into a tree. After responding to the area of the crash, the officer noticed the subject walking from the vehicle down the sidewalk. The officer exited his vehicle and commanded the suspect to stop while identifying himself as Milwaukee Police. The subject immediately began running down the street. A citizen saw the subject running and pulled his vehicle in front of the

subject, knocking the subject down and allowing the officer to catch up. The subject followed orders to lay on the ground with his hands behind his back. While the officer called for additional assistance, the subject began to get back on his feet and run. After a few steps the subject turned, reached into a pocket in his unzipped coat and extended his hand and arm concealed in the coat pocket towards the officer. The officer discharged eight rounds from his service weapon at the subject. The subject was fatally wounded and the officer was uninjured. The use of force investigation remains open at the time of this report.

November 25, 2012

On Sunday, November 25, 2012, at 2:01 p.m. at 2874 North 18th Street, a complaint was received by the Milwaukee Police Department concerning a subject with a gun. Two uniformed officers responded in their squad car. As the squad pulled into the alley described in the complaint they identified two subjects standing and talking. As the squad pulled closer the subject with the firearm began to reach for his waist. The subject pulled out his firearm and began to run. One officer began chasing the subject and as the subject ran up a set of stairs he turned and pointed his gun at the officer. The officer then fired two rounds from his service weapon. The subject was not struck and ran into a nearby basement where he was later arrested. No one was injured during this incident.

December 24, 2012

On Monday, December 24, 2012, at 6:45 p.m. on 7200 West Mill Road, two uniformed officers attempted to conduct a traffic stop of a vehicle that was reported stolen earlier that day. The female driver of the vehicle drove away from the officers who then followed the truck. The vehicle was a full-sized pick-up truck with a steel push-bar/brush guard mounted on the front bumper and grill. The subject drove into a dead end alley and made a U-turn to face the squad car. Both officers exited the squad car and approached the vehicle. As they approached, the driver revved the vehicle's engine. The officers drew their duty weapons and started yelling commands for the driver to turn off the vehicle. The truck began driving directly toward the officers, striking a parked car in the alley. One officer jumped back into the squad to avoid being hit and the vehicle struck the front driver's door of the squad car. The subject backed up and attempted to ram the squad car a second time. After failing to respond to further commands to turn off the vehicle, the officer in the squad fired two rounds at the driver. The driver then stopped the vehicle and was taken into custody without further incident. The subject sustained one non-life threatening bullet wound.

APPENDIX B

FIRE AND POLICE COMMISSION USE OF FORCE STRATEGY STATEMENT

Introduction

One of the most important duties and public expectations of the Fire and Police Commission (FPC) is to ensure that there are appropriate policies and standards in place to address the use of force by Milwaukee Police Department (MPD) officers.

The FPC has implemented a strategy to oversee and monitor the use of force by MPD officers. The purpose of this strategy is to:

- a. Reduce the need for the use of force
- b. Ensure that when force is used it is deployed correctly and minimally
- c. Limit exposure of the City of Milwaukee to liability
- d. Minimize injury to both citizens and officers
- e. Increase community trust and confidence in the MPD

Strategy

1. The FPC will continuously evaluate police policies, practices, and patterns and periodically issue public reports on issues concerning the use of force.
2. The FPC will audit use of force internal investigations to ensure thorough, fair, and credible results while identifying any systemic problems and opportunities for improvement.
3. The FPC will independently monitor and review the use of force reports and records of the MPD to identify patterns or trends and take corrective action to revise training, policies, standards, or procedures.
4. The MPD will utilize a department Use of Force Committee to review:
 - a. Appropriateness of use of force by department members
 - b. Field supervision of use of force incidents
 - c. Effectiveness of department rules, procedures, and training
 - d. Proper use and effectiveness of equipment
5. The FPC will monitor the MPD Use of Force Committee and review its quarterly and periodic reports and recommendations.

(4/9/09)

APPENDIX C



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

455 - CRITICAL INCIDENT REVIEW BOARD

GENERAL ORDER: 2012-28

ISSUED: November 29, 2012

EFFECTIVE: November 29, 2012

ACTION: Amendment to General Order 2012-25(September 17, 2012)

455.00 PURPOSE

The Critical Incident Review Board (CIRB) will serve as an advisory body to the Chief of Police. The role of the CIRB is to conduct objective, thorough and timely analyses of a critical incident or any use of force or any other incident the Chief of Police determines is appropriate for such review. During its review process, the board shall seek to evaluate and recommend policies and procedures, improve training, and ensure that best practices are in place in regard to critical incidents. The goal of the CIRB is to set State standards in the review of critical incidents.

455.05 PROCEDURES

For the purpose of this policy, a Critical Incident shall be defined as an incident involving Department members which results in great bodily harm or death to either a citizen or member of the department, or injury caused by a police member's use of a firearm to a citizen or another police member.

1. The CIRB shall conduct an administrative review of a critical incident investigation, including, but not limited to:
 - a. All reports concerning the incident, which will be made available to the board within 60 days of the incident.
 - b. Consultation with the appropriate certified unified tactics experts to gather information concerning the incident being reviewed, as well as other reliable sources of information.
 - c. Review of any law enforcement resources deemed relevant by the board.
2. The CIRB will serve in an advisory capacity by summarizing its review and making recommendations that pertain to training, policy, safety or any other issues of importance that are determined during the review. Such recommendations shall be presented in a written report to the Chief of Police as soon as administratively possible.

455.10 COMPOSITION AND RESPONSIBILITIES**A. CIRB MEMBERS**

1. The Chief of Police or his/her designee shall oversee the CIRB and the board shall be comprised of personnel as indicated below as determined by the Chief of Police.
 - a. The commanding officer of the Police Academy or his/her designee will serve as a standing member.
 - b. The commanding officer of the Internal Affairs Division or designee will serve as a standing member.
 - c. Five captains of police, selected by the Chief of Police, will be named in an Official Memorandum including their term of service.
 - d. A supervisor from the Office of the Chief, Office of Management, Analysis and Planning (OMAP), will serve as a standing member for purposes of taking notes during Board meetings, and ensuring that policy changes are researched and developed consistent with the recommendations of the Board. The OMAP supervisor shall produce a written report regarding the development and implementation of any recommendation by the CIRB, as soon as administratively possible.

B. TECHNICAL COMMUNICATION DIVISION

1. All communications (911 calls, squad dispatch, squad radio communication, etc.) relating to the critical incident need to be copied onto a disc at the conclusion of the critical incident. The copy must be ready for pick up 24 hours after the conclusion of the incident.

C. REVIEW PROCEEDINGS

1. One of the seven committee members shall be the chairperson for each critical Incident based on a rotating schedule as well as the particulars of the incident.
 - a. The chairperson will be responsible for initiating the gathering of information and convening at least 5 CIRB members to review the incident.
 - b. The chairperson will be responsible for gathering all pertinent reports, photographs, CAD reports, radio transmission recordings and all other material needed for a full and complete review by the CIRB.
 - c. The chairperson shall be responsible for the retention of pertinent documents.
2. A Board consisting of at least five of the seven standing members of the CIRB shall convene as soon as administratively possible to review the relevant

information following the critical incident in order to conduct a review on, but not be limited to, the following:

- Appropriateness of use of force by Department members
 - Proper field supervision and supervisory review of use of force incidents
 - Application and effectiveness of Department policy concerning the use of force
 - Proper use and effectiveness of equipment
 - Effectiveness of use of force training
 - Identification of training needs and opportunities for Department members
2. Once a review is completed, the CIRB shall submit a written report and a presentation summarizing the incident and the board's recommendations directly to the Chief of Police, and copied to the Executive Director of the Fire and Police Commission.
 3. The Chief of Police will make all final determinations with regard to any training, policy changes, safety issues or any other issues of importance that may arise from the review. The CIRB will be responsible for coordinating with the appropriate personnel for any training, policy changes or any other issues as determined by the Chief.
 4. A follow up report regarding any action or non-action shall be generated following every review and submitted to the Chief of Police and the Executive Director of the Fire and Police Commission.

455.15 RECORD RETENTION

1. The CIRB Summary Report that is presented to the Chief shall be retained for a minimum of 20 years.
2. The Office of the Chief shall be responsible for the retention of all documents, materials and PowerPoint that are relevant to each critical incident reviewed.



EDWARD A. FLYNN
CHIEF OF POLICE

EAF:kmr

APPENDIX D

	MILWAUKEE POLICE DEPARTMENT													
STANDARD OPERATING PROCEDURE														
460 – USE OF FORCE														
GENERAL ORDER: 2013-01	ISSUED: January 1, 2013	EFFECTIVE: January 1, 2013												
ACTION: Amends General Order 2009-51 (December 18, 2009)														
460.00 PURPOSE <p>The purpose of this procedure is to provide instructions for the proper use of force by police members, provide a fair and impartial review of use of force incidents, determine whether the actions of police members were justified, and to maintain public confidence in the Milwaukee Police Department.</p>														
460.05 DISTURBANCE RESOLUTION MODEL <p>It is the policy of the Milwaukee Police Department that all uses of force will comply with the State of Wisconsin Defense and Arrest Tactics (DAAT) Disturbance Resolution Model, Intervention Options, as outlined below:</p>														
1. APPROACH CONSIDERATIONS <table border="1"><tr><td>Decision Making</td><td>Justification Desirability</td></tr><tr><td>Tactical Deployment</td><td>Control of distance Positioning (relative positioning / relative positioning with multiple subjects) Team Tactics</td></tr><tr><td>Tactical Evaluation</td><td>Threat Assessment Opportunities Officer/subject factors Special circumstances Level/stage/degree of stabilization:</td></tr></table>			Decision Making	Justification Desirability	Tactical Deployment	Control of distance Positioning (relative positioning / relative positioning with multiple subjects) Team Tactics	Tactical Evaluation	Threat Assessment Opportunities Officer/subject factors Special circumstances Level/stage/degree of stabilization:						
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3. FOLLOW-THROUGH CONSIDERATIONS

Stabilize	Application of restraints, if necessary
Monitor/Debrief	Maintain alertness (subject's condition, etc) / Communication (normalize scene)
Search	If appropriate
Escort	If necessary
Transport	If necessary
Turn over/Release	Removal of restraints, if necessary

460.10 OBJECTIVE REASONABLENESS

The use of force by a police member must be objectively reasonable. Police members shall use only the force necessary to effectively maintain control of a situation and protect the safety of police members and the public. Objective reasonableness is judged from the perspective of a reasonable police member facing similar circumstances and is based on the totality of the facts known to the police member at the time the force was applied, along with the member's prior training and experience, without regard to the underlying intent or motivation of the police member.

460.15 AMOUNT OF FORCE

- A. Force that is intended or likely to cause great bodily harm or death, may only be used:
 1. if reasonable under all the circumstances then existing to prevent great bodily harm or death to the officer or a third party; or
 2. when necessary to prevent a suspect's escape **and** the officer has probable cause to believe that the suspect presently poses a significant threat of great bodily harm or death to the officer or others; or
 3. to kill an animal if the officer or another person is threatened with serious bodily harm by the animal or otherwise to provide for the safety of the general public; or
 4. to kill an animal that has been so badly injured that its destruction would prevent further suffering.
- B. Police members may draw or display their firearms in circumstances where they reasonably believe it may be necessary to use their firearm in the performance of their duties.
- C. The firing of warning shots is prohibited. When feasible, a verbal warning should be given prior to the use of force likely to cause great bodily harm or death.

460.20 DUTY TO INTERVENE

Any officer who personally observes another officer using force, which the observing officer believes to be beyond that which is objectively reasonable under the circumstances, shall reasonably attempt to intervene to prevent the use of such excessive force, if the observing officer is in a position to do so, and if any such intervention does not jeopardize safety. Any such intervening officer shall promptly report their observations, along with his/her own intervening actions to a supervisor. A failure to intervene in any unreasonable use of force, when there is an opportunity to do so, demonstrates a lack of courage, and a violation of the Code of Conduct.

460.25 DISCHARGE OF FIREARM INCIDENTS**A. SHOOTING OF ANIMALS**

Whenever a police member shoots an animal and there is no personal injury or property damage, and all rounds are accounted for, the member's field supervisor shall conduct the use of force investigation and file the *Use of Force Report* in the AIM system, unless directed otherwise by higher authority. The supervisor shall indicate in the subject tab, the type of animal (i.e., dog, deer, etc.) and fill out the applicable subject details (i.e. injuries, photos, animal breed).

B. ACCIDENTAL/UNINTENTIONAL DISCHARGE**1. PERSONAL INJURY/PROPERTY DAMAGE**

Whenever a police member accidentally or unintentionally discharges a firearm and it causes personal injury or property damage, the CIB shift commander shall be notified and make the determination who shall be assigned to conduct the use of force investigation and file the *Use of Force Report*.

2. NO INJURY/DAMAGE

Whenever a police member accidentally or unintentionally discharges a firearm and no personal injury or property damage results, the CIB shift commander shall be notified and will decide if a police lieutenant or the field supervisor will be assigned to conduct the use of force investigation and file the *Use of Force Report*.

C. INTENTIONAL DISCHARGE

Whenever a police member intentionally discharges a firearm at a person (regardless of whether personal injury or property damage occurs), the member shall promptly notify his/her shift commander of such fact. The shift commander shall promptly notify

the CIB shift commander, who shall assign a police lieutenant to conduct the use of force investigation and file the *Use of Force Report*.

460.30 RESTRICTIONS ON DISCHARGING FIREARMS

- A. Discharging a firearm at or from a moving vehicle shall only be done in the following circumstances and only when all other reasonable alternatives have been exhausted or deemed unacceptable.
 1. A police member shall not discharge a firearm at the driver or occupant(s) of a moving vehicle, or the vehicle itself, unless deadly physical force is being used against the police member or another person by means other than a moving vehicle, or, the moving vehicle poses an imminent and ongoing threat of substantial physical harm to the police member or another person from which there is no reasonable means to escape, and the risks are outweighed by the need to use deadly physical force. Once the threat of the moving vehicle ceases, a police member shall not discharge his or her firearm at the vehicle.
 2. Police members shall not intentionally place themselves to either the front or the rear of a moving vehicle's path. If they find themselves in danger from a moving vehicle, they shall attempt to move out of the way, if possible, rather than discharge their firearm. Firing at a moving vehicle will not, in most circumstances, stop the vehicle. Further, should the driver be wounded or killed, the vehicle may still continue in motion.
 3. A police member shall not discharge a firearm from a moving vehicle unless deadly physical force is being used against the police member or another person by means other than a moving vehicle (e.g., fired upon), and the risks are outweighed by the need to use deadly force.
 4. Police members shall not reach into or place any part of their bodies inside a driver occupied vehicle during a traffic stop or field interview.

460.35 USE OF FORCE REPORT (PF)

A. PURPOSE

The *Use of Force Report* is designed to document those incidents involving the use of force by Department members as described herein. The report shall be completed by a supervisory officer of a higher rank than the member that used force, except for supervisors assigned to the Internal Affairs Division (IAD) who can investigate and complete a *Use of Force Report* for any Department member.

B. WHEN TO FILE REPORT

1. The *Use of Force Report* shall be completed by a supervisory officer when a Department member:

- Discharges a firearm
- Uses a baton in the line of duty
- Discharges an irritant, chemical, or inflammatory agent
- Deploys an Electronic Control Device, to include non-contact spark display, contact stun and probe deployment. However, non-contact spark display used as a test of functionality does not require the filing of a report.
- Department canine bites a person.
- Forcible blood draws requiring use of force to obtain a sample where a subject claims injury or is injured as a result of police action.
- Uses bodily force that involves focused strikes, diffused strikes, or decentralizations to the ground.
- Uses any type of force in which a person is injured or claims injury, whether or not the injury is immediately visible.

Note: When in doubt as to whether a use of force incident should be documented on a *Use of Force Report*, notify your shift commander or immediate supervisor for guidance and direction.

2. In any situation which triggers the filing of a Use of Force Report photographs must be taken of the subject against whom force was used, to illustrate any injury or lack thereof.
3. The *Use of Force Report* is to be completed and tracked to the appropriate supervisor/shift commander within 3 days of the incident. A critical incident *Use of Force Report* shall be filed in accordance with Section 460.35.
4. Each subsequent review by the shift commander/commanding officer shall be completed and tracked in an expeditious manner.

C. NOTIFICATION

1. Members using force as described in 460.35(B) shall, as soon as possible, notify their immediate supervisor. The supervisor shall determine if the use of force resulted in injury, great bodily harm, or death to a person.
2. Department members having knowledge of uses of force as described in 460.35(B) shall as soon as possible also notify their immediate supervisor.
3. If the use of force resulted in great bodily harm or death to a person, or if injury was sustained as a result of the member's use of a firearm, the supervisor shall

notify his/her shift commander. The shift commander shall then notify the CIB shift commander.

4. Whenever a police member intentionally discharges a firearm at a person (regardless of whether personal injury or property damage occurs), the member shall promptly notify his/her shift commander of such fact. The shift commander shall promptly notify the CIB shift commander.

5. **All Other Types of Force**

If the use of force did not involve great bodily harm or death to a person, but involved a use of force as otherwise listed above, the responding supervisor shall notify his/her shift commander. The shift commander may consult with the CIB shift commander to determine if the field supervisor or a police lieutenant shall conduct the use of force investigation and complete the *Use of Force Report*. The CIB shift commander shall assign a police lieutenant to investigate the more serious or complex use of force incidents.

D. SPECIFIC DIRECTIONS

Following are specific directions for completing the *Use of Force Report*:

1. **General Information**

- a. Complete all fields (i.e. incident type, dates, times, address, and status).
- b. The address, the location of the subject at the time the use of force was initiated, must be verified.
- c. Details: Indicate the location and lighting of the use of force. Indicate if video or audio was available and the name of the supervisor who reviewed the video. An electronic (CD/DVD) copy of the video should be forwarded to IAD. Identify all citizen witnesses and include their name, sex, race, birth date, address, and phone number. For Department members who are witnesses, complete only the name field using rank and name. For more than three witnesses, include all others in the notes/narrative section.

2. **Subject** – Identify the person who was the object of the use of force. If several people were the objects of the force in a single incident, enter all subjects under the subject tab and complete all subject details.

3. **Employees** - Identify all members who used force in the incident by entering them under the employee tab and linking them to the subject(s). Complete all employee details, including use of force details. Members who were present, but did not use force, are to be included in the Details-Witness Fields.

- a. Duty Status: All members taking action in their official capacity are on duty. For the purpose of this report, indicate "Off Duty" if the member was off duty immediately prior to the incident.
 - b. One/Two Officer(s): Indicate whether the member was assigned to a one-officer or two-officer unit at the time of the incident.
 - c. Type of Force Used: Indicate the type(s) of force used (i.e. ECD, Bodily Force, Firearm, etc.).
 - d. Bodily Force: Indicate yes or no. Identify through use of DAAT terminology the specific type of force employed, followed by a bodily force description. For example: compliance hold (pressure points, come-along); decentralization; stunning technique; focused strike (punches, kicks); or diffused strike, etc.
 - e. Baton: Indicate yes or no, the type, and the number of strikes.
 - f. Imitant/Chemical/Inflammatory: Indicate yes or no, the type of substance used: CS Gas, OC or Pepper Ball, including the amount discharged and the distance discharged.
 - g. Firearm: Indicate yes or no, the specific type of firearm used to include the make, model and serial number. Include the number of shots fired.
 - h. Less Lethal Type: 12 Gauge Bean Bag, Sage SL6 37MM.
 - i. ECD: Indicate yes or no, number of cycles, and the serial number.
 - j. TEU Related: Indicate yes or no.
 - k. Forced Blood Draw: Indicate yes or no. Include the description of the force used. See SOP 120.55.
4. Notes: Describe in a detailed narrative the incident and events leading to the use of force. Statements shall be separately obtained and documented from the person the force was used against, from the officer(s) using force, and from all citizen and officer witnesses. An explanation of why there was no statement obtained from any of the aforementioned shall also be included.

E. ADDITIONAL REPORTS AND INVESTIGATION

1. A written report from the member who uses force as defined in this order is not required if such member has given a detailed statement to the CIB investigators

or the field supervisor. However, this does not preclude further statements, or written reports by the member using force when so directed by the Chief of Police.

2. Whenever the use of force by a member is investigated as a personnel investigation, a claim, a notice of injury, or a summons and complaint is filed with the City of Milwaukee naming a member of the Department, the member in question shall submit additional reports or provide statements when so directed by a supervisor.

F. INTERNAL AFFAIRS DIVISION RESPONSIBILITIES

1. IAD shall be responsible for the retention of all *Use of Force Reports* via the AIM System.
2. The commanding officer of IAD shall provide the *Use of Force Report* to the Training Division for training purposes and the tabulation of use of force statistics.
3. Use of Force data will be analyzed / audited on a regular basis by the Internal Affairs Division.

G. COMMANDING OFFICER'S REVIEW & RECOMMENDATION

1. The member's commanding officer shall review the AIM System *Use of Force Report* and enter a recommendation under "Incident Tracking". When the commanding officer determines the use of force is in compliance, these reports shall be forwarded through "Incident Tracking" and General Information "Status" directly to the appropriate supervisor of the Internal Affairs Division.
2. If the review finds the member's use of force was not in compliance, training is needed, or if there are serious injuries requiring admission to a hospital or if death occurs, the commanding officer shall enter a recommendation under "Incident Tracking". These reports shall be forwarded through "Incident Tracking" and General Information "Status" directly to their respective bureau commander. Commanding officers may, at any other time they believe notification to their bureau commander is warranted, forward the *Use of Force Report* to their bureau commander.

460.40 CRITICAL USE OF FORCE INCIDENTS

At the direction of the Chief of Police or designee, all incidents involving Department members that result in great bodily harm or death, or injury caused by a police member's use of a firearm, shall cause an internal investigation to be conducted

pursuant to SOP 450-Personnel Investigations immediately following the **conclusion** of the criminal investigation of the incident conducted by CIB, or as otherwise may be directed by the Chief of Police or designee.

A. MEMBER RESPONSIBILITIES

Police members involved in a critical incident that results in great bodily harm or death to a person(s) shall immediately:

1. Secure the area
2. Advise their dispatcher
3. Call for/render medical assistance as needed
4. Call for a patrol supervisor

B. PATROL SUPERVISOR'S RESPONSIBILITIES

1. Patrol supervisors at the scene of a critical incident shall attempt to stabilize the situation as quickly as possible, notify their shift commander, protect the scene and separate and secure witnesses until CIB and/or IAD personnel arrive.
2. Patrol supervisors shall, as soon as practicable, relieve the member(s) directly involved in a critical incident of any further responsibilities at the scene. The supervisor shall ensure that the involved member(s) is accompanied by and remains with a non-involved member (preferably a supervisory member, if available) until such time that CIB personnel are able to assume responsibility for the involved member(s).
3. Patrol supervisors shall maintain their incident commander status and responsibilities unless otherwise relieved by proper authority. The presence of CIB and/or IAD personnel alone does not relieve a patrol supervisor of their incident commander responsibilities unless such personnel from CIB or IAD formally declare incident command.
4. If the patrol supervisor arrives after the incident and receives information pertinent to the incident, the supervisor will be asked to file a report or provide a statement to CIB investigators.

C. CIB RESPONSIBILITIES

1. CIB personnel shall investigate whenever police actions result in great bodily harm or death to a person, all incidents in which an injury is caused by a police member's use of a firearm, and all instances when a "critical incident" review has been initiated by the Chief of Police or designee. Such

investigations shall be in conformity with established Standard Operating Instructions relating to the investigation of critical incidents by CIB personnel.

2. A police lieutenant shall assume complete charge of the criminal investigation. An exception is when an officer of higher rank from the CIB assumes responsibility for the investigation or as otherwise determined by the Chief of Police.
3. The police lieutenant in charge of the criminal investigation is responsible for the dispositions of those members directly involved as principals or witnesses and evidence relating to the criminal investigation. A Neighborhood Policing Bureau supervisor shall be responsible for managing patrol resources committed to the investigation.
4. Members who are not directly involved in the criminal investigation, dispatched to the scene, or directed to perform some function related to the criminal investigation, shall promptly return to their normal duties as directed by the patrol supervisor managing the incident.
5. Members directly involved in the use of force shall not be required to file any written reports for the criminal investigation. They shall be interviewed by CIB personnel. In the event a member refuses to be interviewed by CIB personnel, the CIB shift commander shall be notified, who shall in turn notify IAD. If members are not in custody, Miranda warnings are not required.
6. The only criminal incident report filed regarding member statements shall be the written report filed by CIB investigators concerning their interviews with the members involved in the incident.
7. CIB personnel shall examine firearms, ammunition, or weapons used in the incident. Weapons having evidentiary value shall be recovered from members and inventoried (see SOP 560 Property). If the firearm is the member's service weapon, the member shall be given a substitute weapon. The substitute weapon shall be issued by the commanding officer of the First District or his/her designee. As soon as practicable, the member shall appear at the Police Academy – Firearms- Range Office for re-issuance of a replacement weapon.
8. Other members' weapons and equipment shall be examined, but not necessarily taken and inventoried (see SOP 560 Property).
9. The CIB supervisor in charge of the criminal investigation shall, as soon as practicable, facilitate a "walk-through" of the secured and intact scene for responding IAD personnel.

10. The Chief of Police or designee may direct that IAD personnel question members directly involved in the critical incident. In such an event, a supervisor from CIB shall personally escort the members directly involved to meet with IAD personnel at a predetermined location.
11. The CIB supervisor in charge of the criminal investigation shall ensure that the principle member(s) is served with a PD-39 (Drug Test Order form), and arrangements made to transport the member(s) to the appropriate facility for testing.
12. Investigative Summary - The CIB supervisor in charge of the criminal investigation shall file a separate summary of the incident, and route it through the proper channels. Such supervisor shall also provide a complete copy of all investigative reports to IAD as soon as practicable.

D. TECHNICAL COMMUNICATIONS DIVISION RESPONSIBILITY

A Technical Communications Division supervisor shall be responsible for promptly contacting the appropriate Department and governmental officials in accordance with the Communications Division notification matrix.

E. USE OF FORCE REPORT

1. The lieutenant supervising the investigation shall be responsible for generating a *Use of Force Report* in the AIM System and under "Type of Call" shall indicate "Critical Incident".
2. DA Review - The notes/narrative of the *Use of Force Report* will normally not be completed until after a criminal investigation is completed and the matter has been reviewed by the DA's Office.

F. REASSIGNMENT OF INVOLVED MEMBERS

1. A commanding officer (e.g., watch commander, a commanding officer from CIB, etc) shall promptly notify the Chief of Police when a Department member is directly involved in any incident resulting in the death or great bodily harm of another.
2. Upon consultation with the Chief of Police or designee, the respective commanding officer referenced above shall then either relieve from all police duty the member(s) involved in the incident, or assign him/her to administrative duty and immediately submit a written report relating to such action to the Chief of Police.

3. Department members assigned to administrative duty, pursuant to the above, shall be strictly assigned to routine office duties, and they shall be prohibited from coming in contact with prisoners.
4. In the event an unusual number of members are involved in an incident from a single Bureau/District and are relieved from all police duty or assigned to administrative duty, the commanding officer of the Administration Bureau, after consultation with the Chief of Police or designee, shall cause such number of personnel to be transferred to and/or from said Bureau/District to ensure proper police coverage.
5. A member directly involved in any incident resulting in the death or great bodily harm to another, for the good of the service and the welfare of the member, shall either be relieved from all police duty by the Chief of Police, no later than at the start of the next regularly scheduled duty day, or be temporarily assigned to administrative duty with all pay and benefits continuing.
6. The Chief of Police shall, as soon as practicable, notify the Executive Director of the Fire and Police Commission in writing of the reassignment or relief from duty. This report shall detail the identity of the member(s) so relieved or reassigned, and identify the incident causing such relief from duty or reassignment.
7. Any Department member relieved or reassigned under this section remains subject to the Code of Conduct and all Rules and Standard Operating Procedures.
8. After consultation with the commanding officer of the Criminal Investigation Bureau and the Internal Affairs Division, and having determined that there has been no violation of state law, the Chief of Police may determine that assignment to administrative duty is no longer required. In such instance, the Chief of Police shall prepare a written report to the Executive Director of the Fire and Police Commission with notice that the Chief intends to reinstate any member relieved or reassigned to their full police duties.

Note: Being relieved from duty under this procedure is not disciplinary in nature and does not intimate any impropriety of conduct by such member.

G. DISTRICT ATTORNEY'S REVIEW

1. The Milwaukee County District Attorney's Office will review all police shootings where injury/death occurs and all incidents that result in great bodily harm or death to a person.
2. The Chief of Police or designee shall notify the DA's office and the executive director of the Fire and Police Commission in the event of the death of an individual while in contact with the police or while the individual is in police custody. Such notifications shall be made as soon as practicable.
3. The supervising lieutenant shall present the facts of the case to the reviewing deputy/assistant DA. Depending on circumstances, this usually occurs on the next business day following the incident.
4. Members involved may be required to appear at the DA's office for this review. This includes members who are temporarily relieved from regular duties they shall keep their commanding officer informed of their whereabouts and availability.
5. After the reviewing assistant DA makes a ruling, the letter containing his/her findings will be sent to the Chief of Police.

460.45 USE OF FORCE COMMITTEE

- A. A Use of Force Committee shall conduct periodic comprehensive reviews of all use of force issues affecting the Department.
- B. The Chief of Police shall appoint police members to the Use of Force Committee, who shall serve a one-year term, subject to extension at the discretion of the Chief of Police.
- C. The Department's Range Master and a supervisor from Office of Management Analysis & Planning shall be standing members of the Use of Force Committee and shall not be subject to the aforementioned term limit.
- D. The Use of Force Committee shall meet quarterly, or as otherwise directed by the Chief of Police, and shall focus on, but not be limited to, the following:
 - Appropriateness of use of force by Department members
 - Proper field supervision and supervisory review of use of force incidents
 - Application and effectiveness of Department rules and procedures concerning the use of force
 - Proper use and effectiveness of equipment

- Effectiveness of use of force training
 - Identification of training needs and opportunities for Department members
- E. The Use of Force Committee shall prepare a written report of the committee's finding and/or recommendations, and submit such report to the Chief of Police within ten (10) days of the completed quarterly or directed review.
- F. Any recommendations or other matters for consideration by the Use of Force Committee shall be forwarded through the chain of command to the Office of the Chief.



EDWARD A. FLYNN
CHIEF OF POLICE

EAF:kmr