

 <b>MIDDLETON POLICE DEPARTMENT</b>	<b>DATE</b> <b>February 23, 2013</b>	<b>POLICY</b> <b>1.3.06</b>
<b>SUBJECT: Legal Advice</b>	<b>REVIEWED</b> <b>November 3, 2017</b>	

History: 2/2013, 10/2014  
[WILEAG \(5<sup>th</sup> Ed.\) Standards](#): 1.3.06

**PURPOSE**

The purpose of this policy is to ensure that the Department has arrangements for securing legal advice through the employment of an agency legal advisor or consultation with the office of its city attorney and/or prosecuting attorney or other legal advisor.

**POLICY**

It is the policy of the Middleton Police Department to readily have access to legal advice and to make it available to Department personnel on an as needed basis. In the performance of their duties, law enforcement officers are bound by the U.S. Constitution, Wisconsin Constitution, State Statutes, Municipal Ordinances and case law. These laws are complex and ever changing. Therefore, the Department must have access to legal advice that addresses these areas.

**PROCEDURE**

**Legal Advice Resources**

*Legal Updates*

Police employees receive legal updates through Roll Call Training, Inservice Training, seminars, professional conferences, and specialized training. Sources for legal updates include the City Attorney, District Attorney, Wisconsin Department of Justice, and City's insurance company.

*Middleton City Attorney*

The City Attorney is the legal counsel for the City of Middleton and is appointed by the City Council. The City Attorney represents the City in the prosecution of City ordinances and other civil actions, i.e. civil liability issues. (The City's insurance provider may also represent the City if a claim is filed against the City.) The City Attorney's Office may be consulted on issues involving the development, interpretation or enforcement of City ordinances, civil liability issues, and City operations. The City Attorney provides legal advice and opinions to the City, including the Department, and prosecutes municipal ordinance violations.

*Dane County District Attorney*

The Dane County District Attorney's Office represents the State of Wisconsin as the prosecuting entity for state violations. The Dane County District Attorney's Office does not represent the Department per se. However, as the prosecuting and lead agency regarding statutory violations, the District Attorney's Office may be consulted for legal advice regarding questions about statutes not adopted by municipal ordinance, intake procedures, charging guidelines, search and

seizure issues and shall be contacted in order to obtain subpoenas or and are normally consulted on warrants for the search of persons, premises, vehicles, etc.

### ***Dane County Corporation Counsel***

Statutes require that the Corporation Counsel represent the interest of the public in all mental commitments, certain guardianship and protective placement cases, certain juvenile and child in need of protection and services cases, and involuntary termination of parental rights cases. In addition to these cases, the Dane County Corporation Counsel's office represents the state of Wisconsin in paternity establishment and child support enforcement cases. One of the responsibilities of the Corporation Counsel is to represent both law enforcement and individuals being held under State Statute [51.15](#) (Emergency Detention) and/or issues defined in Chapter 51. The Corporation Counsel is a primary resource when clarification relating to a Chapter 51 issue is needed.

### ***Wisconsin Attorney General's Office***

The Attorney General's Office represents the State of Wisconsin in a variety of legal matters including felony criminal appeals. The Attorney General's Office is involved with law enforcement training and standards through the Wisconsin Department of Justice. Historically, the Attorney General's Office has conducted seminars, created training videos and manuals, and provided opinions in order to keep Wisconsin law enforcement personnel updated on changing case law.

### ***United States Attorney's Office - Western District of Wisconsin***

The United States Attorneys have three statutory responsibilities under Title 28, Section 507 of the United States Code:

1. Prosecution of criminal cases brought by the Federal government;
2. Prosecution and defense of civil cases in which the United States is a party; and
3. Collection of debts owed the Federal governments which are administratively uncollectible.

### **Procedure for Obtaining Legal Advice**

When officers encounter a situation in which they have a legal question or need legal advice about how to proceed during an incident, officers should contact the Shift Commander. If the Shift Commander is unable to provide the answer, contact should be made with the Operations Officer if possible. If the legal question cannot be resolved at that time, the Shift Commander will make the determination as to whether or not immediate contact needs to be made with the on-call Assistant District Attorney.

If the question does not require an immediate answer, the question will be forwarded, via chain of command, to a Captain. The Captain will then contact the appropriate legal counsel if needed.

The Chief or Police or designee may seek outside counsel when it comes to matters of labor law.