

GENERAL ORDER

PORT WASHINGTON POLICE DEPARTMENT

SUBJECT:	OFFICER-INVOLVED DEATHS	NUMBER:	5.1.3
		ISSUED:	1/6/16
SCOPE:	All Sworn Personnel	EFFECTIVE:	1/6/16
DISTRIBUTION:	General Orders Manual	<input type="checkbox"/> RESCINDS	
		<input type="checkbox"/> AMENDS	
REFERENCE:	WI State Statutes: 66.0313, 165.83(1)(b), 165.85 (2)(c), 175.40, 175.47	WILEAG 4 th EDITION STANDARDS: 1.6.1, 1.6.2, 5.1.2, 5.2.1, 5.3.1, 5.3.2, 5.3.3, 6.2.7, 6.2.8, 6.3.8	

INDEX AS: Deadly Force Incident Procedures
 Legal Services
 Officer-Involved Deaths
 Officer-Involved Shooting Incident
 Post-Traumatic Stress Disorder

PURPOSE: The purpose of this General Order is to provide guidelines for the sworn members of the Port Washington Police Department for the investigation of all officer-involved deaths and other incidents, where serious injury that may cause death has resulted from an officer's actions.

This Order consists of the following numbered sections:

- I. DEFINITIONS
- II. POLICY
- III. INCIDENT PROCEDURES
- IV. AGENCY INVESTIGATIVE RESPONSIBILITIES
- V. POST-TRAUMATIC STRESS DISORDER
- VI. LEGAL SERVICES
- VII. ADMINISTRATIVE REVIEW

I. DEFINITIONS

- A. "Law enforcement agency" means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority. s. (165.83) (1) (b).
- B. "Law enforcement officer" means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce. s. (165.85) (2) (c).
- C. "Officer-involved death" means the death of an individual that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty, but performing activities that are within the scope of his or her law enforcement duties. s. (175.47) (1) (c).
- D. "Lead Investigator" means the person or agency in charge of the investigation, which plays a principal, guiding role. The lead investigator must be responsible for the investigation and have hands-on leadership of the investigative duties. The lead investigator shall, without limit:
1. Direct the overall investigation and activities of others involved in the officer-involved death.
 2. Coordinate with the lead officer/agency conducting any underlying criminal investigation of the event or events that led to the officer-involved death.
 3. Take possession of, or direct the collection of all evidence.
 4. Take or direct the taking of statements of witnesses or interviews of law enforcement officers.
 5. Act as the primary (but not exclusive) contact with the prosecutor's office.

II. POLICY

- A. It is the policy of the Port Washington Police Department to require that an investigation of any officer-involved death or serious injury that may cause death be conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by the Port Washington Police Department.

The Port Washington Police Department shall utilize the Wisconsin Department of Justice Division of Criminal Investigation (WI DOJ-DCI) to investigate these incidents under a mutual aid request. The Port Washington Police Department will respond only to support and assist other agencies that may experience an officer involved death event, upon the affected agency's request to for us to do so, refer to General Order 1.6.2: Mutual Aid. **The Port Washington Police Department will not conduct officer involved death investigations for other agencies.**

- B. If the officer-involved death or serious injury that may cause death being investigated is traffic-related, it is the policy of the Port Washington Police Department to use a crash reconstruction unit from an outside law enforcement agency that does not employ the law enforcement officer involved in the officer-involved death being investigated. Should the need arise, the Ozaukee County Sheriff's Department crash reconstruction unit will be requested to provide crash reconstruction services.
- C. The Port Washington Police Department reserves the right to conduct an internal investigation into the officer-involved death. However, any such internal investigation shall not interfere with, and must be independent of the investigation being conducted by the outside investigating personnel/agency.

III. INCIDENT PROCEDURES

- A. The following procedures shall be followed when a Port Washington police officer is involved in an "officer-involved death incident" that either causes death or serious bodily injury that may lead to death, either of the officer or another person.

The procedures shall also be followed when an officer is responsible for the accidental or intentional discharge of any firearm (other than on an approved firearms range or for legal hunting purposes), or the accidental or intentional use of deadly force by any means.

- B. The involved officer shall:
1. Determine if the scene/incident is now safe – no threat(s) still present.
 2. Check self for injuries.

3. Check the subject for injuries and administer first aid if required.
 4. Summon EMS personnel.
 5. Maintain close personal observation and physical contact with the subject while continuing to provide first aid until relieved by appropriate medical personnel.
- C. A supervisor shall be notified and summoned to the scene of the incident, and shall assume primary responsibility in caring for involved personnel.
1. If a supervisor is not on duty, one will be called in to take command of the incident.
 2. If a supervisor is involved in the incident, a second supervisor will be called in to take command of the incident.
- D. Responding officers/on duty supervisor shall:
1. Confirm the scene is safe to approach.
 2. Relieve the officer involved in the incident from first aid responsibilities of tending to the injured subject(s) as soon as practical.
 3. Care for injured parties.
 4. Establish an outer perimeter for traffic control, media relations, and public coordination.
 5. Establish an inner perimeter to protect the scene.
 6. Contact an investigator, request mutual aid, request additional resources as needed, etc.
 7. Notify the Chief of Police of the incident. The Chief of Police or designee will contact (608-266-1671) and arrange for the Wisconsin Department of Justice Division of Criminal Investigation (WI DOJ-DCI) to conduct the investigation.
 8. The supervisor will ask “public safety related questions” on scene of the officer involved (due to the immediate need to take action, officers do not have a right to wait for legal or labor representation before answering these limited questions):
 - a. Are you injured?
 - b. Do you know if anyone else is injured? Where are they?
 - c. In what direction did you fire your weapon?
 - d. Are any suspects still at large? What are their descriptions?

- e. What direction did they leave in?
 - f. How long ago did they leave?
 - g. What crime(s) are they wanted for?
 - h. With what weapon(s) are they armed?
 - i. Does any evidence need to be preserved?
 - j. If so, where is it located?
 - k. Did you observe any witnesses?
 - l. Where are they?
9. Determine if the suspect(s) is still at large. Obtain a description and request personnel to initiate the search.
 10. Remove the officer involved in the incident from the scene as soon as possible.
 11. Establish a Command Post location and staging area for EMS and support units.
 12. Video record scene, if possible.
 13. Photograph scene with overall, mid-range, and close-up views, without disturbing the scene.
 14. Identify and control evidence that could be lost.
 - a. Mark location of obvious potential evidence, safeguard evidence located until arrival of DCI agent assigned to the scene, and protect from environment, if necessary.
 - b. Preliminary sketch of scene.
 15. Identify, isolate, and control witnesses.
 - a. Obtain initial statements of key witnesses.
 - b. Identify other witnesses, obtain initial statement if necessary.
 16. Maintain scene security.
 17. Maintain scene log.
 18. Notify District Attorney.
 19. Notify Medical Examiner.

20. Notify Victim Services.
 21. Refer to General Order 13.1.1, "Active Shooter" for further information.
- E. When removing the involved officer(s) from the scene, the following guidelines shall be used:
1. The primary investigators, Special Agents from the Wisconsin Department of Justice – Division of Criminal Investigation (WI DOJ-DCI) shall be in charge of the investigation. They shall determine if the following steps are appropriate and decide upon the level of cooperation that will exist between themselves and the Port Washington Police Department.
 2. The involved officer shall be transported as soon as is feasible to the hospital for evaluation. A supportive peer officer will be assigned by the Department to accompany, remain with the officer, and provide assistance.
 3. A Port Washington Police Department supervisor shall assign a support officer. The support officer will secure all equipment of the involved officer. The support officer will photograph the officer involved, as he/she is, before taking clothing for evidentiary purposes. The officer's equipment shall be left in the identical condition as when it was secured. No weapon will be unloaded or changed in condition. If/when the officer's weapon is retained as evidence it will be replaced with another department issued weapon. A supervisor will be consulted as to whether the weapon is required as evidence.
 4. Arrange to have the involved officer contact family, clergy, and or legal counsel. Under no circumstances will an officer be placed in the rear seat of a squad car. No officer will be held or isolated in any area without being accompanied by a peer support officer.
 5. The Chief of Police or designee shall personally go to the home of the involved officer, making notification to family members and providing them with transportation to the hospital or other locations, as required.

If the officer involved is deceased or injured, every attempt will be made to make personal notification to the family. Every effort will be made to assist family members and support persons with transportation.
 6. Involved officer(s) generally should not be questioned at the hospital; they are there for medical evaluation/treatment purposes.
 7. Involved officer(s) may be medicated or provided a sedative through the health care provider, to bring down blood pressure, aid in relaxation and sleep.

8. Officer(s) statements are better taken 48 hours later, following a full nights rest, and having been advised of their legal right to seek counsel.
 9. Under no circumstances will the officer's home or family information be provided to the hospital staff. They will be provided with the officer's name and the address of the Port Washington Police Department.
 10. Following medical evaluation and treatment (if required), the assigned support officer shall transport the involved officer to his/her home. Under no circumstances will the officer be permitted to drive him/herself home.
 11. The involved officer shall be placed on administrative leave or desk duty by the Chief of Police or designee during the investigation of the incident and, or until such time as the incident investigation is completed.
 - a. The involved officer shall be available for interviews and statements regarding the incident and subject to recall to duty.
 12. Department members are encouraged to show the involved officer(s) their concern. Department members are not permitted to speak with the media about the incident or the officer.
 13. The involved officer should be instructed to have phone calls answered by another person for several days following the incident, if the officer's name is released to the public.
 14. The involved officer who discharges his/her firearm during a deadly force incident shall be required to complete a department firearms re-qualification session as soon as practical.
 15. The involved officer should be advised not to discuss the incident with anyone except a personal or department attorney, labor representative, medical professional, clergy, or assigned investigator until the conclusion of the preliminary investigation. This does not prohibit the officer from discussing the incident with his/her spouse.
- F. At all times, when at the scene of the incident, the supervisor should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
- G. Any internal investigation to be conducted of the incident shall be conducted as soon as practical, but shall not interfere with the required outside investigation.
- H. The Chief or designee should brief other Department members as soon as possible concerning the incident, so that rumors are kept to a minimum. Department members are encouraged to show their concern for the involved officer(s).

- I. Any officer directly involved in the use of deadly force incident shall be required to contact a Department-designated specialist through the Aurora Employee Assistance Program at 800-236-3231 for counseling and evaluation, at Department expense, and as soon as practical after the incident. Involved support personnel should also be encouraged to contact such specialists following a use of deadly force incident. After the counseling sessions, the specialist shall discuss with the Chief:
 1. Whether it is in the officer's best interest to be placed on administrative leave or desk duty, and for how long;
 2. What, if any, will be the best continued course of counseling?
- J. The Department strongly encourages the family of the involved officer to take advantage of the available counseling services through the Aurora Employee Assistance Program at 800-236-3231 as well.

IV. OUTSIDE AGENCY INVESTIGATOR RESPONSIBILITIES (Wis. § 175.47 Review of deaths involving officers)

- A. Notify the District Attorney's Office of the incident.
- B. Perform the following activities (according to mutual aid agency Memorandums of Understanding):
 1. Investigators shall conduct a systematic, thorough, and complete investigation.
 2. Receive a general "walk-through" by the Port Washington Police Department supervisor regarding the circumstances of the incident.
 3. If a death scene, contact the Ozaukee County Coroner and conduct a full death investigation, including attending any autopsies associated with the incident.
 4. Officer-Involved Interview(s): Unless evidence of a crime exists, an officer is not considered a suspect and shall be treated as a victim or witness.
 - a. The officer is not in custody and will not be given Miranda warnings.
 - b. The officer will be interviewed by investigators and will not be required to submit a written report.

5. Inform the District Attorney of the incident and request assistance in obtaining any needed search warrants for properties, residences, vehicles, or containers.
6. Ensure the entire scene is documented via photographs, video recordings, and with a crime scene diagram. Request the Wisconsin Department of Justice, Division of Criminal Investigation to provide scene documentation and diagraming.
7. Ensure the proper collection, securing, and transmittal of all items and substances of evidentiary value.
 - a. Check the weapons and ammunition of all officers present to determine if recently discharged.
 - b. Locate and secure into evidence any involved officers' weapons.
 - c. Weapons confiscated from officers shall be replaced as soon as practical and with the same make and model of weapon.
8. Process all collected evidence, including weapons, and transport to the Crime Lab, if appropriate.
 - a. Ensure officers' toxicological testing is completed in a timely manner.
 - b. Locate, identify, and interview all witnesses to the incident, including involved medical personnel.
 - c. Locate, identify and interview all suspects related to the incident.
9. Locate, identify, and conduct separate interviews of all officers related to the incident.
 - a. Interviews may be conducted at the Port Washington Police Department.
 - b. Officers shall be reminded not to discuss the incident with anyone except their attorney, union representative, or Department investigator until the conclusion of the preliminary investigation.

C. Disclosure of the Investigative Report

1. Prepare and complete all reports regarding the investigation of the event.
2. Ensure the complete case report is presented to the District Attorney's Office at the earliest possible date.

3. If the DA determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the investigators must release the report that they provided to the DA, to the general public.

V. NOTIFICATION TO VICTIMS

- A. Under the Victim's Basic Bill of Rights, the law enforcement agency must make a reasonable attempt to provide the victim (family members of, or persons who resided with the deceased) with written information about the process by which he or she may file a complaint under s. 968.02 or s. 968.26 (2) and about the process of an inquest under s. 979.05 if he or she is the victim of an officer-involved death, as defined in s. 175.47 (1) (c) within 24 hours after making initial contact with the victim.
 1. Family notification attempt to be made by a DCI Special Agent, accompanied by an officer of the Port Washington police Department.

VI. POST-TRAUMATIC STRESS DISORDER

- A. As post-traumatic stress disorders may not arise immediately, or the officer may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of Department or shift members for symptoms of the disorder.
- B. The Chief of Police or designee may order an officer to seek assistance or counseling from a mental health specialist upon a reasonable belief that stress may be disrupting the officer's job performance.
- C. The Department shall provide employees with training pertaining to post-traumatic stress disorders and the uniform procedures contained in this General Order.
- D. Supervisors are responsible for making information about mental health services available to Department members. (Aurora Employee Assistance Program, at 800-236-3231).
- E. The Department will make every effort to provide or make available secondary psychological services for the officer, and/or the officer's family, when an officer is involved in a deadly force incident involving injury or death.
 1. The purpose of this service is to allow the officer to express his/her feelings and to deal with the moral/ethical and/or psychological after effects of the incident.

2. The purpose of attempting to provide or make this service available to the family of the officer is to provide the officer and family with a source of professional consultation to aid them in dealing with the potential moral, ethical, and/or psychological aftereffects of the incident.
3. Psychological services shall not be related to any Department investigation of the incident. The counseling sessions will remain protected by the privileged physician-patient relationship and no reports of the sessions or information discussed will be filed with the Department.

VI. LEGAL SERVICES

- A. The Department shall provide an attorney-at-law for any officer involved in a deadly force incident involving injury or death.
- B. The attorney, if provided, shall establish a lawyer-client relationship with the officer involved and interview the officer.
- C. The attorney may assist the officer in drafting the officer's personal statement or report as to the underlying facts and the reasonableness, as perceived by the officer, justifying the use of deadly force.
- D. Should the initial lawyer-client interview indicate that the officer has not acted lawfully, in good faith, or within the scope of his/her duties, the officer will be responsible from that point on for any attorney fees charged.

VII. ADMINISTRATIVE REVIEW

- A. An administrative review of the incident will be conducted by the Chief or designee, with the exception that the on-scene supervisor will not be responsible for conducting the review.
- B. The purpose of the review will be twofold: (1) to determine whether the officer followed established departmental policy, procedure and training, and (2) to determine if any future policy, procedure or training recommendations or modifications are necessary.
- C. The administrative review shall begin once the criminal investigation has been completed, unless directed otherwise by the Chief.
- D. If the District Attorney determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the outside investigators conducting the investigation shall release the report.

APPROVED:

Kevin Higgins

Chief

DATE:

1/6/2016
