

Policy – Wauwatosa Police Department

POLICY: Investigation of Law Enforcement Involved Fatalities / Great Bodily Harm

CHAPTER & SECTION: 11.1.1

DISTRIBUTION: Sworn Officers, Dispatch, Milwaukee Area Investigative Team (MAIT), Wisconsin Division of Criminal Investigations (DCI), Milwaukee County District Attorney's Office and Wauwatosa City Attorney

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I. INTRODUCTION

Law Enforcement duties sometimes expose Officers to situations where the use of force, including deadly force is necessary. It is imperative that Officer Involved Deadly Force or In-Custody Death incidents be investigated with the utmost thoroughness, professionalism and impartiality. The purpose of this policy is to define the meaning of an Officer Involved Death Incident and establish a standardized response protocol. It is specifically created to ensure compliance with the requirements of 2013 WI Act 348 as spelled out in WI Statute 175.47.

The Wauwatosa Police Department has entered into a Memorandum of Understanding (MOU) with law enforcement agencies in Milwaukee and Waukesha Counties (attached) and has adopted the attached Milwaukee Area Protocols to Investigate Officer Involved Critical Incidents in Milwaukee and Waukesha Counties as its Standard Operating Procedure (SOP). This policy rescinds policy # 17-11.

II. DEFINITIONS

A. Officer-Involved Death: “means a 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.” SS 175.47(1) (c).

B. Officer–Involved Death, Traffic Related: means the death of an individual involving a motor vehicle crash, that results directly from an action or an omission by 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.

C. Involved Officer: The Officer(s) who discharge his / her firearm, who deployed physical force, or whose actions whether intentional or unintentional may have directly contributed to a death.

(Note: SS 175.47 does not apply to those instances where an officer deploys deadly force but which result in either no injuries or non-life threatening injuries. In instances where the severity of the injury resulting from the officer- involved action is uncertain, that the provision of SS 175.47 and this policy should be complied with.)

III. PROCEDURE

A. Criminal Investigations

1. In jurisdiction Officer Involved Death

It is the policy of the Wauwatosa Police Department that the Milwaukee Area Investigative Team (MAIT) leads the investigation of **any** officer-involved or in-custody death, including traffic related officer-involved deaths.

Shift Commanders / Supervisors shall as soon as practical contact an Investigative Division Supervisor. The Investigative Division will arrange activation of MAIT through the MAIT Commander.

If an Investigative Division Supervisor cannot be reached, the Shift Commander / Supervisors shall contact the Milwaukee Police Communications Sergeant and request MAIT activation. MAIT can be reached by telephone (24-7) at:

The City of Milwaukee Police Department Technical Communications Division at **414-935-7472**

In the event that the MAIT is unavailable to respond or otherwise has conflict of interest, it is the policy of the Wauwatosa Police Department that the State of Wisconsin Division of Criminal Investigation (DCI) leads the investigation of any officer involved or in-custody death, including traffic related officer-involved deaths.

Shift Commanders / Supervisors shall as soon as practical contact DCI and request an investigative team respond. DCI can be reached by telephone (24-7) at:

DCI Statewide Emergency Contact – **608-266-1671**

2. Outside jurisdiction Officer Involved Death

Any officer involved-death / in custody death that occurs outside the jurisdictional boundaries of the City of Wauwatosa, even those involving on-duty officers, will be investigated by the Milwaukee Area Investigative Team (MAIT).

3. In jurisdiction Officer Involved Death, Traffic Related

It is the policy of the Wauwatosa Police Department that the Milwaukee Area Investigative Team (MAIT) leads the investigation of **any** officer involved traffic related death.

Shift Commanders / Supervisors shall follow the activation procedure in section III(1)(A) of this policy.

It will be the responsibility of the MAIT Lead Investigator to arrange for any specialized resources, such as the Wisconsin State Patrol Technical Reconstruction Unit or the Milwaukee Police Department Reconstruction Unit.

4. Outside jurisdiction Officer Involved Death, Traffic Related

Any officer involved-death / in custody death or officer involved-traffic related death that occurs outside the jurisdictional boundaries of the City of Wauwatosa, even those involving on-duty officers, will be investigated by the Milwaukee Area Investigative Team (MAIT).

B. Post Incident Protocol

1. Administrative Leave

Without loss of pay or benefits, Involved Officers will be placed on administrative leave in any officer-involved death or officer-involved traffic related death incident. The Involved Officer must remain available for any necessary investigation.

As soon as practical and at Department expense, all Involved Officers will be required to attend a counseling evaluation session with an approved specialist. Details of the evaluation will remain confidential and will not be shared with the Department.

Involved Officers will remain on leave at the discretion of the Chief of Police; however, will not be permitted to return to duty until after the evaluation has occurred.

2. Release of Information

The Department will brief other agency members concerning the incident. Department members are encouraged to show the Involved Officer(s) their concern; however, are discouraged from asking specific questions about the incident.

Any media release will be made by the Chief of Police or their designee, with consultation of the MAIT Lead Investigator. No other Department personnel are permitted to speak with the media about the incident.

Wisconsin State Statute requires that if the District Attorney determines there is no basis to prosecute the involved law enforcement officer, the investigators conducting the investigation **shall** release their investigative reports.

3. District Attorney Review

The results of the criminal investigation will be submitted to the District Attorney's Office for review. The District Attorney's Office has the primary responsibility for the decision of whether to charge someone with a crime.

4. Internal Investigation / Administrative Review

The law allows for a separate internal investigation into the incident, provided that it does not interfere with the criminal investigation. The Chief of Police may order a separate internal investigation to determine whether Officer(s) violated any department rules, regulations or policies, and / or to identify training deficiencies.

The results of the internal administrative investigation will be recorded on internal documents and forwarded directly to the Chief of Police.



Luke G. Vetter
Acting Chief of Police

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