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## Officer-Involved Shootings and Deaths

### 305.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of another action or omission of an officer while on-duty or off-duty but performing activities that are within the scope of the officer's duties (Wis. Stat. § 175.47).

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

### 305.2 POLICY

The policy of the Grafton Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

### 305.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

### 305.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

#### 305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Grafton Police Department would control the investigation if the suspect's crime occurred in Grafton.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

# Grafton Police Department

## Policy Manual

### *Officer-Involved Shootings and Deaths*

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#### 305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

#### 305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

### **305.5 INVESTIGATION PROCESS**

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

#### 305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved GPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

#### 305.5.2 SUPERVISOR RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the supervisor shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Division Commander.

All outside inquiries about the incident shall be directed to the Chief of Police.

Upon arrival at the scene, the supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers and complete the Officer Involved Death Public Safety Statement form. [See attachment: Officer Involved Death Public Safety Statement.pdf](#)
  1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

# Grafton Police Department

## Policy Manual

### *Officer-Involved Shootings and Deaths*

---

- (b) If necessary, the supervisor may administratively order any GPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
  - 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the the Dispatch Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional GPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) Involved officers should be transported (separately, if feasible) as soon as practicable to the hospital for evaluation. A supportive peer officer will be assigned to accompany and remain with the officer(s) and provide assistance. The support officer will secure all equipment of the officer involved, however, pictures (4 minimum) shall be taken of the officer with his equipment still worn and in identical condition in which the incident occurred. The equipment shall be left in the identical condition as when it was secured. No weapon will be unloaded or changed in condition. Officer(s) involved should normally not be questioned at the hospital.
  - 1. Each involved GPD officer should be given an administrative order not to discuss the incident with other involved officers or GPD members pending further direction from a supervisor.
  - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.
  - 3. 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 a peer support officer.
- (f) Arrange to have the involved officer's family, clergy, and or legal counsel contacted. The Chief of Police or his designee shall if feasible, personally go to the home of the officer-involved making notification to family members and providing transportation to the hospital or other location as required. Every effort will be made to assist family members and support persons with transportation.
- (g) Under no circumstances will the officer's home or family information be given to the hospital. They will get the officer's name and the Grafton Police Department address.
- (h) After medical evaluation and treatment(if required), the assigned support officer shall transport the officer to his/her home. Under no circumstances will the officer be permitted to drive themselves home.
- (i) The Assistant Chief should be called in to take command of the incident.

# Grafton Police Department

## Policy Manual

### *Officer-Involved Shootings and Deaths*

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- (j) If the Assistant Chief is involved in the incident, the Chief of Police will be called in to take command of the incident.

#### 305.5.3 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Assistant Chief of Police
- Detective Sergeant
- Wisconsin Division of Criminal Investigations
- Peer Support Team
- Chaplain
- Coroner (if necessary)
- Public Information Officer

#### 305.5.4 INVOLVED OFFICERS

No investigative examination or interview will take place until the Chief of Police or the authorized designee authorizes such.

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated (Wis. Stat. § 164.02(1)(b)).
1. Involved GPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
  2. Requests from involved non-GPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives will be privileged only as to the discussion of non-criminal information.
- (d) A licensed psychotherapist shall be provided by the Department to each involved GPD officer. A licensed psychotherapist may also be provided to any other affected GPD members, upon request.
1. Interviews with a licensed psychotherapist will be considered privileged.
  2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

## *Officer-Involved Shootings and Deaths*

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- (e) Communications between the involved officer and a peer support member is addressed in the Wellness Program Policy.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved GPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Platoon Sergeant to make schedule adjustments to accommodate such leave.

### **305.5.5 FAMILY NOTIFICATION**

The Platoon Sergeant or the authorized designee shall ensure that each involved officer is afforded the opportunity to make a timely notification to their family regarding the incident and report their general health.

The Platoon Sergeant or the authorized designee shall follow department procedures in making timely notification to the officer's family when the officer is seriously injured or killed.

Communication of information concerning an officer and the incident should be restricted to secure networks to avoid interception by the media or others.

### **305.6 CRIMINAL INVESTIGATION**

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death. In the event of a death, the investigation must be conducted by no less than two investigators, one of whom is the lead investigator and neither of whom is employed by the GPD (Wis. Stat. § 175.47(3)(a)).

If the officer-involved death being investigated is traffic-related, the investigation must include the use of a crash reconstruction unit from a law enforcement agency separate from GPD (Wis. Stat. § 175.47(3)(b)).

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) GPD supervisors and Administration personnel should not participate directly in any voluntary interview of GPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration

## *Officer-Involved Shootings and Deaths*

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should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

### 305.6.1 REPORTS BY INVOLVED GPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved GPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved GPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved GPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

### 305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.

# Grafton Police Department

## Policy Manual

### *Officer-Involved Shootings and Deaths*

---

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### **305.6.3 INVESTIGATIVE PERSONNEL**

Once notified of an officer-involved shooting or death, it shall be the responsibility of the Chief of Police or the authorized designee to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Detective Bureau supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Assistant Chief of Police.

#### **305.7 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved GPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Administration and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of the officer's prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.

# Grafton Police Department

## Policy Manual

### *Officer-Involved Shootings and Deaths*

---

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Wis. Stat. § 164.02(1)(b)). However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
4. The officer shall be informed of the nature of the investigation. (Wis. Stat. § 164.02(1)(a)). If an officer refuses to answer questions, the officer should be given the officer's Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
5. The Administration shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Chief of Police.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

#### **305.8 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

#### **305.9 AUDIO AND VIDEO RECORDINGS**

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.



# Grafton Police Department

## Policy Manual

### *Officer-Involved Shootings and Deaths*

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Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or Village Attorney's Office, as appropriate.

#### **305.10 DEBRIEFING**

Following an officer-involved shooting or death, the Grafton Police Department should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

##### **305.10.1 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

#### **305.11 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation.

No involved GPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or authorized designee.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

#### **305.12 REPORTING**

When an officer's action results in, or is alleged to have resulted in, injury or the death of an individual, occurs in the Grafton Police Department jurisdiction, and qualifies to be reported to the Wisconsin Department of Justice, the Field Operations Division will ensure that the Records Administrator is provided with enough information to meet the reporting requirements (Wis. Stat. § 165.845(2)).

## **Attachments**

## **Officer Involved Death Public Safety Statement.pdf**

# GRAFTON POLICE DEPARTMENT

## Officer Involved Death Public Safety Statement



Officer Involved Deaths – Policy 305

IR # \_\_\_\_\_

DATE \_\_\_\_\_

### DIRECTIONS TO ON-SCENE SUPERVISORS

The supervisor obtaining this statement:

- Will not deviate from its content
- Will write down on this form the answers provided verbatim.
- Will disseminate public safety information immediately via radio as appropriate
- Will provide this form to the first arriving detective/supervisor responsible for conducting the investigation into the critical incident.

The police supervisor receiving this information is required to submit a written statement to the investigators in charge of the officer involved critical incident. The statement is to include the fact that the Public Safety Statement was formally given to the involved officer(s).

*“Officer \_\_\_\_\_, please answer the following to the best of your knowledge”*

1. Are you injured or do you need medical attention?  Yes  No

2. Do you know of anyone that is injured? If yes, what is her/his location?  Yes  No

3. From where and in what direction did you or other officers fire rounds?

4. In what direction did the suspect(s) fire rounds?

5. Are any suspects outstanding? If the answer is no, proceed to question #12.  Yes  No

6. What is the description of the suspect(s)?

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7. What was their direction of travel?

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8. How long have they been gone?

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9. With what weapons were they armed?

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10. Are there any other safety risks known about the outstanding suspect(s)?

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11. If they left the scene in a vehicle, provide the vehicle description.

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12. Describe any evidence that needs protection.

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13. Are you aware of any witnesses? If yes, where are they located?  Yes  No

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*“Officer \_\_\_\_\_, in order to prevent contamination of your statement, I order you not to discuss this incident with anyone, including your supervisors or staff officers, prior to the arrival of the assigned investigators, with the exception of your legal representation.”*

Requesting Supervisor: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_

\_\_\_\_\_  
*Supervisor's signature*