

# MCFARLAND POLICE DEPARTMENT

# DIRECTIVE

Investigation of incidents resulting in an Officer Involved Death, Shooting or Causation of Great Bodily Harm		
Directive Number 102.1	Effective Date: 05-16-15 Revised: 09-12-16	

This directive consists of the following numbered sections:

- I. Purpose
- II. Policy
- III. Definitions
- IV. Procedures

## **I Purpose**

To provide guidelines for the investigation of officer-involved shootings, In-custody Deaths, or use of force incidents that result in death or serious bodily injury. To provide guidelines which minimize the chances that involved employees will develop or suffer from post-traumatic stress disorder.

## **II Policy**

It is the policy of the McFarland Police Department that officer involved shootings, In-custody deaths or serious use of force incidents be investigated so as to determine whether the officer actions conform with law and Department policy. In compliance with State law the department will request that any officer involved shooting, in-custody death and serious use of force incidents is investigated by personnel from a law enforcement agency other than the McFarland Police Department. In the event that sworn personnel from another law enforcement agency are involved in a use of force incident covered under this directive, that agency is precluded from investigating the incident. Mutual aid agreements with other law enforcement agencies may be established for the purpose of investigating the incident. The results of such an investigation will be turned over to the District Attorney in the county of jurisdiction.

Law enforcement duties can expose all employees to mentally painful and highly stressful situations. Unless adequately treated, these situations can cause disabling emotional and physical problems. It has been found that officer-involved shootings resulting in death or serious bodily injury to a citizen or fellow officer may precipitate stress disorders. It is the responsibility of this Department to provide employees with information on stress disorders and to guide and assist in its deterrence. Therefore, it shall be the policy of this Department to take immediate action after such incidents.

### III Definitions

*“Post-Traumatic Stress Disorder”*: An anxiety disorder that can result from exposure to short- term severe stress, or the long-term buildup of repetitive and prolonged milder stress.

*“Officer-Involved Shooting”*: A discharge of a firearm by an officer during an encounter while on duty or off duty irrespective of injuries to any person.

*“Serious Use of Force”*: Any use of force that results, or is reasonably likely to result, in death, permanent or substantial injury, loss of any body part or function, or permanent disfigurement.

*“In-custody Death”*: The death of an individual while in custody or while attempts to effect custody are being made.

*“Involved Officers”*: Unless otherwise indicated, refers to those sworn personnel who discharge a firearm during a citizen encounter, arrest or are in the process of arresting an individual who subsequently dies; engage in other serious uses of force; and are direct witnesses to such events.

*“Companion officer”*: On officer assigned to another officer to provide emotional support and assistance following a critical incident such as an officer involved shooting.

*“OIC”*: In the absence of a supervisory officer, the highest ranking or most senior officer.

### IV Procedures

- A. Investigation of incidents resulting in an Officer Involved Death, Shooting or Causation of Great Bodily Harm
  1. This policy is created in compliance with SS 175.47, “Review of deaths involving officers”.
  2. The investigation of all deaths, shootings or incidents resulting in the causation of great bodily harm that involve a law enforcement officer employed by the McFarland Police Department shall be:
    - a. conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by the McFarland Police Department.
    - b. Primary choice will be the State of Wisconsin Department of Criminal Investigation (Phone #: 608-266-1716)
    - c. Secondary choices (if the primary is unavailable) conducted by one of the following:
      - i. The Dane County Sheriff’s Office
      - ii. The Dane County Officer Involved Shooting Investigation Team
      - iii. The Wisconsin State Patrol

3. If the officer-involved death being investigated is traffic-related, the investigation will be conducted by a crash reconstruction unit from a law enforcement agency other than the McFarland Police Department, such as one of the agencies identified in sub. (2)(C).
4. An administrative internal investigation will be conducted by the McFarland Police Department, or at the request of the Chief of Police, an outside agency. The intent of this investigation is to ascertain the officer's compliance with established department procedure. This investigation will be conducted in a manner so as to not interfere with any investigation being conducted under sub. (2). The investigation will be conducted by a review team consisting of Department Command and Investigative staff.
  - a. All administrative interviews conducted shall be audio and video recorded.
5. The investigators conducting an investigation under subs. (2) or (3) shall, in an expeditious manner, provide a complete report to the district attorney of the county in which the officer-involved death occurred.
6. Some initial investigatory steps that do not interfere statutorily with the investigation are permissible and encouraged to be taken by McFarland PD investigative staff prior to the arrival of the primary investigating agency, as per training received from the Wisconsin Department of Criminal Investigation. These include:
  - a. The initial steps necessary to obtain a search warrant(s)
  - b. Identification of witnesses
  - c. Initiating a scene log
  - d. Notification of District Attorney's Office, Medical Examiner's Office, Victim Services

**B. Supervisory/ OIC Responsibilities and Handling of Officers at Scene of Shooting Incident**

1. A supervisor or OIC shall respond to the scene of the incident, and shall assume primary responsibility in caring for involved employees and preserving evidence to the extent possible until otherwise relieved by an officer of greater rank or command is mutually transferred to another supervisory staff member.
2. All staff on scene should be mindful and aware of whether their recording devices are activated or not (body-worn recording, in-car camera devices, etc.). The supervisor or OIC should make a determination as to whether individual on-scene staff should or should not have these devices activated, mostly dependent upon the assignment of the individual officer. (Ex: An officer assigned to a perimeter traffic assignment may not necessarily need to have devices activated; in contrast, an officer on the inner perimeter or scene area likely will have devices activated.)
  - a. Regardless of the decision, staff should always be mindful of not only their own recording devices, but also that of bystanders or media.
  - b. As with any critical incident, it is advantageous to provide the media with a staging area away from the scene.
3. The supervisor or OIC shall make appropriate arrangements for all necessary medical treatment and a mandatory blood draw. All attempts should be made to conduct this procedure at a hospital or medical facility

separate from where any victim(s) have been transported.

4. The supervisor or OIC will facilitate notification of the department command staff. The Chief or his / her designee will identify which agency will be requested to investigate the incident if other than the primary agency identified in section A(2)(b) of this policy.
5. During any period where the involved officer is required to remain on the scene, but has no immediate duties to fulfill, the officer should be taken to a quiet area away from the scene of the incident. A companion officer should remain with the officer, but should be advised not to discuss details of the incident.
6. The supervisor shall facilitate photographs of the officer(s) involved, the officers weapon(s) and vehicle as soon as possible so as to capture images of the way they appeared at the time of the incident. All aspects of the officer's person should be photographed, including front, back, sides, from head to toe, as well as any injuries sustained during the incident.
7. Where possible, the supervisor or OIC shall briefly meet with the officers involved. The supervisor or OIC shall ensure the following:
  - a. Officers should not self-medicate unless supervised by medical personnel.
  - b. Only minimal, preliminary questions should be asked about the incident to determine the scope of the scene and the identification of suspects and threats to public safety. The officers should be advised that a more detailed debriefing will be conducted at a later time.
  - c. The officers should be advised not to discuss the incident with anyone except a personal attorney or police department attorney, union representative, or assigned investigator, until the conclusion of the preliminary investigation.
  - d. If, for any reason, an officer wants an attorney, the officer is free to contact and retain one at any time.
  - e. Make an initial assessment of the emotional, physical and mental status, looking for early signs of PTSD or injury.
8. The supervisor shall retrieve firearms which have been fired, together with the ammunition. For firearms which have not been fired, the supervisor shall determine whether the circumstances of the incident require that they be retrieved for investigative reasons. When the duty weapon is taken, the supervisor shall:
  - a. Take custody of the officer's weapon in a discrete manner; and
  - b. Replace it with another weapon, or advise the officer that it will be returned or replaced at a later time, as appropriate.
  - c. The supervisor taking custody of the weapon should:
    - i. Utilize evidence gloves while handling the weapon, magazines and if applicable, rounds
    - ii. Make the weapon safe
    - iii. Package all magazines and rounds, and separate from the weapon itself
    - iv. Process the weapon and components as a piece of evidence
    - v. Prepare a supplementary report detailing the process used to secure and package the weapon and associated items, \_

including the time custody of the weapon was taken, where it was taken, and a detailed establishment of continual chain of custody of the weapon from the time it was secured until such a time that the supervisor's custody terminated.

9. Supervisors should facilitate the notification of the involved officers families regarding the incident as soon as possible. If the officer or supervisor is unable to do so, a department official the family(s) and arrange for their transportation if needed.
10. At all times, when at the scene of the incident, the supervisor should handle the officer and all involved employees in a manner that acknowledges the stress caused by the incident.
11. In the event a secondary criminal investigation is necessary, the supervisor or OIC will confer with the primary investigating agency in regards to what agency will conduct it.

#### C. Post-Incident Procedures

1. Involved employees shall be removed from duties pending evaluation but shall remain available for any necessary administrative investigations. When an officer's use of force causes death, the officer shall be placed on administrative leave after completing all internal investigative requirements, and until it is determined by a mental health professional that the officer is ready to return to duty. Administrative leave is not a suspension from duty (with or without pay), nor is it relief from duty. The officer remains subject to administrative reassignment. It is important to note that there is no loss of pay or benefits with administrative leave or reassignment, and it shall not be interpreted to imply or indicate that the officer has acted improperly.
2. All officers directly involved in the shooting incident shall be required to contact a department assigned specialist for counseling and evaluation as soon as practical after the incident. Involved employees should also be encouraged to contact such specialists after a shooting incident. After the counseling sessions, the specialist shall advise the department:
  - a. Whether it would be in the officers' best interest to be placed or continued on administrative leave and for how long.
  - b. Where the officers were relieved of their duty weapons without a replacement after an incident, at what point they should be returned.
  - c. What will be the best continued course of counseling.
    - i. The department strongly encourages the families of the involved officers to take advantage of available counseling services.
3. Any internal departmental investigation of the incident shall be conducted as soon as and as expeditiously as practical.
4. The department should brief other department employees concerning the incident so that rumors are kept to a minimum. Department members are encouraged to show the involved officers support.
  - i. All employees involved in a shooting incident should be advised that they are not permitted to speak with the news media about the incident. Officers shall refer inquiries from the media to a designated department

spokesperson, unless otherwise authorized to release a statement pertaining to the incident.

- ii. In order to protect against crank or abusive calls, officers should be advised to have phone calls answered by another person for several days if their names are released to the public.
5. Officers directly involved in the shooting incident shall be required to train with their duty weapons as soon as practical.

#### D. Daily Stress Recognition

1. As post-traumatic stress disorders may not arise immediately, or the officers may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of employees for symptoms of the disorder.
2. A supervisor 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.
3. All staff shall be thoroughly familiarize themselves with this department's policies on post shooting personnel support and critical incident stress management. Awareness of and attempts to mitigate the potential effects of critical incident stress, combined with professionally accepted investigative procedures provide the best opportunity for establishing an accurate record of events surrounding officer involved shootings

#### E. Training

1. Related department training was conducted for all staff by the Wisconsin Department of Criminal Investigation on July 22, 2016.
2. Supervisors are responsible for making available to their employees information about mental health services and other employee assistance that can be offered.

This Directive was implemented on 05-16-15, revised on 09-12-16 and will supersede any previously existing policies, arrangements, or understandings to the contrary.

BY ORDER OF THE CHIEF:

Craig J. Sherven  
Chief of Police

Revised: 09-12-16