



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 348
[2013 Assembly Bill 409]

**Deaths Involving
Law Enforcement**

2013 Wisconsin Act 348 (hereinafter, “the Act”) relates to investigations of deaths involving a law enforcement officer. The Act defines an “officer-involved death” as 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 consistent with his or her law enforcement duties.

Contents of the Policy

Under the Act, each law enforcement agency, including a law enforcement agency in a 1st class city (City of Milwaukee), must have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by the law enforcement agency as follows:

- The policy must require an investigation that is conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death.
- If the officer-involved death being investigated is traffic-related, the policy must require the investigation to use a crash reconstruction unit from a law enforcement agency that does not employ a law enforcement officer involved in the officer-involved death being investigated, except that a policy for a state law enforcement agency may allow an investigation involving a law enforcement officer employed by that state law enforcement agency to use a crash reconstruction unit from the same state law enforcement agency.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

- The policy may allow an internal investigation into the officer-involved death if the internal investigation does not interfere with the investigation conducted by the outside investigators.
- The policy may contain a provision that compensation for participation in an investigation required under the Act may be determined in a manner consistent with mutual aid agreements.

Disclosure of the Investigation Report

The investigators conducting the investigation are required by the Act to provide a complete report to the district attorney (DA) of the county in which the officer-involved death occurred in an expeditious manner. Also, 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. In all other instances, the Act does not amend how the report, or any public record related to the investigation, may be open for inspection and copying under Wisconsin's public records law.

Notification to Victims

Current law provides certain rights to victims under Wisconsin's Victim's Basic Bill of Rights. It also requires that the law enforcement agency responsible for investigating a crime must make a reasonable attempt to provide certain written information to the victim of such crime within 24 hours after it has initial contact with the victim. In cases where the victim is deceased, a "victim" means any of the following:

- A family member (spouse, minor child, adult child, sibling, parent, or legal guardian) of the person who is deceased.
- A person who resided with the person who is deceased.

The Act creates a right under the Victim's Basic Bill of Rights for victims of an officer-involved death (i.e. family members of, or persons who resided with, the deceased) to be informed about all of the following:

- The process by which he or she may file either a complaint charging a person with a crime, if permitted by a judge.
- The process by which he or she may file a complaint under the John Doe investigation proceedings.
- The process of an inquest, commonly referred to as a "coroner's inquest."

Under the Act, the law enforcement agency must provide the information about these three processes when it makes a reasonable attempt to provide the victim of an officer-involved death with written information concerning the rights of victims within 24 hours after making initial contact with the victim.

Effective date: This Act went into effect on April 25, 2014, and first applies to officer-involved deaths occurring on or after April 25, 2014.

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