



Grand Jury Review of Fatal Police Shootings in Franklin County, Ohio

As the events in Ferguson put police under the microscope, one county shares how it has successfully integrated a form of citizen review in the aftermath of police shootings.

Since 1980, all fatal police shootings in Franklin County, Ohio, have automatically been presented to the Franklin County Grand Jury. The policy was implemented to assure the public that police actions were undergoing an independent citizen review. Grand jury review precludes the sometimes avowed need for a permanent citizens review board. Given the term of service and composition of jurors, typically only one incident per grand jury is reviewed.

The following procedures have been developed over the years to guarantee a thorough factual investigation, the protection of the involved officer's rights and a complete presentation to the grand jury without undue delay.

The investigation is handled by the Critical Incident Response Team (CIRT). CIRT detectives are veteran homicide detectives who are on call 24/7. The incident is investigated as a homicide. The crime scene is processed, a neighborhood canvass is conducted, witnesses are interviewed, forensic testing is conducted, and an autopsy is performed. A verbal update must be given to the prosecutors who handle the grand jury presentation within 24 to 48 hours. Contacts with prosecutors can be made earlier if issues or questions arise.

The officers involved in the shooting usually do a walk-through at the scene but are given an opportunity to meet with their counsel prior to questioning by CIRT. This process is voluntary and most officers agree to the questioning, as well as prepare a written statement. This process is usually completed one to two weeks after the incident. This allows the officers the opportunity to decompress and reflect on the event, as studies show that taking a statement from an officer immediately after a shooting is often unreliable.

Ideally, the goal is for the complete investigative file to be presented to the

Just the Facts:

» Since the 1980 adoption of a policy mandating automatic review by the Franklin County Grand Jury in all fatal police shootings, not one police officer has been indicted under the policy. Three to eight incidents involving police shootings have been submitted per year, about 80 to date.

prosecutors within 30 to 60 days. It is not uncommon for that time frame to pass without a completed packet, due to factors such as incomplete lab reports and autopsy reports, unfinished typing or the complication of processing multiple scenes.

Prosecutors review the file and, assuming no additional investigative steps are requested, set the case for presentation. The date is usually four weeks after receipt of the file and is verified with the shooting officer and primary CIRT detective. A certified letter is sent to the deceased's family representative, explaining the grand jury process and notifying the family of the grand jury date. The letter also requests that the names of any witnesses or information known to the family that is not in possession of the police be provided to the prosecutors. This step is designed to ensure all information is available for the grand jury, since the family may be aware of information from sources who would not cooperate with police. Relevant information provided is included in the presentation. All eyewitnesses to the event are subpoenaed to the grand jury, with personal service being the method used for civilians.

The training officer from the police academy is frequently brought in to explain what officers were taught, including constitutional law, the 21-foot rule as to the closing distance for subjects armed with knives, and action/reaction principles, which may be demonstrated using training guns. The training officer also explains the number of shots; shot placement; "shooting to stop threat"; the concept of method, threat and opportunity; and the issue of "suicidal equals homicidal," when needed. The training officer has proven to be invaluable at explaining the difference between

Hollywood and the real world to jurors.

At grand jury, the primary detective testifies first to present the overview of the investigation and its conclusions. The training officer is the next to testify. Civilian witnesses usually go next, including family of the deceased who were not eyewitnesses but are given the chance to describe a complete picture of the deceased. Officers go next, with the shooting officer(s) being the last to testify.

At the conclusion of evidence presentation, the grand jury is instructed on applicable law, including self-defense and constitutional law.

After the grand jury has reached a decision, prosecutors meet with all interested parties, including the deceased's family, and answer questions. We do not disclose grand jury testimony, but answer questions from the investigative file. Questions are not answered earlier, because facts are on a need-to-know basis before presentation, to avoid influencing potential witnesses. Families are also notified about their ability to obtain the police investigative file through public record requests and that the disposition of the grand jury is not binding as to administrative or civil issues from the shooting.

This automatic review of police shootings by the grand jury process has provided the police division and the community an independent citizen body that assures fairness and avoids civil disorder.

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