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|   | KANSAS CITY, MO. POLICE DEPARTMENT | DATE OF ISSUE<br>11/30/2022 | EFFECTIVE DATE<br>11/30/2022 | NO.<br>22-11 |
|  | <b>PROCEDURAL INSTRUCTION</b>      |                             |                              |              |
| SUBJECT<br>Police Involved Incident Response   |                                    |                             | AMENDS                       |              |
| REFERENCE<br>P.I. Firearms Procedures<br>Patrol Procedures<br>Police Vehicular Reporting<br>Outside Agency Investigation of Police Involved Incidents<br>PPBM: Internal Affairs Investigations<br>Suspension of Members<br>S.O.: Member's Investigation, Discipline, and Appeals<br>Collective Bargaining Agreements (CBA) between the Board of Police Commissioners and the Fraternal Order of Police, Lodges 99 and 102<br>Revised Statute of Missouri (RSMo.) 556.061 |                                    | RESCINDS<br>P.I. 16-02      |                              |              |

## I. INTRODUCTION

- A. This written directive establishes a process for handling police involved incidents.
- B. The objective is to ensure the fair and thorough investigation of any major incident as determined by the Chief of Police or their designee, involving a member of the Kansas City Missouri Police Department (Department).

## II. TERMINOLOGY

- A. **Discharge of Firearm** – For the purposes of this directive, all references to a member's firearm are defined as any firearm in the possession of a Department member for reasons other than:
  1. Recreational purposes.
  2. Firearm range practice/training, qualification courses, or competitive sporting events.
  3. The destruction or to euthanize an animal. These incidents will be investigated in accordance with the current written directive entitled, "Firearms Procedures."
  4. For tactical purposes; e.g., shooting out a light for officer safety.
  5. Test firing by firearms or lab personnel.
- B. **Notable Event Review Panel (Panel)**
  1. This group will consist of the following:
    - a. The Chief of Police or their designee.

- b. All Bureau Commanders.
  - c. Executive Officer, Chief's Office.
  - d. The supervisor of the Firearms Training and Tactics Section (FTTS), when applicable.
  - e. A representative from the Office of General Counsel (OGC).
  - f. The Team supervisor or their designee.
  - g. Any other member or person (excluding the involved member or members) deemed appropriate by the Chief of Police or the Investigations Bureau Commander.
2. Responsibilities include a brief internal review that will be limited in scope as described within Section IV, H, of this directive.

**C. Outside Agency**

1. A law enforcement agency outside of the Department with extensive death investigative experience that, after consult with the Chief of Police or their designee, agrees to investigate the incident.
2. An outside agency may also be called upon to investigate or assist on investigations of other criminal matters in circumstances where the Chief of Police or designee deem it necessary in the interest of transparency and public trust.
3. Members will refer to the current written directive entitled, "Outside Agency Investigation of Police Involved Incidents."

**D. Police Involved Incident** - May include, but not limited to, any incident that involves a member discharging their official duties resulting in any of the following:

1. Any force, to include the discharge of firearm, to any person by a member involving death or serious bodily injury.
2. Any incident deemed appropriate for investigation as determined by the Chief of Police or designee.

**E. Serious Bodily Injury** – Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body (RSMo. 556.061).

**F. Team**

1. Group of Department investigators as determined by the Chief of Police or their designee with investigative experience in particular investigations.
2. Responsibilities
  - a. Investigate incidents involving the use of force by a member that is not otherwise investigated by an outside agency and/or investigator as determined by the Chief of Police or their designee.
  - b. The Team will respond to all incidents investigated by outside agencies and act as a liaison.
  - c. Conduct any other investigation that is criminal in nature at the direction of the Chief of Police or their designee.

**III. GUIDELINES**

- A. Criminal investigations will take precedence over internal investigations and will typically be completed before an internal investigation begins.
- B. Criminal Investigation of Police Involved Incidents
  1. The Chief of Police or their designee will determine if an outside agency or the Team will be leading the investigation and will direct the appropriate teams to be notified and respond. Members will refer to the current written directive entitled, "Outside Agency Investigation of Police Involved Incidents."
  2. In the event that an outside agency is not available to the Department within a reasonable period of time, the Chief of Police or their designee will direct the Team to conduct the investigation.
  3. The Team will:
    - a. Conduct the investigation on all other police involved incidents not investigated by an outside agency as determined by the Chief of Police or their designee.
    - b. Be the liaison to the outside agency.
- C. The Commander of the Homicide Unit will act as the overall Incident Commander until either relinquished to an outside agency or it is determined that the Team will conduct the investigation.

- D. The Supervisor of the FTTS will:
  - 1. Be notified when a member has discharged a firearm.
  - 2. Assist the Team and/or Internal Affairs Unit (IAU) in incidents involving the discharge of a firearm by a member.
- E. The Crime Scene Unit will respond upon request to incidents involving the Team and incidents involving the discharge of a firearm by a member investigated by IAU.
- F. Crime Scene Responsibilities Involving a Department Member
  - 1. The investigative supervisor of the Team will be in charge of the crime scene.
  - 2. All aspects of the current written directive entitled, "Patrol Procedures," regarding crime scene responsibilities will apply in investigations of police involved incidents.
  - 3. Vehicle accidents involving bodily injury and/or fatality are considered crime scenes and will be treated as such.
    - a. Vehicle parts, debris, contents of the vehicle, etc., are considered evidence and will be protected.
    - b. Refer to current written directive entitled, "Police Vehicular Reporting."
  - 4. Once a crime scene has been secured, only authorized members will be permitted to avoid contamination or alteration by their presence.
  - 5. Efforts may be made to have all involved members relocated to the secondary (outer) crime scene or other secure location as soon as possible to eliminate the need for the member's representative or attorney to enter the secured crime scene.
- G. A copy of the completed investigation will be forwarded to the IAU.
- H. IAU Responsibilities
  - 1. IAU will be the primary investigative element on any incident in the event a member unintentionally discharges a firearm in an official capacity on- or off-duty. For further information, refer to the current written directive entitled, "Firearms Procedures."
  - 2. IAU investigation files will not be forwarded to the Team.

3. IAU will be the central repository for the case file which will include a copy of the investigative file and the original internal file.
4. For further information, refer to the current written directive entitled, "Internal Affairs Investigations."

#### **IV. PROCEDURES**

##### **A. Involved Member Responsibilities**

1. The member involved will ensure their safety and the safety of others to the best of their abilities.
2. When circumstances allow, the involved member will:
  - a. Notify the Communications Unit of the incident and of any medical treatment needed for either the member or involved citizens.
  - b. Notify a supervisor.
  - c. Establish a crime scene and staging area until relieved.
  - d. Remain at the scene or at a nearby secured location until released by the investigator and be available for official interviews and statements regarding the incident.
  - e. Members will be subject to a callback to duty at any time.
  - f. Permission must be obtained from the Chief of Police or designee prior to taking part in travel or activities for an extended length of time.

##### **B. The first supervisor on the scene will:**

1. Absent any exigent circumstances, ensure the scene is stable and secure.
  - a. Provide for the safety of members and the public.
  - b. Consider the preservation of evidence as secondary to the safety of the public and members.
  - c. Only ask involved members the agreed-upon public safety questions from the Post Incident Reference Guide, Form 24 P.D.

2. Be responsible for the security of evidence at the scene until the arrival of the supervisor of the Team, who will assume control of the scene and the investigation.
3. Ensure the involved member leaves the firearm, ammunition, and any other equipment in the condition outlined below:
  - a. Handguns should be returned to the holster, the safety on long guns should be placed in the “safe” position, and spent casings and magazines should remain in place until recovered and/or examined by the appropriate investigative agency or element.
  - b. For incidents investigated by the Team, the Team supervisor will assume responsibility for ensuring the proper protection and security of the member’s firearm and ammunition and any other evidence.

C. Notifications

1. The following may be notified to respond at the direction of the incident commander:
  - a. Homicide Unit/ Commander.
  - b. The Team.
  - c. FTTS supervisor.
  - d. Internal Affairs Unit.
  - e. Media Unit.
  - f. OGC.
  - g. Digital Technology Section.
  - h. The appropriate prosecuting attorney’s office.
2. Notifications will be made based on the Chief of Police or their designees’ determination of who the investigating element will be for the incident and determine the need for an immediate response. For investigations handled by an outside agency, members should refer to the current written directive entitled, “Outside Agency Investigated Police Involved Incident.”
3. On determination of the investigating element, the Communications Unit may be requested to make the notifications immediately.

D. Statements

1. Members involved in a police involved incident will be afforded their 5<sup>th</sup> and 6<sup>th</sup> Amendment Constitutional Rights.
  - a. With regard to reviewing incident related video prior to providing a statement, members will refer to the directive entitled, "Member's Investigation, Discipline, and Appeals, and applicable Collective Bargaining Agreements (CBA)."
  - b. Any conflicts in protocol or process with the outside agency will be addressed and mitigated by the Team Supervisor with the outside agency.
2. The member will be provided a reasonable amount of time to secure representation prior to a statement being given.
  - a. The member may choose to forgo representation and provide a statement.
  - b. If representation is requested, no questions will be asked until the member's representative or attorney is present.
  - c. For the purpose of filing charges and/or maintaining a subject in custody and a statement (charging affidavit) is requested of the member, the member may choose to provide a statement to the Team.

E. Member's Firearm

1. The member's firearm, ammunition, and any equipment related to the incident will be handled as evidence in incidents where the investigating element considers it necessary to protect the integrity of an investigation.
2. Replacement Firearm
  - a. A replacement firearm, meeting Department specifications, may be provided.
  - b. Supply Section Supervisor or designee:
    - (1) Will be contacted during normal business hours and respond with a replacement firearm and complete the Gun Issue Record Card, Form 111 P.D., for the replacement firearm, as soon as practical.

- (2) Will be notified by the Communication Unit after business hours and will respond to facilitate the issuance of a replacement firearm.

c. Member's Responsibilities

- (1) Prior to returning to duty, the member will respond to the FTTS and complete a return-to-duty qualification with the replacement firearm.
- (2) The member will use the replacement firearm as the primary duty firearm until their firearm is returned.

3. When available, a replacement personal patrol rifle and other equipment recovered as evidence will be issued by the Supply Section to a member until their equipment is released from evidence.
4. The member's firearm and equipment will be returned to the member on authorization of OGC.
5. When the member's firearm is returned and the member chooses to utilize it as their primary duty firearm, the member must complete qualification with that firearm.

F. The Team will ensure an incident report is obtained with an original case report number (CRN) and classified at the direction of the Team.

G. A commander will place the member on administrative leave in accordance with the current written directive entitled, "Suspension of Members."

H. Panel Responsibilities

1. The Panel will review the actions of the involved members as soon as practical but not more than five (5) business days following the occurrence of police involved incidents unless extended by the Chief of Police or designee.
2. The focus of the review will be an initial review of personnel actions including:
  - a. Any immediate training, tactics, or written directives.
  - b. If the involved member should be allowed to return to duty.

- I. The Chief of Police may:
  1. After consulting with the appropriate investigative element (Team or outside agency), the Panel, and Human Resources Division, establish when a member is capable of being returned to active duty.
  2. Prior to a determination by the prosecuting attorney or grand jury and after consulting with the appropriate investigative element (Team or outside agency) and the Panel, and after being advised that the member is physically and mentally capable of being returned to duty, reinstate a member to duty.
  3. Follow procedures as outlined within the current written directive entitled, "Suspension of Members."

  
Joseph E. Mabin Jr.  
Chief of Police

Adopted by the Board of Police Commissioners this 15th day of November, 2022.

  
Mark C. Tolbert  
Board President

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