

	KANSAS CITY MISSOURI POLICE DEPARTMENT	DATE OF ISSUE	EFFECTIVE DATE	NO.
	PERSONNEL POLICY	05-23-2018	05-23-2018	308-4
SUBJECT			AMENDS	
Policy Series 300: Employee Relations 308 - Internal Affairs Investigations				
REFERENCE		RESCINDS		
PI: Response to Community Complaints PPBM: Discrimination and/or Harassment PPBM: Code of Ethics and Rules of Conduct		308-3		

***I. INTRODUCTION**

The Department has established certain guidelines that provide for consistency in investigations and assure Department members of their right to fair and equitable treatment during internal investigations. The Internal Affairs Unit (IAU) is a fact-finder and will not make conclusions, findings or recommendations.

II. POLICY

*A. IAU will conduct investigations into the following incidents:

1. Allegations of misconduct filed through the Office of Community Complaints (OCC) and forwarded for investigation by the Director of OCC.
2. Miscellaneous Investigations, to include but not limited to:
 - a. Disarming of a member, any discharge of a firearm, whether on or off duty, that injures a person or damages a third party's property, or the discharge of a member's Department owned firearm by a non-Department member.

NOTE: Euthanizing/destroying animals most generally will not be investigated.

 - b. In-custody deaths and serious bodily injuries to suspects likely to result in death.
 - c. Commendations/honor awards
 - d. Any other investigations as ordered by the Chief of Police or designee.
3. Pre-employment background investigations.

B. When a criminal investigation is completed in any jurisdiction to include Kansas City, Missouri on a member, it will be forwarded to the Chief for review and consideration for a Miscellaneous Investigation.

- *C. Allegations of sexual harassment, discrimination, or retaliation will be forwarded to the Human Resources Division. For further information refer to current written directive entitled, "Discrimination and/or Harassment." Upon completion, if any other policy violations were identified the file will be returned to the Bureau Commander for further action.
- D. All members involved in an internal investigation will be treated with courtesy and dignity throughout the investigation.
- *E. The Department, as a public employer, has a right to compel members to answer questions and provide information during internal investigations.
- *F. Department members have a duty and obligation to answer questions and provide information during an IAU (not criminal) investigation.
- *G. The Department has a compelling interest in protecting the integrity of its investigations. In every investigation, the Department has a strong desire to protect witnesses from harassment, intimidation and retaliation, to keep evidence from being destroyed and to ensure statements are truthful.
- *H. Members providing statements (or those who are involved) will treat as confidential the official business of the Department as outlined in the current written directive entitled, "Code of Ethics and Rules of Conduct." General discussion amongst Department members about an internal investigation is not prohibited; however, members are prohibited from knowingly interfering or hindering an investigation, (e.g., coaching a statement, sharing pertinent information, etc.)
 - 1. Maintaining confidentiality does not apply to communication with:
 - a. FOP Representatives/Department Representatives of the member's choice
 - b. Mental or Physical Health Professional
 - c. Attorney
 - 2. Maintaining confidentiality does apply to:
 - a. All pre-employment background investigations
 - b. Any specific investigation as ordered by the Chief of Police or designee.
 - 3. If it is discovered that confidentiality is not maintained, the offending member may be subject to disciplinary action, up to and including termination.

*I. Notification

With the exception of Miscellaneous Investigations, members will be informed in writing, with reasonable notice before the scheduled interview, unless there is good cause to dispense with the notice prior to the interview, by the Commander of IAU or their designee of:

1. The nature of the investigation.
2. The names of all complainants.

J. Scheduling of Interviews

- *1. The time and place for any interview will be determined by the IAU detective. Every effort will be made to schedule members' interviews during their on-duty hours, preferably at the beginning or the end of the members' shift. With the exception of Miscellaneous Investigations, members will be given reasonable notice of a pending interview in order to allow them time to coordinate with a representative should they choose to have one present. In Miscellaneous Investigations, the IAU Sergeant will notify the FOP Designee twenty-four (24) hours (when practical) prior to any scheduled interview of a bargaining unit employee. The IAU Sergeant will notify the FOP Designee that a representative is needed and when possible, the expected duration, but such notification will not necessarily identify the bargaining unit employee who will be interviewed.
- *2. All interviews will be done in a professional setting.
3. If necessary for a member to accompany an IAU detective, every effort will be made to avoid embarrassing the member.

K. Interview Session

- *1. The IAU detective will provide the member with a Garrity Warning before a formal statement is obtained (refer to the Legal Bulletin entitled, "The Garrity Rule").
- *2. IAU interviews, whether in person or by telephone will be subject to recording. All recordings will be transcribed. The IAU detective should explain breaks in the recording during the interview such as "Parties are taking a 10 minute break to go to the restroom" or "During the break, the member conferred with their representative."
- *3. A member under investigation will be informed of the name and rank of the interviewing member and all other persons present during the interview.

- *4. Members giving statements or being questioned concerning internal matters will refer to the appropriate Memorandum of Agreement (MOA).
 - a. While present the representative may:
 - (1) Ask questions to clarify the member's previous answers during the interview.
 - (2) Ask questions to further clarify information regarding the investigation.
 - (3) If requested, have time to confer with the member before the interview is concluded.
 - b. The representative shall not interrogate or interrupt the questioning by the interviewer, badger the interviewer or prevent the interviewer from questioning the member of the investigation.
- *5. After the interview, the member and the representative will be allowed to confer in private to determine if any other information is needed or if the member's previous answers need to be clarified. After conferring with the member, the representative may return to the interview with the member. At this time, the member may provide additional information or clarify any answers that were given to the interviewer.
- *6. Members and/or representatives giving statements will not record or attempt to acquire all or any part of their statement through use of electronic devices, or take notes, either openly or surreptitiously. The IAU detective taking the statement may require all electronic devices, including phones, etc., be left outside the interview room.
- 7. A member's supervisor or commander will not be present when a statement is being given.
- 8. Interview questions will be within the area of knowledge thought to be possessed by the member. No devious techniques or accusatory statements will be used.
- 9. If an interview extends through a normal meal period, the member being interviewed will be afforded the opportunity to order food and eat it in a quiet atmosphere without continuation of the interview.
- 10. When it is necessary to conduct an internal investigation beyond a normal tour-of-duty or during off-duty time, the member involved may make telephone calls to such persons the member believes may need information about the delay. The member will refrain from discussing the subject of the investigation. The Chief of Police must approve any restriction against telephone calls being made.

11. The investigatory method is the prerogative of the IAU detective. Under normal circumstances, a statement will be taken from the complainant prior to department members or witnesses.
- *12. When a member refuses to answer questions, the IAU detective may continue to ask other questions pertinent to the investigation. The detective will return to the unanswered questions and if the member still refuses to answer, the detective will stop the interview. The IAU Commander or IAU Sergeant will direct the member to answer questions. If the member still refuses to answer the questions, the IAU Commander or designee, will immediately suspend the member with pay, pending further review and action by the Chief of Police. The refusal should be on the recording, if possible.
- *13. If the member refuses to appear for a statement with IAU, the IAU Commander and/or Sergeant will order the appearance and document the member's refusal to appear. The IAU Commander and/or Sergeant will notify the member's chain of command. The member's chain of command will order the appearance of the member. If the member still refuses, the IAU Commander or designee will immediately suspend the member with pay, pending further review and action by the Chief of Police.
- *14. As directed by the IAU detective, a member is required to sign their statement(s) with regard to internal investigations interview. If the member refuses to sign their statement, the IAU Commander or designee will direct the member to sign the statement. If the member still refuses, the IAU Commander or designee will immediately suspend the member with pay, pending further review and action by the Chief of Police.
15. If a member wishes to change any statement(s), the change will be included on a supplemental statement, and the signed original will be retained in the case file.

L. Polygraph Examination

- *1. The Chief of Police may direct any member to submit to a polygraph examination to clarify any matter concerning a Department investigation. Presence of representation will not be permitted during such examination.
- *2. If a member refuses a polygraph examination as directed, the member may be suspended, with pay, for refusing to obey an order pending further review and action by the Chief of Police.
- *3. The polygraph examination will not be given to an individual who has just completed a lengthy interview session or who is not, in the judgment of the polygraph examiner, physically or mentally fit to be examined.

4. A member will not be subjected to accusatory statements during the polygraph examination.

*M. Criminal Law Violations

1. If, during the course of an IAU investigation, it appears there is or may have been a significant violation of criminal law (i.e., Federal, State or municipal ordinance) the investigation will be suspended pending a determination as to whether a criminal investigation will be initiated. The Chief of Police will be immediately notified in writing of the criminal aspect of the investigation with a request for a determination of the need for a criminal investigation.
2. If the Chief of Police determines the need for a criminal investigation, the appropriate criminal investigative division will be notified and will assume responsibility. When the criminal case file is completed, IAU will resume investigation of the case.
3. IAU personnel will not disclose the contents of its administrative investigation to the criminal investigative division.
4. The criminal investigative division will share its file with the IAU detective.
5. When the crime occurs in an outside jurisdiction, IAU will follow the same protocol as if the incident occurred within the Department's jurisdiction.

N. Field Response by Internal Affairs Detectives

If an incident of a non-criminal nature occurs which requires immediate investigation involving transient witnesses or unique circumstances and it is after the regular office hours the Chief of Police, a bureau commander, division commander, or city-wide duty officer may request the immediate response of an IAU detective.

- *O. Access to Internal Affairs Unit Miscellaneous Investigation files will be granted in accordance with the current labor agreements.

III. PROCEDURE

- A. To notify a member of a pending investigation, IAU personnel will forward a Notification of Internal Investigation, Form 5272 P.D., to the member's division commander. If applicable, a copy of the Citizen Complaint Report, Form 337 P.D., will be attached.
- B. The member's supervisor/commander will ensure the member receives the Notification of Internal Investigation, 5272 P.D., and Citizen Complaint Report, Form 337 P.D., if applicable.

- C. Upon receipt, the member will sign the Notification of Internal Investigation, Form 5272 P.D., and enter their serial number and the date.
- *D. The supervisor/commander will sign (and enter their serial number) to witness the member's signature. The supervisor/commander will then return the signed Notification of Internal Investigation, Form 5272 P.D., and attached Citizen Complaint Report, Form 337 P.D., to IAU for inclusion in the investigation file.
- *E. IAU will forward all completed miscellaneous investigations to the Chief of Police for disposition.

Richard C. Smith
Chief of Police

Adopted by the Board of Police Commissioners this 8th day May of 2018.

Nathan Garrett
Board President

DISTRIBUTION: All Department Personnel
Public View Master Index – Internet
Department Master Index – Intranet
Policy Acknowledgement SyStem (PASS)