

## **246.09 Investigations and Agency Response – Critical Incidents**

### **Policy:**

#### **A. Investigation by Other Agency**

In incidents involving officer use of force or response to resistance or aggression that results in the use of deadly force through discharge of a firearm, the high probability of death, or the death of any person, including traffic-related incidents, or any other incident implicating a possible criminal violation in the judgment and discretion of the chief, the chief or his or her designee will request the assistance of the Bureau of Criminal Apprehension, Hennepin County Sheriff's Office, or another qualified law enforcement agency to conduct an investigation. All investigations meeting the aforementioned criteria involving department personnel will be investigated by another agency.

#### **B. Department Response**

The Saint Paul Police Department will respond to all incidents of a critical nature where the involved employee acted within the course and scope of employment and which include, but are not limited to:

- The officer(s) involved used deadly force through the discharge of a firearm.
- Intentional or accidental use of any other deadly or dangerous weapon that results in high probability of death, or death, as a result of police involvement.
- Attempts to affect an arrest or otherwise gain physical control over a person for law enforcement purposes that result in high probability of death, or death.
- Vehicular incidents related to police actions that result in high probability of death, or death.
- Any incident where the Chief of Police, or designee, invokes this policy at his or her discretion.

#### **1. Procedures:**

- a. Whenever an employee of the Saint Paul Police Department is involved in an incident within the scope of or similar to the examples defined above, they shall immediately notify their supervising officer. If the incident occurs outside the city limits, the employee shall notify the responsible law enforcement agency with jurisdiction and as soon as practical, the Saint Paul Police Department supervisor, watch commander, on-call deputy chief, assistant chief of police, or their designee.
- b. The chief or his or her designee will determine whether the incident is a critical incident subject to this policy.
- c. The chief may direct Saint Paul Police Department personnel to assist the outside agency upon their request.
- d. Regardless of whether the incident occurs in the city limits or outside, without unreasonable delay, the first responding field supervisor shall notify the watch commander or the on-call assistant or deputy chief of police, or their designee.
- e. The watch commander shall also notify the deputy chiefs, assistant chief, chief of police, the homicide unit commander, the internal affairs commander, and other personnel as directed.

- f. If a response from the homicide unit is necessary, the homicide unit commander, upon notification, shall coordinate with any other investigative units and/or seek additional resources they deem appropriate.
- g. The internal affairs unit commander will assign an investigator from that unit to conduct a parallel, but separate, investigation to ensure all policies and procedures were/are followed.
- h. Regardless of whether the incident is regulated by this policy, supervisors must respond to all incidents involving a response to resistance or aggression that results in injury pursuant to General Order 246.00.

## **2. Roles and Responsibilities:**

- a. The district commander where the incident takes place will write the original report documenting the public safety statement, appropriate notifications to the chief or designee, and the department's request for assistance to outside agency.
- b. The federation president or their designee shall be allowed to visit with the involved officer but shall not discuss or speak about the incident. The federation representative(s) will not act as the monitoring officer(s).
- c. The employee assistance program (EAP) director or their designee shall respond to the incident at the appropriate time and provide critical incident support for the involved employee and defuse other employees associated with the incident. In addition to this initial meeting with EAP personnel, employees directly involved in the incident will be required to meet, individually and in person, with an EAP licensed mental health professional within seven (7) days and prior to returning to work following a critical incident. A critical incident group debriefing for employees directly involved in the incident will be required with an EAP licensed mental health professional and an EAP representative within seven (7) days. In addition, employees directly involved in the critical incident will be required to meet individually with an EAP licensed mental health professional for a therapeutic check-in 90 days and six months following a critical incident. The EAP director will facilitate the scheduling of this meeting.

## **3. Responsibilities:**

- a. As directed by the investigating agency, involved employees shall:
  - i. Remain on the scene and provide the first responding, non-involved, field supervisor with a brief, factual, public safety statement of the event for the purpose of focusing the investigative efforts, which will include, but is not necessarily limited to assisting in identifying and locating suspects, victims, witnesses, evidence, and any other information deemed pertinent to citizen or officer safety.
  - ii. Except for the above brief statement involved officers shall refrain from speaking to other officers about the incident.
  - iii. Involved officers will not write an incident report about their own use of response to resistance and aggression.
  - iv. As soon as reasonably possible, participate in a required, administrative alcohol screening test and/or other chemical substance screening test in accordance with [General Order 230.30: Drug and Alcohol Screening](#). The testing process will be observed either by the watch commander or internal affairs, if available, or a

person of at least one rank above the person being tested. The results of this test will not be included in the investigation conducted by the investigating agency and must be forwarded along with a memo from the test administrator to the internal affairs unit. The memo will include; the test results, if known, details of the test process, and a list of all present during the test.

- v. Meet with assigned investigators regarding a voluntary statement.
  - vi. Be prepared to meet, in person, with EAP for defusing from critical incident.
  - vii. Be prepared to meet again with a federation representative after the investigator interview to be briefed on the subsequent process.
- b. The first responding assisting employee shall:
- i. Secure the scene until arrival of the first responding field supervisor and ensure witnesses and/or other involved persons do not discuss the incident.
- c. The first non-involved responding field supervisor shall:
- i. Elicit information from the involved employee(s) concerning issues of public safety and scene identification and security. Obtain a brief, factual account of the event, and evidence. Provide, if possible, information concerning suspects and parties that may have witnessed the incident and any other pertinent information.
  - ii. Notify the watch commander as soon as possible.
  - iii. Assign an on-duty, non-involved officer to accompany any injured person(s) to the hospital and recover any evidence and record unsolicited statements. Check on medical condition of injured person(s) and relay this information to the on-scene supervisor.
  - iv. Assign an on-duty, non-involved officer as the monitoring officer(s) to accompany the involved employee(s) to the homicide unit with instructions to not to discuss the incident with each other or other parties. There should be a separate monitoring officer assigned to each “involved” officer and the officers should remain separated.
  - v. Remain on scene and brief the homicide unit on the information obtained from the involved employee(s).
- d. The monitoring officer shall:
- i. Assume control of the involved officer as so directed by the on-scene supervisor.
  - ii. Bring the involved officer to a department vehicle and accompany the involved officer to headquarters. Report to the homicide office and meet with the commanding officer in charge of the investigation or their designee.
  - iii. Remain with the involved officer at headquarters until advised by the commanding officer in charge of the investigation that you are relieved of that duty.
  - iv. The monitoring officer will allow the federation president or one federation designee access to the involved employee(s) until a formal statement is given, or an EAP representative, or legal counsel is present. This access shall be

continually monitored to ensure that details of the investigation are not discussed.

- v. The monitoring officer will write a report detailing their actions, including who had access to the involved officer, length of time of the contact, and specifically document whether the involved officer spoke with anyone about the incident while in their company.
  - vi. Upon request of the involved officer(s), ensure that the involved officer(s) is afforded the opportunity to meet with legal counsel in a confidential setting.
- e. The watch commander shall notify:
- i. Chief of police and/or the assistant/deputy chief of police.
  - ii. Homicide unit commander.
  - iii. Internal affairs commander.
  - iv. Involved employee's unit commander.
  - v. Public information officer/coordinator.
  - vi. Federation representative.
  - vii. Commander of district or unit involved.
  - viii. EAP
- f. The homicide unit will assume the investigative lead, ensure scene and evidence security, and facilitate transfer of the investigation to the responding outside agency until and as relieved by that agency.
- i. No matter the investigating agency the Homicide S/Commander will facilitate the equipment replacement for officers whose equipment is required to be collected as evidence by the investigating agency. To help facilitate this action the Homicide Unit will maintain in a secure location:
    - a. 3 replacement officer badges,
    - b. 3 replacement Pac sets,
    - c. 3 replacement cans of ASR
  - ii. The Homicide S/Commander will provide the Chief with the badges which he/she will present to the officer(s) involved. In the Chief's absence this will be done by the Assistant Chief or Deputy Chief. The Homicide S/Commander will issue the remaining equipment.
  - iii. The Homicide S/Commander will be responsible for tracking who is assigned specific items in the event of an OIS.
  - iv. The Homicide S/Commander will ensure that a range officer responds to issue the officer a new handgun and an ECD. In the event an officer(s) personal AR-15 was used, the range officer will make arrangements with the officer(s) involved to set up a time to get them a range AR-15. The range officer will be responsible for tracking such equipment.
- g. The internal affairs unit commander shall:
- i. Ensure that the administrative breath test is facilitated in a timely manner.

- ii. Ensure at least one investigator conducts an administrative investigation of the incident. That investigator will gather preliminary information. After initial information gathering occurs, the internal affairs unit will wait until the criminal phase has concluded to proceed with further investigation.
  - iii. Ensure that there is no disclosure to the investigating unit of any information obtained during a compelled internal affairs unit investigation interview. Information obtained by the investigating unit shall be provided to the internal affairs unit.
- h. The public information officer will:
- i. Release public information about the incident, which may include:
    - Description of the incident, including time, date and place,
    - Reasons for the encounter and whether officers had been investigating, were called to the scene or received a tip
    - Whether there was resistance or pursuit,
    - Whether weapons were used,
    - Whether there is a BWC or other video,
    - Whether the department used LPR,
    - Transcript of the 911 call if it doesn't identify a person whose identity is protected, and
    - Name of the hospital where victims or casualties were taken.
  - ii. Public information will be released as soon as possible after the chief or his or her designee has determined that releasing the information will not:  
Endanger the physical safety of an individual, or Cause a perpetrator to flee, evade detection or destroy evidence.
  - iii. Information may be released incrementally, or withheld, as determined to be appropriate under the circumstances by the PIOs or Chief or designee.
  - iv. Information may be released directly to individual members of the media, in a department statement, and online, including through the departments Facebook and Twitter accounts.
  - v. Public information may also be released by an investigating agency, including names of involved officers.

#### **4. Relief from Duty:**

- a. The involved employee shall be relieved from active duty as soon as possible and may be placed on paid administrative leave as follows:
  - i. Officer(s) involved in a fatal shooting, fatal car accident, or other in-custody death will be placed on paid administrative leave for a minimum of four (4) days with the option of up to a total of seven (7) days; per involved officer request. Involved officers who request the additional 1-3 paid administrative days will not be required to provide a justification (no questions asked). The chief or their designee may approve more than seven (7). If they are coming into days off, the administrative leave days takes precedence. The officer's regular days off will be moved to begin after the initial administrative leave. During this administrative leave time, the officer will need to be available to assigned investigators and fulfill their required EAP meetings. Officers may

not work off-duty while on administrative leave. The limitation on the maximum number of days of paid administrative leave does not apply if there is sufficient evidence to support a preliminary conclusion that the officer may have engaged in conduct relating to the incident which, if true, would constitute a terminable offense.

- ii. Officer(s) involved in a non-fatal shooting that results in injury, non-fatal car accident resulting in serious or life-threatening injury to another, or an incident where force is used and severe, or life threatening injury has resulted will be placed on paid administrative leave for two (2) days. If they are coming into days off, the two (2) days administrative leave takes precedence. The officer's regular days off will be moved to begin after the initial two (2) day administrative leave. During this administrative leave time, the officer will need to be available to assigned investigators and fulfill their required EAP meeting.
  - iii. Officer(s) who shoot(s) their weapon on duty (other than a warning shot, or killing a wounded animal, or accidental discharge) may be placed on paid administrative leave for the remainder of their current shift.
  - iv. An officer who witnesses a critical incident may request paid administrative leave for a period not to exceed their next two scheduled work days subject to the approval of the chief or their designee.
  - v. Upon the expiration of the administrative leave, the chief of police or their designee shall authorize the officer to return to their normal shift, work location and duties.
  - vi. Officers directly involved in a designated critical incident will receive a temporarily duty reassignment for thirty (30) calendar days post event. Exceptions may be approved by the chief of police.
- b. For all critical incidents, as soon as possible after an officer surrenders their department issued weapon to investigators as evidence, they shall be provided with a replacement. **(see section 3 subs f: iv)** No officer shall be rearmed without the authorization of the chief of police or their designee.
- i. In cases where there is a clear decision by the county attorney or grand jury "No-Bill" resulting in no prosecution related to an Officer Involved Shooting, the officer's original equipment, including firearm, will be returned to the officer.
  - ii. The department handling the case should have in the course of their investigation fully tested, photographed, and documented evidence related to the property.
  - iii. The Homicide Commander or designee will be responsible for making sure all the appropriate documentation was completed before facilitating the return of the equipment to the officer(s) involved.
  - iv. The only exception will be if there is a litigation hold, claim of a misfire of a weapon by the officer, or lawsuit filed with the courts prior to or at the

conclusion of the criminal investigation, in which case the department will continue to retain the property.

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