

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

This policy outlines agency responsibilities while responding to and investigating critical incidents involving police department employees.

### **Policy:**

#### Investigation by Other Agency

The Chief or their 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 for incidents involving a use of force resulting in a high probability of death, the death of any person or any incident implicating a possible criminal action.

#### Department Response

The Saint Paul Police Department (SPPD) will respond to all incidents of a critical nature where an involved employee acted within the course and scope of employment which includes, but is not limited to:

1. The officer's use of deadly force through the discharge of a firearm.
2. The officer's intentional or accidental use of any other deadly or dangerous weapon resulting in the high probability of death, or death of another person.
3. 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.
4. Vehicular incidents related to police actions that result in high probability of death, or death.
5. Any incident where the Chief of Police, or designee, invokes this policy.

### **1. Procedures:**

- a. Whenever an employee of the SPPD is involved in an incident within the scope of or similar to the examples defined above, they shall immediately notify their supervising officer.
- b. If the incident occurs outside the city limits, the employee shall notify the responsible law enforcement agency and as soon as practical, their SPPD supervisor, watch commander or on-call Chief.
- c. The Chief or their designee will determine whether the incident is a critical incident subject to this policy.
- d. The Chief may direct SPPD personnel to assist the outside agency when requested.
- e. 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 chief.
- f. 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. In the absence of a watch commander, the employee's district or

unit command shall notify the deputy chiefs, assistant chief, chief of police, the homicide unit commander, the internal affairs commander, and other personnel as directed.

- g. The homicide unit commander will coordinate with any other investigative units and/or seek additional resources they deem appropriate when a response is necessary.
- h. 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.
- i. 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 chief or their designee where the incident takes place will write the original report documenting the public safety statement, notifications to the Chief or designee, and the department's request for assistance to an 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. 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 other employees associated with the incident.
  - a. 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 72 hours, but no later than seven (7) days, and prior to returning to work following a critical incident.
  - b. 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.
  - c. 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.
  - d. The EAP director will schedule these meetings.

## **3. Responsibilities at the scene and early in the investigation:**

- a. Involved employees shall:

- i. Stabilize the scene and provide first aid or summon emergency medical assistance.
- ii. Update incoming police and medical resources with information so they may respond safely and effectively.
- iii. Remain at 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.
- iv. Except for the above brief statement, involved officers shall refrain from speaking to other officers about the incident.
- v. Involved officers will not write an incident report about their own use of force.
- vi. 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.
  - a. 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.
  - b. 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.
  - c. The memo will include; the test results, if known, details of the test process, and a list of all persons present during the test.
- vii. Meet with assigned investigators regarding a voluntary statement.
- viii. Be prepared to meet, in person, with EAP representatives.
- ix. Be prepared to meet again with a federation representative after the investigator interview.
- x. Receive a briefing about what to expect as the investigation progresses.

b. The first responding assisting employee shall:

- i. Provide first aid and summon medical resources as needed.
- ii. Update incoming personnel with information to respond safely to the incident or further threats.
- iii. Secure the scene until arrival of the first responding field supervisor and ensure witnesses and/or other involved persons do not discuss the incident.

- 1) Witnesses to a crime(s)/incident(s) play an important role during an investigation and shall not be subjected to a detention or otherwise seized solely because they are a witness to a crime(s)/incident(s), regardless of the crime severity, except pursuant to a warrant or order of the court.
- 2) Witnesses can be instrumental in uncovering the truth and solving crimes, so officers should attempt to obtain their voluntary cooperation to make a statement to investigators.
- 3) Witnesses shall not be compelled to provide identification to officers solely because they have witnessed a crime(s)/incident(s).
- 4) Officers shall document all witness identifications and statements received during their investigation.
- 5) Officers may detain individuals when reasonable articulable suspicion exists they have been involved in a criminal offense.
- 6) Whenever a preliminary investigation reveals a detained party is no longer under suspicion of criminal activity, their detention must immediately cease. Officers should then make the party aware that their cooperation is voluntary, and that they are free to leave.

c. The first non-involved responding field supervisor shall:

- i. Assume command of the incident.
- ii. Obtain 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.
- iii. Notify the watch commander as soon as possible.
- iv. Assign an on-duty, non-involved officer to accompany any injured person(s) to the hospital, recover any evidence, record unsolicited statements, and relay information about the condition of injured person(s) to the on-scene supervisor.
- v. 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. Involved officers should remain separated.
- vi. Remain on scene and brief the homicide unit and outside agency investigators on information obtained from the involved employee(s).

d. The monitoring officer shall:

- i. Assume control of the involved officer as directed by the on-scene supervisor.
- ii. Bring the involved officer to a department vehicle and accompany them 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 they are relieved of monitoring 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. The monitoring officer may leave the company of the involved officer while they meet with legal counsel,
- e. The watch commander shall notify:
- i. On-call chief.
  - ii. Homicide unit commander.
  - iii. Internal affairs commander.
  - iv. Involved employee's unit head.
  - 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. Homicide investigators will remain on scene until relieved by that agency.
- i. The Homicide Senior Commander will facilitate an equipment replacement for officers whose equipment is collected as evidence. To help facilitate this action the Homicide Unit will maintain in a secure location:
    - a. 3 officer badges,
    - b. 3 portable radios,
    - c. 3 cans of ASR

- ii. The Homicide Senior Commander will provide the Chief with badges for presentation to involved officers. In the Chief's absence this presentation will be done by the Assistant Chief or a Deputy Chief. The Homicide S/Commander will issue the remaining equipment.
  - iii. The Homicide Senior Commander will be responsible for tracking who is assigned specific replacement items.
  - iv. The Homicide Senior Commander will ensure a range officer responds to issue involved officers a new handgun and an ECD. In the event an officer's personal rifle was used, the range officer will obtain a replacement. The range officer will be responsible for tracking replaced equipment.
- g. The internal affairs unit commander shall:
- i. Ensure the administrative alcohol screening test and/or other chemical substance screening test in accordance with General Order 230.30: Drug and Alcohol Screening is facilitated in a timely manner.
  - ii. Ensure an administrative investigation of the incident begins.
    - a. The internal affairs unit will wait until the criminal phase has concluded before proceeding with further investigation.
  - iii. Ensure that there is no disclosure of any information obtained during a compelled internal affairs unit investigation interview to the criminal investigating agency. Information obtained by the criminal investigating unit shall be provided to the internal affairs unit during their investigation.
- 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 BWC or another 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 their designee has determined 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, by the PIOs, the Chief or their designee when appropriate under the totality of the circumstances.
  - iv. Information may be released directly to individual members of the media by issuing a statement in writing, in-person or online.
  - v. BWC will be released in accordance with General Order 442.18.
  - vi. Public information may also be released by an outside investigating agency, including the 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.
  - ii. Involved officers may request an additional 1-3 paid administrative days off. Those officers are not required to provide a justification for this request.
  - iii. The Chief or their designee, in their discretion, may approve more than seven (7) days off for an involved employee.
  - iv. If an involved employee is coming into days off, the administrative leave days takes precedence.
    - a. The officer's regular days off will begin after the initial administrative leave has expired.
  - v. Involved officers will need to be available to investigators and fulfill their required EAP meetings during administrative leave.
  - vi. Officers may not work contracted overtime or backfill overtime while on administrative leave.
  - vii. Limitations on the number of days of paid administrative leave does not apply if there is sufficient evidence to support a preliminary conclusion the officer may have engaged in conduct that may result in a terminable offense.
  - viii. Officer(s) involved in a non-fatal shooting that results in injury, a 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.

- a. If they are coming into days off, the two (2) days administrative leave takes precedence.
  - b. 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.
  - ix. Officer(s) who shoot(s) their weapon on duty (other than a warning shot, or killing a wounded animal, or accidental discharge) or use other force that results in serious injury may be placed on paid administrative leave for the remainder of their current shift.
  - x. An officer who witnesses a critical incident may request paid administrative leave for a period not to exceed their next two (2) scheduled workdays. This determination is subject to the approval of the Chief or their designee.
  - xi. The Chief of police or their designee shall authorize an officer(s) to return to their normal shift, work location and duties upon the conclusion of administrative leave.
  - xii. Officers directly involved in a designated critical incident will receive a temporary duty reassignment for thirty (30) calendar days. Exceptions may be approved by the Chief of police.
- b. A replacement firearm will be issued as soon as possible after an officer turns over their equipment as evidence (see Section 3 subd. f (iv)). Special circumstances may apply. Regardless, no officer may be rearmed without authorization of the Chief of police or their designee.
- i. In cases where there is a decision by the county attorney or grand jury resulting in no prosecution related to a critical incident, the officer's original equipment, including firearm, may be returned to the officer.
  - ii. The Homicide Commander or designee will be responsible for completing the appropriate documentation before facilitating the return of the equipment to the officer(s) involved.
  - iii. The only exceptions are when there is a litigation hold, claim of a misfire of a weapon by the officer, or lawsuit. In those cases, the department will retain the property in evidence.

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