

## **Governing Body Minutes – July 7, 2020**

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, July 7, 2020. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller and Duncan -2; and the following Councilmembers participated remotely: Valdivia-Alcala, Ortiz, Naeger, Padilla, Dobler, and Lesser - 6. Mayor De La Isla presided -1. Absent: Councilmember Emerson -1.

AFTER THE MEETING was called to order, Reverend Torey Lightcap, Dean of Grace Episcopal Cathedral Church provided the invocation.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber.

BOARD APPOINTMENT recommending the reappointment of Shampayne Lloyd to the Topeka Human Relations Commission to fill a term ending June 30, 2022, was presented. (*Council District No. 4*)

BOARD APPOINTMENT recommending the appointment of Luc Bensimon to the Topeka Human Relations Commission to fill a term ending June 30, 2022, was presented. (*Council District No. 2*)

BOARD APPOINTMENT recommending the reappointment of Michaela Saunders to the Topeka Sustainability Advisory Board for a term ending June 30, 2022, was presented. (*Council District No. 9*)

Councilmember Naeger moved to approve the appointments. The motion seconded by Councilmember Ortiz carried unanimously on roll call vote. Mayor does not vote. (8-0-0)

PRESENTATION on the City of Topeka Police Department Use of Force Policy and Process Review was provided by Bill Cochran, Topeka Police Department. He distributed

certain sections of the Topeka Police Department Policy and Procedure Manual sections and a Memorandum dated June 24, 2020, relating to Police Reform Bills. (*Attachment A*)

Councilmember Dobler left the meeting.

Extensive discussion ensued by Governing Body members regarding prohibited use of force in general as well as in schools; oversight of the Kansas Commission on Peace Officers' Standards and Training (KS-CPOST); discipline policy as it relates to use of body cameras; School Resource Officer (SROs) training; 8 Can't Wait Campaign on police reform; testing of new police recruits and evaluation of current police officers as it relates to racial bias and violence; the importance of citizen involvement through programs such as the Citizen's Academy, Volunteers in Police Services (VIPs) and Strengthening Police and Community Partnerships (SCPP); demilitarization of the police department; Response and/or SWAT Team response policy; and racial profiling by police officers.

Councilmember Emerson joined the meeting remotely.

AN UPDATE on the City of Topeka Independent Police Auditor position was provided by Ed Collazo, Independent Police Auditor. He distributed a handout outlining the responsibilities of the Independent Police Auditor position. (*Attachment B*)

Extensive discussion ensued by Governing Body members regarding the responsibilities of the Independent Police Auditor in regards to the layers of internal reporting mechanisms; use of force case statistics and scenarios; process used to file and report complaints; the need to create a Citizen's Review Panel; and the overall use of force process.

Mark Jones, Police Legal Advisor, explained the Topeka Police Department Use of Force Policy in detail and the process used to investigate complaints relating to use of force.

CONSENT AGENDA was presented as follows:

APPROVAL OF MINUTES of the regular meeting of June 16, 2020, was presented.

APPROVAL of the following Cereal Malt Beverage-Off Premise licenses were presented:

<u>Business Name</u>	<u>Address</u>
Dillons	2815 SW 29 <sup>th</sup> St.
Dillons #54	800 NW 25 <sup>th</sup> St.
Dillons #67	2010 SE 29 <sup>th</sup> St.
Dillons #87	5311 SW 22 <sup>nd</sup> Pl.
Dillons #88	4015 SW 10 <sup>th</sup> St.
Kwik Shop #705	1114 NW Topeka Blvd.
Kwik Shop #713	5700 SW 21 <sup>st</sup> St.
Kwik Shop #720	102 SE 37 <sup>th</sup> St.
Kwik Shop #757	2619 SW 21 <sup>st</sup>
Kwik Shop #780	2520 SW 6 <sup>th</sup> Ave.
Kwik Shop #781	4500 SW Topeka Blvd.
Kwik Shop #788	1414 SW 17 <sup>th</sup> St.
Kwik Shop #789	746 NE Wabash Ave.
Kwik Shop #791	1700 SW Topeka Blvd.
Love's Travel Stop #769	1811 NW Brickyard Rd.
Low Cost	3101 SE 6 <sup>th</sup> Ave.
Target Store #T-0355	2120 SW Wanamaker Rd.

APPROVAL of the following Open After Midnight licenses were presented:

<u>Business Name</u>	<u>Address</u>
Jeremiah Bullfrog's	2827 SW Wanamaker Rd.
KnJ's Sports Bar	1909 NE Seward Ave.

Councilmember Padilla moved to approve the consent agenda. The motion seconded by Councilmember Ortiz carried unanimously on roll call vote. (9-0-0)

RESOLUTION NO. 9187 introduced by City Manager Brent Trout temporarily suspending certain Governing Body Rules and Procedures in response to the COVID-19 pandemic, was presented.

Brent Trout, City Manager, reported in order to continue conducting Topeka Governing Body meetings in a manner that will allow for maintaining appropriate social distancing measures, the Governing Body Rules will need to be temporarily suspended through August 12, 2020.

Councilmember Emerson moved to approve the resolution. The motion seconded by Councilmember Naeger carried unanimously on roll call vote. (9-0-0)

DISCUSSION on the City of Topeka 2021 Operating Budget was presented.

Brent Trout, City Manager, reported the City continues to take the necessary steps to move forward with the approval of the 2021 budget.

Jessica Lamendola, Administrative and Financial Services Director, provided an overview of the 2021 City of Topeka Preliminary Budget.

Councilmember Naeger commended staff for presenting a budget with no mill levy increase and supporting the 2021 Budget Priorities as adopted by the Governing Body while dealing with the financial difficulties related to the COVID-19 pandemic. She stated the health crisis has put budgetary constraints on staff while keeping as many City services intact as possible. She noted this will be the seventh consecutive year with no mill levy increase.

Councilmember Hiller thanked staff for providing the Governing Body with a detailed line item budget. She asked how members of the public could access the 2021 budget book and if budget line items would be posted on the City's website.

Jessica Lamendola reported the budget book was posted on the City's website at [www.topeka.org](http://www.topeka.org).

Councilmember Duncan announced a Special Meeting (Budget Work Session) of the Governing Body would be held on July 11, 2020, at 9:00 a.m. at the Cyrus K. Holliday Building First Floor Conference Room, 620 SE Madison Street.

Councilmember Emerson left the meeting.

DISCUSSION regarding the 2019 Consolidated Action Plan amendment was presented.

Corrie Wright, Division Director of Housing Services, reported the 2019 Amended Annual Action Plan includes program plans for approximately \$6.1 million dollars in HUD grant funding and General Fund (GF) and Capital Improvement Budget (CIB) funds. She stated the amendment would add an additional \$3.1 of CARES Act funds to the already approved 2019 Consolidated Action Plan.

Christy Grecian, Topeka JUMP member, spoke in support of allowing JUMP members to be involved in the conversations relating to police reform. She stated Topeka JUMP applauds City staff for making application for the City to receive additional HUD funding so the City can properly respond to COVID-19 and working low-income families.

DISCUSSION regarding an ordinance concerning execution of search warrants, was presented.

Brent Trout, City Manager, reported legal worked in conjunction with Councilmember Duncan to craft the language of the ordinance.

Councilmember Duncan stated the proposed ordinance would ban the use of no-knock warrants; set forth requirements related to the use of body cameras during the execution of a search warrant and retention of the data recorded by such cameras; and provides a process through which complaints are investigated and disciplinary action taken to the extent a violation has been determined to have occurred.

Councilmember Valdivia-Alcala spoke in support of the proposed ordinance and commended Councilmember Duncan for his work on the matter and bringing it forward for consideration.

Councilmember Hiller asked if there were any issues with the proposed language of the ordinance.

Councilmember Duncan stated there were slight language changes in order to ensure the ordinance mirrors Topeka Police policy.

Lisa Robertson, City Attorney, stated the phrase “reasonably likely to be heard” was added for the purpose of addressing situations where individuals located inside the home may not hear knocking at the door because of loud music or other loud sounds. She stated there was a concern related to civil penalties being levied against police officers who execute warrants; therefore, it was determined that discipline of the police officer involved would serve as the remedy for a violation.

PUBLIC COMMENT was expressed by the following individuals:

Regina Platt stated she works with youth in the city and the one reoccurring theme was that they are traumatized either by what has happened to their parents or lack of support in the community. She noted there were services available in the community and questioned if those services were being made available to everyone. She referenced a video she sent via email to the Governing Body highlighting a police officer’s experience with restorative justice. She referenced implicit biases and requested police officers, community workers and teachers be held to a higher standard and receive extensive training and development related to biases. She encouraged the organizing of youth leadership summits to improve communication skills and instill self-value.

Anita Austin stated she believes there continues to be a need for solid police reform guidelines. She listed basic policy changes that would aid in making the Topeka Police Department a better organization including the ban on choke holds and strangle holds in all circumstances, requiring a use of force continuum and amending the use of force policy through a comprehensive review team.

Thomas Muther stated he believes there continues to be disparities that need to be addressed in regards to the disconnect between ideals and reality that play out in the community where people of color experience something less than the promise that all men are created equal.

Councilmember Ortiz moved to extend the Governing Body meeting past 10:00 p.m. The motion seconded by Councilmember Naeger carried unanimously. (8-0-0)

Councilmember Naeger moved to recess into executive session for a period of time not to exceed 10 minutes to discuss the acquisition of real property, as justified by KSA 75-4319(b)(6). In order to aid the discussion, the following individuals were present: Members of the Governing Body; City Manager, Brent Trout and City Attorney, Lisa Robertson. No action was anticipated to be taken when the open meeting resumed in the Governing Body Chambers. The motion seconded by Councilmember Padilla carried unanimously. (8-0-0)

Following a 10-minute time period, the regular meeting reconvened into open session and Mayor De La Isla announced no action was taken.

The following individual submitted public comment via electronic mail: Regina Platt  
(Attachment C)/

**ANNOUNCEMENTS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;**

Kelly Bogner, Assistant City Clerk, provided an overview of the July 14, 2020, Governing Body Agenda.

Councilmember Duncan reminded citizens that effective July 8, 2020, Shawnee County Resolution No. 2020-44 will require the use of face masks or face coverings in Shawnee County in response to COVID-19. He requested an update on the City Hall renovation process.

Councilmember Hiller thanked the Shawnee County Commissioners for implementing face mask regulations.

Councilmember Valdivia-Alcala reported alley construction in District No. 2 was close to being completed. She thanked Shawnee County Parks and Recreation Department for helping to resolve issues at Santa Fe Park.

Councilmember Padilla reminded everyone to participate in the 2020 Census. He reported “Topeka Counts” signs have been placed in yards across the city and more will be distributed.

Mayor De La Isla thanked the Shawnee County Commissioners for implementing face mask regulations and extended her appreciation to the Shawnee County Commissioners, Dr. Gianfranco Pezzino and Linda Ochs, Shawnee County Health Department, for their continued efforts to stop the spread of the COVID-19 virus.

Councilmember Naeger spoke in support of face mask regulations. She expressed her appreciation to ARTSConnect Topeka for hosting a community reading of the speech by Frederick Douglass entitled “What to the Slave is the Fourth of July.” She announced the Facebook live stream broadcast features nearly 40 readers from Topeka including Mayor De La Isla and Councilmember Hiller and debuts on July 5, 2020, at 10:00 a.m.

NO FURTHER BUSINESS appearing the meeting was adjourned at 10:21 p.m.

(SEAL)

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Brenda Younger  
City Clerk

Attachment A

**TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL  
1.4 RULES OF CONDUCT FOR DEPARTMENT SUPERVISORS**

<b>SUBJECT: Rules of Conduct for Department Supervisors</b>		
<b>1.4</b>	<b>EFFECTIVE:</b> 5/1/2019	<i>William Cochran</i> William Cochran, Chief of Police
	<b>REVISED:</b> 4/17/2019	
	<b>TOTAL PAGES:</b> 5	
<b>CALEA:</b> 11.4.5		

**1.4.1 PURPOSE**

This policy sets forth the standards of conduct and rules for Department supervisors.

**1.4.2 POLICY**

Supervisors at all levels shall conduct themselves in accordance with the Department's general standards of conduct and all other applicable policies and directives. In addition, all supervisors shall model appropriate behavior and decision-making for their personnel and help their subordinates understand the values, standards and procedural rules of the Department. Supervisors shall address, document, and report up their chain of command all observed or suspected misconduct by employees.

**1.4.3 SUPERVISOR RESPONSIBILITY**

A. Command Responsibilities

1. The fundamental reason the Command classification exists is to supervise the activities of a function on an assigned shift, or within a bureau, unit, team or office of the Department or to perform staff and administrative functions. Supervision is exercised over sergeants, officers, and civilian supervisors and employees. Additionally, in the absence of the Deputy Chief of Police or Executive Officer, a Commander shall take charge as Incident Commander on the scene of civil disturbances, and other major emergencies and events. Also, Commanders shall check work performed under their command by reviewing, inspecting, and observing results as well as by evaluating submitted reports.
2. Commanders shall:
  - a. Be accountable for every aspect of his or her command;
  - b. Review and monitor the actions of subordinate employees to prevent or mitigate violations of federal, state, and local law

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### **1.4 RULES OF CONDUCT FOR DEPARTMENT SUPERVISORS**

- during interactions with citizens, employees, arrested subjects, and the general public;
- c. Empower employees to reach their professional goals by following the “lead from the ground up” theory;
  - d. Show interest in employees and their welfare, which may extend beyond morale problems and their effect upon an individual's performance. Command interest includes a concern for the personal problems, desires, and interests of employees and positive assistance in resolving those problems or in achieving their goals;
  - e. Coordinate and direct assigned personnel to allocate resources;
  - f. Perform the full range of administrative functions;
  - g. Ensure that all orders generated by or at his or her direction are lawful and consistent with policy, and are carried out;
  - h. Supervise sworn and non-sworn police staff;
  - i. Notify officers going on-duty to pay attention to special police problems during their shift;
  - j. Review and analyze work and crime statistics and plans to ensure efficient allocation of police staffing, maximum utilization of resources, and the highest possible productivity;
  - k. Prepare and supervise the preparation of necessary records and reports relating to activities;
  - l. Participate in various community activities and make presentations to groups;
  - m. Demonstrate continuous effort to improve operations, decrease turnaround times, streamline work processes, and work cooperatively and jointly to provide quality, seamless customer service;
  - n. Attend command meetings and other functions as determined by the Chief of Police;
  - o. Ensure that any employee whose fitness for duty is questionable due to alcohol or drugs is not assigned to duty or allowed to remain on-duty; and
  - p. Perform other duties as assigned.

#### **B. Sergeant Responsibilities**

The fundamental reason this classification exists is to serve as first-line supervisor for patrol, investigations, other field services and other Bureaus of the Department in order to preserve public peace, to protect life, property and the rights of the public, and to enforce statutory law and municipal ordinances.

1. Sergeants when acting as a supervisor shall:

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- a. Review and verify the accuracy of all necessary documents and electronic documents regarding payroll for employees under their command;
- b. Develop, implement, monitor and adjust employee work schedules to meet normal and emergency requirements;
- c. Conduct roll calls and field training;
- d. Communicate important or necessary information (pass-down) to the next shift and inform Commanders of significant incidents in a timely manner;
- e. Review, approve, and correct reports when necessary. Ensure that reports are complete and represent the incident in an accurate and thorough manner;
- f. Review, approve, and monitor subordinate employees' Body Worn Camera (BWC) video in a timely manner for incidents outlined under current policy for Body Worn Cameras;
- g. Investigate and report alleged incidents of misconduct or violations of policy to their chain of command and recommend disciplinary action, when appropriate;
- h. Supervise activities to ensure that the employees working under their direction perform their assigned duties and take corrective action as required;
- i. Manage crime scenes and other emergencies and make proper notifications;
- j. Monitor the activities of FTOs;
- k. Supervise, direct, and evaluate assigned staff on shift, processing employee concerns and problems, directing work, counseling, disciplining, and completing performance appraisals;
- l. Provide leadership, motivation and guidance to officers;
- m. Respond to officers' complaints or problems;
- n. Assist with career planning strategies;
- o. Develop work schedules, work assignments, and riding assignments;
- p. Monitor the status of work activities, consult with assigned staff, assist with problem situations, and provide or coordinate technical expertise, when applicable;
- q. Interpret, explain, and ensure compliance with all applicable codes, laws, rules/regulations and adherence to established safety procedures;
- r. Monitor work environment and use of safety equipment to ensure the safety of employees and other individuals;
- s. Initiate any actions necessary to correct deviations from or violations of policy or statute;
- t. Coordinate shift activities and exchange of pertinent information with other shifts, departments, jurisdictions, or outside agencies;
- u. Perform administrative functions;

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- v. Generate required reports in a timely manner;
- w. Review various reports generated by staff within assigned shift/unit;
- x. Review/approve leave and overtime;
- y. Prepare employee performance evaluations and probationary releases;
- z. Assist with general law enforcement functions as needed;
- aa. Monitor radio traffic and give instructions over the police radio;
- bb. Maintain a high visibility in the community;
- cc. Ensure inspections of police vehicles, uniforms, weapons, and equipment are completed and documentation of such is submitted to the appropriate chain of command;
- dd. Coordinate the assignment of vehicles or equipment to officers and follow-up on any non-compliance of maintenance and/or repair work of vehicles and equipment; and
- ee. Perform other duties as assigned.

#### **C. Non-Sworn Supervisor Responsibilities**

- a. Review and verify the accuracy of all necessary documents and electronic documents regarding payroll for employees under their command;
- b. Develop, implement, monitor and adjust employee work schedules to meet normal and emergency requirements;
- c. Communicate important or necessary information (pass-down) to the next shift and inform Commanders of significant incidents in a timely manner;
- d. Review, approve, and correct reports when necessary;
- e. Investigate and report alleged incidents of misconduct or violations of policy to their chain of command;
- f. Supervise activities to ensure that the employees working under their direction perform their assigned duties and take corrective action as required;
- g. Provide leadership, motivation and guidance to employees;
- h. Respond to employee complaints or problems;
- i. Assist with career planning strategies;
- j. Monitor work environment and use of safety equipment to ensure the safety of employees and other individuals;
- k. Coordinate the exchange of pertinent information with other shifts, departments, jurisdictions, or outside agencies;
- l. Generate required reports in a timely manner;
- m. Prepare employee performance evaluations and probationary releases;
- n. Participate in the hiring process for vacant non-sworn positions;
- o. Participate in the review and writing of any unit specific policies or manuals;

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- p. Perform other duties as assigned.

**1.4.4 SUPERVISOR ACCOUNTABILITY**

A. Reporting misconduct

1. Supervisors shall promptly address, document, and report all employee misconduct through their chain of command. For purposes of this rule, "misconduct" is defined in the appendix.
2. Any incident where there may be a question as to the Department's liability, incidents which may constitute sufficient and just cause for immediate suspension or termination under the City Personnel Code or incidents that may result in a heightened community interest must be reported through the chain of command to the Chief of Police or designee without delay. <11.4.5>

B. Failure to report

Supervisors who fail to document and report misconduct may be subject to disciplinary action of the same type and level or greater as the employee would receive for the misconduct that the supervisor failed to document and report.

**TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL  
2.4 RECORDING DEVICES AND IMAGING EQUIPMENT**

<b>SUBJECT: Recording Devices and Imaging Equipment</b>		
<b>2.4</b>	<b>EFFECTIVE:</b> 10/21/2019	<i>William Cochran</i> William Cochran, Chief of Police
	<b>REVISED:</b> 11/01/2019	
	<b>TOTAL PAGES:</b> 7	
<b>CALEA:</b> 41.3.8		

**2.4.1 PURPOSE**

The Department uses digital recording and control equipment for the following purposes:

1. To record encounters with citizens;
2. To document events or evidence;
3. To assist with reports;
4. To assist with court testimony;
5. To enhance training; and
6. To protect and defend against civil litigation and allegations of misconduct.

**2.4.2 POLICY**

Recording devices and imaging equipment are valuable tools for law enforcement officers to document department interactions with citizens and collect evidence. They will be used in accordance with established procedures and applicable laws.

**2.4.3 PROCEDURE**

A. General guidelines and authority for the use of audio and video equipment. <41.3.8.b>

1. Department authorized digital recording devices and recordings are the exclusive property of the Topeka Police Department.
2. The use of privately-owned BWC systems is not authorized and shall not be permitted.
3. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner recordings without prior written authorization and approval of the Chief of Police or his or her designee
4. Officers shall adhere to the operational objectives outlined in this policy in order to maximize effectiveness and protect the integrity of video and audio evidence and documentation.

B. Department review

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1. Media recordings may be reviewed by supervisors under the following circumstances:
  - a. To investigate a complaint against an officer or a specific incident in which the officer was involved;
  - b. During the course of Departmental review of officer-involved pursuits, defensive actions, accidents;
  - c. While an officer is on a probationary period after being released by the Field Training Supervisor (FTS) board; or
  - d. When authorized by the Chief of Police.
2. Media recordings may be reviewed by detectives during the course of a criminal investigation.

**C. Assigned personnel**

1. All personnel who are assigned a BWC shall complete Department approved training in the operation of the BWC system.
2. Officers, supervisors and field commanders who operate in a primarily uniformed capacity with focus on arrest & enforcement activities will be issued a BWC, as determined by the Chief of Police or his designee and shall be required to follow all procedures and protocols of this policy.
3. Officers working extra duty employment as defined in 3.2 (Secondary Employment and Law Enforcement Actions) will use a BWC. Officers whose primary on-duty assignment does not involve the use of a BWC will have one issued to them strictly for extra duty usage. Those officers assigned a BWC for their primary on duty assignment will be issued a secondary controller (Battery). The officer is responsible for the maintenance of this secondary battery for extra duty purposes.
4. Officers who leave their extra duty positions will be required to turn in the appropriate equipment issued whether the BWC or the secondary battery.

**D. Operating procedures**

1. Inspection of Equipment:
  - a. Each Officer who is issued digital recording equipment shall be responsible for maintaining all the assigned equipment.

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- b. Officers will inspect their recording equipment and ensure the camera is charged and operational prior to each shift. Cameras that are not functioning shall not be worn and shall be reported to a supervisor as soon as possible.
- c. If audio or video equipment is not functioning properly the officer will notify a supervisor and either complete an I.T. help desk ticket or submit a request for replacement depending on the type of equipment.

2. Modes of Operation:

- a. Normal (buffering) Mode - the BWC system continuously loops video for 30 seconds and records video only (no audio) while buffering.
- b. Event Mode - when activated the BWC system saves the buffered video, and continues recording video and audio for approximately 8 hours depending on the settings and battery charge.

E. Recording protocol

1. Officers shall activate the BWC to record all calls for service and during all law enforcement related encounters and activities that occur while the officer is on duty or during the course of extra duty except where doing so would be unsafe, impossible, or impractical.
2. Examples of "law enforcement related encounters and activities that occur while the officer is on duty or during the course of extra duty" include:
  - a. Traffic stops;
  - b. Investigative detentions;
  - c. Arrests;
  - d. Searches;
  - e. Pursuits;
  - f. When operating a vehicle in emergency mode (lights and siren activated);
  - g. Execution of any warrant or forced entry into a residence or other structure;
  - h. Interviews or Interrogations; and
  - i. Any encounter with the public that becomes adversarial in nature after the initial contact.
3. Obtaining the subject's consent to the recording is not required.
4. A BWC shall be used to record the victim's statement in all cases involving allegations of domestic violence.

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5. Once activated, the BWC shall remain in Event Mode until the conclusion of the contact, the officer has left the scene, or a supervisor has authorized that a recording may cease.
6. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document either on camera or in their report why a recording was not made, was interrupted, or was terminated.
7. If it is necessary to discuss issues or concerns with another officer or supervisor in private, the BWC may be turned off. The intention to stop the recording should be noted by the officer verbally on camera.
8. As soon as the private conversation is completed, the BWC should be returned to Event Mode. Officers should remember that when it is turned back on the prior 30 seconds of video will be saved but not the audio portion.
9. Civilians shall not be allowed to review the recordings at the scene.

**F. Exceptions to recording protocol**

1. Officers may deactivate a BWC to record conversations with witnesses or members of the public who wish to report or discuss criminal activity or share information.
2. If a BWC is deactivated as described above, officers should note the reason on camera prior to deactivation.
3. No officer shall activate a BWC to record:
  - a. Personal activity by the officer;
  - b. Conversations with confidential informants or undercover officers;
  - c. Strip searches;
  - d. Conversations with Department personnel that involve tactics or strategy;
3. No officer should activate a BWC to record places where an expectation of privacy exists, such as bathrooms or dressing rooms, where such areas are being used for the intended purpose;
5. No officer shall activate any recording device with the intent to record conversations of fellow employees without their knowledge during routine, non-enforcement related activities.

**G. Download and storage**

1. All videos will automatically label by CAD/RMS Integration standards and will include a category and incident/case number for officers on dispatched calls. For officers who are not on a dispatched call, the officer shall mark each BWC video capture with the incident/case number and one of the categories available on the system.

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### **2.4 RECORDING DEVICES AND IMAGING EQUIPMENT**

2. If there is a case number associated with the event that the officer has recorded video/audio, that number shall be attached to the video/audio clip.
3. Officers shall document in reports or citations if a BWC or other recording device was utilized during the incident.
4. Officers should review portions of a recording to assist with an investigation and complete reports. For a BWC, this can be done directly from the wireless smart phone or through Evidence.com.
5. When an incident arises that requires the immediate retrieval of BWC video media for chain of custody purposes (serious crime scenes, officer involved shootings, Department involved motor vehicle accidents or others as determined by supervisors) a supervisor shall respond to the scene and secure the BWC.
6. Media storage for the BWC:
  - a. At the end of shift officers shall place the BWC into the Evidence Transfer Manager (ETM) for charging and uploading of media to Evidence.com. This also applies to extra duty officers who have used police powers. If there was no use of police powers the BWC can be uploaded at the officer's next shift.
  - b. The BWC should not be removed until media has been completely uploaded.
  - c. Officers who use force during extra duty assignments must upload BWC immediately after their extra duty.
7. Digital Photo and Evidence Operation:
  - a. At the start of each shift, FOB officers will ensure the cellular phone assigned is present in the vehicle. Officers will immediately notify a supervisor if the assigned phone is missing.
  - b. Officers will utilize the AXON Capture Application on Departmental phones to photograph crime scene photos where CSI is not utilized.
  - c. Personnel not assigned a BWC will utilize AXON Capture Application to audio record interviews utilizing a departmental phone. Detectives will also use AXON Capture Application to capture photos and videos of crime scenes or evidence.
  - d. All digital evidence processed with AXON Capture Application will be labeled and categorized with current practices. All evidence will be stored on Evidence. Com with BWC videos.
  - e. Digital photos may be downloaded and utilized by detectives through Evidence.com for criminal investigations.
8. Interview Room Recording
  - a. Any officer may choose to use the interview rooms and record interviews.

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- b. Activation of the recording device is done by selecting the appropriate system for the interview room in use.
- c. The interviewer should confirm that the recording is active before the interview and that the recording has stopped upon completion.
- d. Prior to entry of legal counsel into an interview room, the interviewer will:
  - 1) Offer to take the attorney and his/her client to an alternate room that is not recorded; or
  - 2) Offer to turn the recording off for the attorney-client privileged conversations.
- e. If trained, it is the responsibility of the interviewer to copy the interview to disc. If not trained in copying the video to disc, the interviewer should contact trained personnel to request a disc be made.
- f. All detectives will be trained in the use of the recording system and copying of video to disc.
- g. A CD/DVD of evidentiary interviews will be submitted to TPD Property. With commander approval, other copies may be made to fulfill case investigation and prosecution requirements.

**H. Media recording control and dissemination**

- 1. BWC video retention process: <41.3.8.c>
  - a. BWC video/audio is retained on Evidence.com according to the classification assigned;
  - b. If BWC media requires copying to a disc it may be done through a work request to CSI or other administrative personnel with download rights; and
  - c. Media retention schedule for each classification on Evidence.com will be set as follows:
    - 1) Non Evidence-3 years;
    - 2) Evidence - 5 years
    - 3) Homicide- Indefinitely or until such time digital storage is moved from current vendor to new solution
- 2. Media requests from District or City Attorney Offices.
  - a. Requests for viewing or duplicating recordings should include specific information such as type incident, date, time, location, etc. and must come from the District or City Attorney offices.
  - b. CSI will make a copy of the specific segment recording requested and send it to the appropriate office. Duplicate recording labels will indicate Topeka Police Department, the date of duplication, and a

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**2.4 RECORDING DEVICES AND IMAGING EQUIPMENT**

statement that further duplication or distribution without express written consent of the District or City Attorney offices is prohibited.

- I. Supervisor responsibilities
  1. Enforce policy and procedure governing the use of all digital recording and control equipment.
  2. Review video or audio recordings for officer-involved pursuits, defensive actions, accidents, etc.
  3. Review video or audio recordings to address training needs and ensure policy compliance.
  4. Will document on their activity sheet any system failures reported to them.

**TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL**  
**3.13 EARLY AWARENESS INTERVENTION PROGRAM**

<b>SUBJECT: Early Awareness Intervention Program</b>		
<b>3.13</b>	<b>EFFECTIVE:</b> 4-18-2019	<i>William Cochran</i> William Cochran, Chief of Police
	<b>REVISED:</b> 4-4-2019	
	<b>TOTAL PAGES:</b> 4	

**3.13.1 PURPOSE**

The purpose of the Early Awareness Intervention Program (EAIP) is to assist supervisors in identifying incidents and patterns that could lead to employee hardships and/or misconduct in the workplace and, where appropriate, may require assistance efforts.

**3.13.2 POLICY**

This policy is intended to assist police supervisors in identifying employees whose performance warrants review and, where appropriate, intervention. This program is to be maintained and held separate of discipline. Employees experiencing mental or emotional problems should receive support and not censure from fellow employees.

**3.13.3 PROCEDURE**

A. Problem Identification

1. Employees who are experiencing personal or work related difficulties may exhibit an unusually high incidence of certain behaviors. To assist in the timely identification of employees who are potentially at risk, the Department will monitor several specific behaviors and indicators. The behavioral indicators and incidents which will be tracked include:
  - a. Citizen complaints/citizen inquiries/internal investigations/line investigations;
  - b. Use of Force/Show of Force incidents;
  - c. Disciplinary actions; and
  - d. On-duty injuries.
  
2. IAPro generates an alert when an employee reaches established numerical thresholds in any identified area. Alerts are forwarded by PSU to the Bureau Commander of the involved employee through Blue Team. Indicator thresholds are met if the employee is found to have the following number of incidents in the six month reporting period:
  - a. Ten or more separate uses of sick leave;
  - b. Two or more on duty injuries;
  - c. Two or more disciplinary actions;

**TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL**  
**3.13 EARLY AWARENESS INTERVENTION PROGRAM**

- d. Two or more PSU complaints/inquiries/investigations.
- 3. Indicator thresholds are met if the employee is found to have three or more use of force/show of force incidents in one month.
- 4. Indicator thresholds are met if the employee is found to have twenty or more indicators in any combination of the items previously outlined in 3.13.3.A(2) and (3).

**B. Blue Team and IAPro**

- 1. Behavioral indicators and incidents identified above will be tracked through Blue Team and IAPro.
- 2. Indicator information shall be entered into the Blue Team or IAPro by the approved users.
- 3. Bureau Commanders may provide a print out of specific information from the IAPro at the request of a supervisor.
- 4. IAPro is maintained by PSU. Bureau Commanders can request and shall be provided data as it relates to employees in their respective bureau; unless otherwise directed by the Chief or Deputy Chief.
- 5. All EAIP actions and documentation are classified as personnel files and as such, are closed under the Kansas Open Records Act.

**C. Intervention Process**

- 1. If after a review of information contained in Blue Team or IAPro the Bureau Commander believes that intervention may be warranted, the Chief of Police will be notified that an employee has been identified.
- 2. A conference shall be convened among the following individuals to decide appropriate intervention and develop an intervention plan:
  - a. The employee's Bureau Commander;
  - b. The employee's Field or Unit Commander; and
  - c. The employee's immediate supervisor.
- 3. Other information, not tracked in the Blue Team or IAPro, may be considered when developing an intervention plan. Information related to an employee's personal life may directly impact the employee's work performance. Areas not tracked, but that should be considered when developing a successful intervention plan include:
  - a. Off-duty employment;
  - b. Credit concerns;
  - c. Domestic relationships;
  - d. Amount of other accrued leave use; and
  - e. Health issues to include those not related to work.

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4. If intervention is found to be unnecessary, the Bureau Commander shall document the results of the conference. That documentation will be archived by Professional Standards for three years.
5. In the event that intervention is determined to be necessary, action should be taken that has the greatest likelihood for success. Such actions may include;
  - a. Supervisory consultation. However, when supervisory consultation is not successful the employee may be referred to an occupational psychologist or other professional for evaluation and/or counseling with Chief's office approval.
  - b. Change of assignment within current contractual provisions;
  - c. Training, which may include but is not limited to the following subject areas:
    - 1) Stress management;
    - 2) Anger management;
    - 3) Interpersonal communication skills;
    - 4) Use of Force/Show of Force actions;
    - 5) Custody and control; or
    - 6) Defensive driving.
  - d. Voluntary referral to service providers (such as the City's EAP, private counseling, etc.) in accordance with labor contract provisions or City of Topeka Human Resources Policy; and/or
  - e. Other actions as deemed appropriate.
6. The Chief and Deputy Chief shall be notified of the results of the conference.
7. Employees, when practical, shall be allowed scheduled time to complete the established intervention plan.
8. The employee's immediate supervisor shall ensure completion of all parts of the intervention plan with the exception of tracking voluntary referrals to outside service providers.

**D. Follow Up and Monitoring**

1. To ensure the success of the intervention plan, the assigned supervisor shall be responsible for:
  - a. Monitoring and follow-up for a period of 90 days. Such responsibilities will include:
    - 1) Monitoring the employee's behavior to determine if the same or similar behavior occurs; and
    - 2) Follow up with the employee to determine if the underlying, causal issue remains a problem.

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- b. Preparing a written report, forwarded through the chain of command to the Chief, outlining the intervention steps taken and the success of those steps over the 90 day period.
- 2. Professional Standards shall maintain records of Early Intervention assessments and intervention actions.

E. Annual Review

The Deputy Chief shall prepare a documented evaluation of the Early Intervention system annually.

**TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL  
4.2 USE OF FORCE**

<b>SUBJECT: Use of Force</b>		
<b>4.2</b>	<b>EFFECTIVE:</b> 7-22-19	<i>William Cochran</i> William Cochran, Chief of Police
	<b>REVISED:</b> 7-8-19	
	<b>TOTAL PAGES:</b> 10	
<b>CALEA:</b> 1.2.1; 1.3.1; 1.3.2; 1.3.3; 1.3.4; 1.3.5; 1.3.6; 1.3.10		

**4.2.1 PURPOSE**

This policy outlines the Department’s core principles and rules relating to the use of force. The Department recognizes that officers will at times face unique and challenging circumstances not specifically addressed in this policy. Officers are expected to apply these core principles and act reasonably in all situations.

Every Officer of the Department is sworn to uphold the Constitution and Laws of the United States and the State of Kansas. The Department respects the value of human life and recognizes the civil rights and dignity of all individuals while protecting the public welfare and maintaining civil order.

It is the policy of the Department to accomplish the police mission with the cooperation of the public and as effectively as possible, and with as little reliance upon the use of physical force as possible.

Each sworn employee is expected to treat others with respect and professionalism even when force is necessary.

Officers who violate these values by using unreasonable force degrade the confidence of the community, violate the rights of individuals upon whom unreasonable force is used, and may expose the Department and fellow officers to legal and physical hazards.

Conversely, officers who fail to use force, in both timeliness and amount, when it is necessary may endanger themselves, fellow officers, and the community.

**4.2.2 POLICY <1.3.1>**

It is the policy of the Topeka Police Department that officers use only the force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and others. The components of this policy serve to guide the officer’s decision making when confronted with resistance.

# TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

## 4.2 USE OF FORCE

Members of the Department are authorized to use only the amount of force reasonably necessary to accomplish lawful objectives. This authorization to use physical force ends when the resistance encountered from the subject ceases and/or the officer has accomplished the purpose necessitating the use of force.

All members of the Department shall abide by the following general requirements:

A. Officers shall use advisements, warnings, and verbal persuasion, when possible, before resorting to physical force;

B. Physical force shall be de-escalated as resistance from the subject decreases;

C. Officer shall allow subjects time to submit to arrest or comply with orders before physical force is used wherever possible.

### 4.2.3 DEFINITIONS <1.3.2>

**Deadly Force** – the application of any physical force which is likely to cause death or great bodily harm to a person

**Force** – any or all of the following directed at or upon another person or thing: (A) words or actions that reasonably convey the threat of force, including threats to cause death or great bodily harm to a person; (B) the presentation or display of the means of force; or (C) the application of physical force, including by a weapon or through the actions of another.

This term includes the discharge of a firearm or ECD, pointing of a firearm or ECD in the direction of a human being, use of chemical spray, taking of a subject to the ground or deployment of a canine. The term does not include escorting or the non-resistive handcuffing of a subject.

### 4.2.4 GRAHAM V. CONNOR SUPREME COURT CASE

A. *Graham v. Connor*, 490 U.S. 386 (1989) and the Objectively Reasonable Standard.

1. All officers shall use only the degree of force that is objectively reasonable under the totality of circumstances as established by *Graham v. Connor*, 490 U.S. 386 (1989). Factors when determining reasonableness must include at a minimum:
  - a. The severity of the crime at issue;
  - b. Whether the suspect poses an immediate threat to the safety of officers or others; and
  - c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

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2. The reasonableness of a particular use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer and the governmental interests involved against the rights of the individual, in light of the circumstances surrounding the event. For further guidance, see section 4.2.6.
3. The calculus of reasonableness must allow for the fact that police officers are often forced to make split-second decisions—in circumstances that are tense, uncertain, dynamic and rapidly evolving—about the amount of force that is necessary in a particular situation.
4. The reasonableness inquiry in a use of force case is an objective one: whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.
5. It must also be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.
6. The level of force applied must reflect the totality of circumstances surrounding the situation, including the presence of imminent danger to officers or others. Reasonable force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be objectively reasonable and necessary to counter it.

### 4.2.5 DE-ESCALATION

- A. De-escalation tactics and techniques are actions used by officers, when safe and without compromising law enforcement priorities that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance.
- B. It is recognized that the level of resistance or non-compliance by a suspect generally dictates the need for and type of force used by an officer to bring a situation under control. It is further recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force.
- C. However, when safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution.
- D. When time and circumstances reasonably permit, officers shall consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:
  1. Medical conditions;
  2. Mental impairment;

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## 4.2 USE OF FORCE

3. Developmental disability;
  4. Physical limitation;
  5. Language barrier;
  6. Drug interaction; and/or
  7. Behavioral crisis.
- E. An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.
- F. Mitigating the immediacy of threat gives officers time to utilize extra resources and increases time available to call more officers or specialty units.
- G. The number of officers on scene may increase the available force options and may increase the ability to reduce the overall force used.
- H. De-escalation examples may include when possible:
1. Placing barriers between an uncooperative subject and an officer;
  2. Containing a threat;
  3. Moving from a position that exposes officers to potential threats to a safer position;
  4. Decreasing the exposure to potential threat by using distance, cover and concealment;
  5. Communication from a safe position intended to gain the subject's compliance, using verbal persuasion, advisements or warnings;
  6. Using verbal techniques to calm an agitated subject;
  7. Calling for extra resources or officers to assist, including CIT officers; and/or
  8. Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject.

### 4.2.6 USE OF FORCE - IN GENERAL

#### A. General Considerations

1. When and to the extent reasonably possible, officers shall attempt to use communication skills in a genuine attempt at verbal persuasion before resorting to physical control methods.
2. Officers shall not carry Department authorized weapons unless they have received Department training in the use of such weapons and demonstrated required levels of proficiency with them. <1.3.10>
3. Only Department authorized weapons and tactical equipment may be carried and used in exercising police powers. See policy on authorized Weapons.

## TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

### 4.2 USE OF FORCE

B. Officers may use reasonable force to:

1. Protect themselves from injury;
2. Protect others from injury;
3. Effect a lawful detention or arrest; or
4. Conduct a lawful search.

C. Additional factors to be considered in determining the objective reasonableness of force include, but are not limited to:

1. Immediacy and severity of the threat to officers or others;
2. The conduct of the individual being confronted, as reasonably perceived by the officer at the time;
3. Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects);
4. The effects of drugs or alcohol;
5. Individual's mental state or capacity;
6. Proximity of weapons or dangerous improvised devices;
7. The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained;
8. The availability of other options and their possible effectiveness;
9. Seriousness of the suspected offense or reason for contact with the individual;
10. Training and experience of the officer;
11. Potential for injury to officers, suspects and others;
12. Whether the individual appears to be resisting, attempting to evade arrest by flight or is attacking the officer;
13. The risk and reasonably foreseeable consequences of escape;
14. The apparent need for immediate control of the individual or a prompt resolution of the situation;
15. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others;
16. Prior contacts with the individual or awareness of any propensity for violence; and
17. Any other exigent circumstances.

D. All officers shall be issued a copy of this Order. The Training Section shall give instruction on this Order before authorizing officers to carry and use lethal or less lethal weapons. The Training Section shall document the certification and recertification. <1.3.12>

#### 4.2.7 NON-DEADLY FORCE-GENERAL <1.3.4>

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## 4.2 USE OF FORCE

Non-deadly force is any use of force other than that which is considered likely to cause death or great bodily harm. Non-deadly force includes any physical effort used to control, restrain, or overcome that resistance of another.

- A. Flashlights or other similar instruments may only be used as an impact weapon when the officer has been trained in the use of baton and then must be used in a manner consistent with baton training. If the baton can be accessed and used without sacrifice of tactical advantage, it shall be used rather than an alternate impact weapon.
- B. The head, neck, throat, spine, heart, kidneys and groin shall not be intentionally targeted with impact weapons except when deadly force is authorized. Head strikes with impact weapons are prohibited except when deadly force is authorized.
- C. Other equipment not used and/or authorized by the Department as an approved weapon will not be used as a weapon unless exigent circumstances are present justifying the application.
- D. Except when articulable circumstances exist and the force is objectively reasonable, officers shall apply techniques authorized by the Department.

### 4.2.8 DEADLY FORCE <1.3.2>

- A. Under KSA 21-5221, deadly force means the application of any physical force which is likely to cause death or great bodily harm to a person. Any threat to cause death or great bodily harm, including, but not limited to, the display or production of a weapon, shall not constitute use of deadly force, so long as the officer's purpose is limited to creating an apprehension that the officer will, if necessary, use deadly force in defense of him or herself or another or to affect a lawful arrest.
- B. An officer is justified in using deadly force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to the officer or another person.
- C. Deadly force may be used when an officer reasonably believes that deadly force is necessary to prevent an arrest from being defeated by resistance or escape and the officer has probable cause to believe that the person to be arrested:
  - 1. Has committed or attempted to commit a felony involving death or great bodily harm; or
  - 2. Is attempting to escape by the use of a deadly weapon; or

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### **4.2 USE OF FORCE**

3. Is otherwise indicating that such person will endanger human life or inflict great bodily harm unless arrested without delay. (Note: Simply fleeing in a vehicle, even at high speeds, does not implicate this subsection.)
- D. If deadly force is authorized and to be used against a fleeing suspect, the officer shall give the suspect some verbal warning, if feasible, before using deadly force.

#### **4.2.9 FIREARMS**

- A. Officers shall not discharge a firearm solely to disable a moving vehicle.
- B. Officers shall not discharge a firearm at a moving vehicle unless the occupant(s) of the vehicle is using deadly force against the officer or another person and the officer reasonably believes that no other option is reasonably available for self-defense or to protect another person. The exception to this for a fleeing felon is covered under the Deadly Force section (4.2.8) of this policy.
- C. Officers shall not intentionally place themselves in the path of a moving vehicle. Where possible the officer shall attempt to move out of the path of a moving vehicle rather than discharge their weapon to stop the vehicle. Officers shall not shoot at any part of a vehicle in an attempt to disable the vehicle.
- D. Warning shots or shots fired for the purpose of summoning aid are prohibited.  
<1.3.3>
- E. Officers shall not use a firearm as an impact weapon, i.e. "pistol whip" a subject or using the firearm as a club, except in situations where deadly force would be authorized.
- F. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create an objectively reasonable belief that a situation may escalate to the point at which deadly force would be authorized. Once an officer determines that the potential for deadly force has passed, the officer shall re-holster the weapon.

#### **4.2.10 MEDICAL ASSISTANCE <1.3.5>**

- A. Pre-Incident Medical Response Request. When officers have reason to believe they are responding to a situation that will likely necessitate emergency medical services, they should make reasonable efforts to request such services in advance.

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### 4.2 USE OF FORCE

- B. Emergency medical services shall be contacted if a subject is reasonably perceived to:
1. Exhibit signs of medical distress;
  2. Lose consciousness or become unresponsive;
  3. Suffer an obvious injury;
  4. Complain of pain;
  5. Not appear to recover properly and promptly after force-involved incident;  
or
  6. Exhibit signs of extreme uncontrolled agitation or hyperactivity prior to the use of force.
- C. Subjects shall be transported to a medical facility by officer or ambulance when:
- 1 The individual has suffered potentially serious injuries prior to the arrival of law enforcement personnel;
  - 2 The application of force by an officer causes more than a superficial injury which cannot be treated at the scene by AMR personnel;
  - 3 The arrestee suffers a severe injury from a police canine bite(s);
  - 4 There is a reasonable risk of internal injuries that may not be visibly apparent;
  - 5 The officer is advised by AMR personnel that the arrestee should be examined at a medical facility;
  - 6 The arrestee has a wound which is the result of a gunshot or other use of potentially deadly force;
  - 7 If a subject is exposed to more than one cycle of the ECD (probe deployment or drive stun);
  - 8 A subject complains of internal injuries not noticeable or trouble breathing; or
  - 9 When there is any doubt about an arrestee's physical condition.
- D. After contacting medical aid, officers will take appropriate measures as they are trained, equipped, and certified to take. These actions may include:
1. Increased observation of the subject for obvious changes in condition.
  2. Apply first aid as they are trained, equipped, and certified to apply; and
  3. Secure the scene to reasonably protect the subject from further injury.
- E. Officers will not refuse medical treatment to anyone who requests it as long as the scene is safe for the officer(s) to enter.
- F. If safety circumstances reasonably dictate moving the subject to another location, officers may arrange to have emergency medical personnel meet the officers and the subject at another location to assess the subject and render care.
- G. If emergency medical care or transport is not reasonably available, or if the perceived response delay appears excessive, then the subject may be transported by the officers for medical evaluation (when practical and possible avoiding face-down (i.e. prone) transport).

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## 4.2 USE OF FORCE

H. If a subject refuses additional medical attention; that refusal should be documented.

### 4.2.11 REPORTING REQUIREMENTS <1.3.6>

Officers and supervisors shall refer to department policy, 4.3 Use of Force Reporting and Review Team for more detailed information on completion of required reports.

### 4.2.12 PROHIBITED USES OF FORCE

- A. Officers shall not use force to attempt to effect compliance with an order or command that is clearly unlawful.
- B. Officers shall not use physical force against an individual who only verbally confronts them unless the vocalization impedes a legitimate law enforcement purpose.
- C. Officers shall not use force on restrained subjects except when the subject's actions must be immediately stopped to prevent injury, escape, or destruction of property.
- D. Officers shall follow all relevant federal and state laws regarding the use of force and any applicable judicial decisions interpreting these provisions or constitutional limitations. Relevant state statutes are found at KSA 21-5220 through 21-5231.
- E. Officers shall not use any type of neck restraint or chokehold, unless deadly force would be authorized.
- F. Binding the hands and legs together followed by bending the legs up and securing them to the hands or "Hog-tying" is prohibited.

### 4.2.13 DUTY TO INTERVENE

- A. Officers are expected to use independent articulable objectively reasonable force when making decisions regarding the need and appropriateness of the force to be used.
- B. Any officer present and observing another officer using force that is obviously illegal or clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, safely intercede to prevent the use of such force. The action required by the officer will depend on the circumstances of the incident. Appropriate action may include, but is not limited to:
  - 1. Verbal or physical intervention;

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## 4.2 USE OF FORCE

2. Immediate notification to a supervisor; and/or
3. A direct order by a supervisor to cease the use of force.

### 4.2.14 DANGEROUS ANIMALS

- A. During encounters with animals, officers are authorized to use only the degree of force that reasonably appears necessary to protect themselves or others from bodily harm.
- B. Force Prevention.
  1. Officers should be aware of the possible presence of canines during routine calls for service, particularly those at residences.
  2. Information on the presence of canines may be obtained via:
    - a. Information collected from the caller by the dispatcher;
    - b. Visual sighting or audible barking on the premises; and
    - c. Observation of posted warning signs; fenced yards with water and feeding bowls; dog houses and/or chains; and worn paths along the perimeter of fencing.
  3. Where fences must be entered to approach a residence or commercial establishment, when possible rattling a chain fence or knocking on a wooden fence may bring a canine out in the open that may not otherwise be visible.
  4. When unattended, unsecured canines on the property may appear aggressive, and officers may remain in their vehicle and contact the residence by phone, or request such contact by the dispatcher in order to direct the owner or occupant to secure the pet.
  5. Animal control officers may be summoned to assist in containing or controlling a canine when necessary.
  6. Before entering a residence, officers may ask if a canine is present and, if so, request that the animal be secured prior to entering.
- C. Officers are authorized to use firearms to stop an animal in circumstances in which the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.
- D. Officers must be cognizant of the surroundings when shooting at an animal and ensure there is no risk to people in the area. Under circumstances in which officers have sufficient advance notice that a potentially dangerous animal may be encountered, officers should develop reasonable contingency plans for dealing with the animal (e.g., OC spray, baton, ECD, animal control officer, etc.).
- E. Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed

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or becomes impractical.

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**4.3 USE OF FORCE REPORTING AND REVIEW TEAM**

<b>SUBJECT: Use of Force Reporting and Review Team</b>		
<b>4.3</b>	<b>EFFECTIVE:</b> 10/14/2019	<i>William Cochran</i> William Cochran, Chief of Police
	<b>REVISED:</b> 09/30/2019	
	<b>TOTAL PAGES:</b> 6	
<b>CALEA:</b> 1.3.7; 1.3.8; 1.3.13		

**4.3.1 PURPOSE**

The purpose of this Order is to set forth the requirements for reporting and investigating an incident in which an officer used a reportable level of force and to ensure that such incidents are thoroughly investigated and reviewed in a fair and impartial manner.

**4.3.2 POLICY**

It is the policy of this Department that every reportable use of force by an officer be reported accurately, completely and promptly. Every reportable use of force shall be investigated thoroughly and with professionalism and impartiality to determine if the officer actions conforms to the law, complies with Departmental policies and is consistent with Departmental training standards.

**4.3.3 PROCEDURE**

A. A Supervisor will complete a Use of Force Report in Blue Team when it is determined that officer(s) have:

1. Used active pointing of a firearm or Electronic Control Device (ECD) to gain compliance;
2. Used any intermediate weapon. This includes such weapons as:
  - a. PR-24;
  - b. Baton;
  - c. Pepper spray;
  - d. Electronic Control Device (ECD);
  - e. Impact Munitions; or
  - f. Empty hand strikes.
3. Used of the following techniques:
  - a. Single cross face;
  - b. Double cross face;

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### 4.3 USE OF FORCE REPORTING AND REVIEW TEAM

- c. Dynamic take downs;
    - d. Ground control tactics;
    - e. Palm mastoid;
    - f. Shin pin; or
    - g. Thigh lock.
  4. Taken any other intentional use of force that results in:
    - a. Any bodily injury
    - b. Complaint of injury by the subject
    - c. Likelihood of injury (based on circumstances) to the subject
  5. Shot at an aggressive or vicious animal in defense of officer or others that will require a supervisor to complete a firearms discharge report in Blue Team.
- B. Minor pain, redness or abrasions without any complaint of internal injury are not considered injuries for the purpose of reporting. Open wounds with bleeding or any condition requiring medical clearance before admission into a correctional facility would be considered an injury.
- C. Other Use of Force Reporting considerations
  1. Unintentional or accidental discharge of a weapon may or may not be a Use of Force action depending on the circumstances. It will be documented on an Incident Report and a detailed Supplemental Report with full supervisory inquiry and documentation when the incident does not require a use of force report.
  2. Humanely destroying animals does not require a Use of Force Report. Officers will notify supervisor to have a firearms discharge report in Blue Team for this.
  3. Response Team: The Chief of Police or designee may authorize members of the Topeka Police Response Team to use special weapons, equipment, and tactics deemed necessary for the performance of their duties. Active pointing of firearms in Response Team situations shall be documented in the Response Team's After Action Report. All other use of force actions will be handled in accordance with above policies.
- D. Immediate Supervisor Investigation
  1. In each incident in which a Use of Force Report is required an on-duty supervisor shall be immediately notified and called to the scene. Regardless of the number of officers involved, the supervisor will complete the Blue Team Report. The supervisor shall be responsible for investigating the

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circumstances surrounding the use of force, as well as initiating the guidelines below, as applicable;

- a. Officers will complete reports and narratives, and the supervisor will complete **ONE Blue Team report** for the incident attaching narratives, supervisor inquiry, photos, videos and a list of all officers involved.
- b. The supervisor shall ensure there is a case number assigned to the incident and all reports reference this same case number.
- c. The supervisor or designee shall examine the subject of the use of force for injury and ensure the subject receives medical attention as needed.
- d. The supervisor will attempt to interview the subject for complaints of pain. The subject will be advised the interview pertains only to the administrative use of force and not to any underlying alleged criminal inquiry. The following statement will be read to the subject prior to the administrative interview:
  - 1). **“This is an administrative interview to determine whether the officer(s) use of force complied with Department policy. The questions will be limited to the use of force by the officer(s) and any injuries you may have received. No questions will be asked at this time about any crime you are suspected of committing. Do you understand?”**
- e. The supervisor will interview any available witnesses regarding the circumstances of the incident, as well as the application of force. All statements shall be recorded unless circumstances make it impractical.
- f. The supervisor will ensure all officers involved in a use of force are interviewed separately. Supervisors will not ask officers or witnesses leading questions that suggest a legal justification for the officer’s conduct where such questions are contrary to appropriate law enforcement techniques
- g. All body worn camera (BWC) videos and any other recordings shall be reviewed by the supervisor for investigation purposes; and
- h. Digitally recorded items will be linked or attached to the report before forwarding to the next level for review.
- i. The supervisor shall identify and have collected all evidence relevant to the use of force and evaluate that evidence to determine whether the use of force
  1. was consistent with Department policy and/or
  2. suggests any policy, training, tactical or equipment concerns.

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2. Off-duty officers acting in the capacity as an officer and involved in use of force situations are subject to the same reporting procedures as on-duty officers. When an off-duty officer is involved in a use of force situation, they will notify an on-duty police supervisor immediately.
3. No supervisor who participated in a use of force, in any manner, will conduct the investigation of that incident.
4. Supervisors shall ensure documentation when the harm, or complaint of harm, is not caused by the officer or the officer's actions, e.g., when the suspect sustains injury through his or her own actions, such as banging his or her head against a wall, kicking doors of a patrol car, etc.
5. Non-sworn employees may be involved in force incidents accidentally, unintentionally, or as justified by law. Any reportable use of force incident by a non-sworn employee will be immediately reported to their bureau commander. That bureau commander will then notify the Chief of Police.
6. The investigating supervisor will ensure all Use of Force reports include the information required by this policy; consider all relevant evidence, including circumstantial, direct and physical evidence as appropriate and make credibility determinations if feasible. Supervisors will make all reasonable efforts through the investigation to resolve material inconsistencies between the officer, subject, and witness statements, as well as inconsistencies between the level of force claimed by the officer and the subject's injuries and inconsistencies between multiple officers.
7. When a supervisor determines the use of force may be in violation of Department policy, the supervisor will immediately notify their chain of command. If the watch commander agrees that Department policy may have been violated, the watch commander shall immediately notify the Professional Standards Unit. Upon such notification, the Professional Standards Unit will determine if they should respond to the scene and/or conduct or take over the investigation.
8. All reports will be completed by the end of shift or at a time designated by the on-duty Field Commander.
  - a. When the supervisor review is completed, the investigating supervisor will provide a brief written synopsis and a preliminary determination of the appropriateness of the use of force within the BlueTeam report that is to be electronically forwarded to their immediate supervisor and subsequently through the chain of command to the Bureau Commander.
  - b. The Use of Force Report packet will be sent through the chain of command, with each level of command reviewing the use of force incident within 72 hours of receiving it. Reviewing supervisors will order

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additional investigation when it appears there is additional relevant evidence that may assist in resolving the inconsistencies or improve the reliability or credibility of the findings.

9. Investigating supervisors may be subject to disciplinary action for failing to adequately investigate and document a use of force incident as required by this policy.
  10. When a supervisor conducts a deficient investigation the supervisor will receive the appropriate corrective action including counseling, training or demotion in accordance with performance evaluation procedure and/or the disciplinary process.
  11. When the investigating supervisor, reviewing supervisor or Bureau Commander finds evidence of a use of force involving potential criminal conduct by an officer he or she will suspend the use of force investigation immediately and notify the Chief and the Professional Standards Unit.
  12. When criminal conduct by the officer(s) is suspected, the Professional Standards will immediately take over the administrative investigation and an outside agency should be considered to conduct the criminal investigation.
  13. When the Bureau Commander finds the investigation is complete and the findings are supported by a preponderance of the evidence, the investigation file will be promptly forwarded to the Professional Standards Unit. The Professional Standards Unit will review the investigation to ensure it is complete and the findings are supported by the evidence.
  14. When the Professional Standards review is complete, the completed file will be forwarded to the Chief of Police for disposition.
  15. The TPD Use of Force review board, including the City of Topeka independent reviewer will make their findings known to the Chief of Police.
  16. Where, after investigation of a use of force is found to be out of policy, the Chief will direct and ensure the appropriate disciplinary process.
  17. Where the use of force indicated policy, training, tactical or equipment concerns, the Chief will ensure also that necessary training is delivered and that policy, tactical or equipment concerns are resolved.
- E. The Department will train all investigating supervisors on how to effectively complete these tasks.

#### **4.3.4 SUSPECT'S ACTIONS**

- A. The Compliant Subject may exhibit any of the following:

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1. Immediate appropriate response to directions;
2. Slow but appropriate response to directions; and/or
3. Verbally resistant but physically compliant with lawful orders.

B. The Passive Resistant Subject is:

1. Peacefully failing to comply with directions;
2. Resisting with limp body weight only; and/or
3. Ignoring directions.

C. The Active Resistant Subject exhibits any of the following:

1. Psychological intimidation such as:
  - a. The “Blank Stare”;
  - b. “Mean Mugging”; and/or
  - c. Verbal abuse without physical compliance.
2. Physical resistance such as:
  - a. Resistive tension such as locked joints, flexed muscles, or rigid body resistance;
  - b. Moving away from control attempts such as:
    - (1) Moving behind barricades, cover or concealment;
    - (2) Attempts to elude on foot;
    - (3) Tucking arms and hands under body to avoid being handcuffed when on the ground; and/or
    - (4) Holding onto fixed objects for support, such as, the steering wheel, furniture, or doors.

D. The Assaultive Subject exhibits such behavior as:

1. Verbal aggression, and/or fighting language;
2. Attempts empty hand strikes at the officer;
3. Throwing objects at officer;
4. Maintains a fighting stance with clenched fists;
5. Threatens the officer while moving into the officer’s reactionary gap;
6. Physically attacking or pushing the officer in non-life endangering ways; and/or
7. Any other behaviors indicative of actively fighting or resisting the officer.

E. The Life Endangering Subject exhibits such behavior as:

1. Reaching or attempting to reach for a weapon (as reasonably perceived by officer);

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2. Aggravated assault with a weapon;
3. Attempting to disarm the officer of any defensive weapon;
4. Mounting excessive physical resistance, or is recognized as a skilled fighter;
5. Multiple suspects assaulting or battering the officer; and/or
6. Tackling or forcing the officer to the ground, which involves stomping, kicking, and/or strangling.

#### 4.3.5 USE OF FORCE REVIEW TEAM

A. The Use of Force Review Team will consist of members appointed by the Chief and two members appointed by the President of the FOP Lodge #3 as follows:

1. A Committee Chair of the rank of Major (OIC);
2. A Committee Co-chair of the rank of Captain or Lieutenant;
3. The Police Legal Advisor;
4. Six members consisting of:
  - a. The Range Master;
  - b. Defensive Tactics Instructor;
  - c. Two supervisors; and
  - d. Two members selected by the FOP president.

B. The Use of Force Review Team analysis shall include:

1. Regularly scheduled meetings to review all uses of force, except as outlined in 4.4 Deadly Force-Incident Procedure. The Use of Force Review Team may meet more frequently based on the number of reports to be reviewed if needed.
  - a. Use of Force actions should be analyzed from the perspective of an objectively reasonable officer at the scene with due allowance for the fact that law enforcement officers "are often forced to make split second judgments -- in circumstances that are tense, uncertain, and rapidly evolving." They should be judged without "20/20 hindsight." *Graham v. Conner*, 490 U.S. 386, 104 L.Ed.2d 443, 109 S.Ct. 1865 (1989).
  - b. Factors included in the analysis are, but not limited to:
    - 1) The severity of the crime at issue;
    - 2) Whether the suspect poses an immediate threat to the safety of officers and others; and
    - 3) Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.
2. An analysis report shall be submitted to the Chief's Office annually that will:
  - a. Seek to identify patterns or trends; and

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- b. Suggest training needs and policy modifications, if any.

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**4.4 Deadly Force – Incident Procedure**

<b>SUBJECT: Deadly Force – Incident Procedure</b>		
<b>4.4</b>	<b>EFFECTIVE:</b> 12-19-2018	<i>William Cochran</i> William Cochran, Chief of Police
	<b>REVISED:</b> 12-05-2018	
	<b>TOTAL PAGES:</b> 5	

**4.4.1 PURPOSE**

The purpose of this Order is to set forth the requirements for reporting and investigating an officer involved use of deadly force and to ensure that such incidents are thoroughly investigated in a fair and impartial manner.

**4.4.2 POLICY**

It is the policy of this Department that every use of deadly force involving an officer be reported accurately, completely and promptly. Every incident shall be investigated thoroughly with professionalism and impartiality to determine if the officer actions conforms to the laws, complies with Departmental policies and is consistent with Departmental training standards.

**4.4.3 PROCEDURE**

**A. Officer-Involved Shooting / Deadly Force Incident Procedure**

1. In the event of an officer-involved shooting, or other use of deadly force the following procedures will be followed by supervisors:
  - a. The officer(s) will be removed completely from the immediate scene and duty assignment as soon as reasonably possible;
  - b. If applicable the officer(s) will protect their weapons for examination. The officer will turn the weapon over to an investigator or supervisor. The armorer will issue a replacement weapon to the officer as soon as practical;
  - c. Proper chain of command notifications will be promptly made, including the Chief of Police;
  - d. A supervisor shall take custody of the officer's body worn camera (if equipped with one) and handle it according to proper procedures;
  - e. A supportive peer or supervisor should stay with the officer;
  - f. The officer will be returned to the scene only if deemed necessary and reasonable under the circumstances;
  - g. Prior to the administrative interview or administrative review, the applicable administrative processes shall be explained to the officer;

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### 4.4 Deadly Force – Incident Procedure

- h. If possible, the officer should be given some recovery time of two sleep cycles before detailed interviewing begins. The officer may be required to give a brief descriptive account of the event to investigators or supervisors immediately following the incident for public safety and/or proper crime scene management. Detailed departmental questioning shall be completed as quickly as possible following the recovery period;
  - i. If the officer is not injured, the officer, or if need be another Department representative, shall contact his or her family. Information will be provided to let the family know the basics of what happened.
  - j. If the officer is injured, appropriate emergency care will be rendered. The officer's family shall be contacted and a Department member will drive the family member(s), to the hospital;
  - k. Other officers at the scene shall be interviewed for signs of emotional trauma; and
  - l. A critical incident stress debriefing with a department psychologist is mandatory 24-48 hours after any officer provides a statement to outside agency investigator and, under the following circumstances:
    - a. Deadly force is used;
    - b. Any case involving serious bodily injury; or
    - c. When the Chief determines the incident requires the debriefing.
2. When an officer uses force that results in death or serious bodily injury or discharges his/her firearm at a person, the Kansas Bureau of Investigation (KBI) will conduct an investigation. If the KBI is not available, the investigation will be conducted by an outside agency as determined by the Chief of Police or designee. A department liaison, selected by the Chief of Police or designee, will be assigned to assist the investigating agency as needed.
  3. A designee by the Chief of Police will be assigned as a point of contact for the family of the deceased or injured to facilitate communication.
  4. A designee by the Chief of Police will be assigned to complete the Critical Incident Checklist, to ensure consistency in the departmental administrative processes related to the incident.

#### B. Report Documentation-Officer

1. When an officer uses deadly force, the officer shall file a written report detailing the incident. The following information shall be contained in the statement:
  - a. A detailed description of the words, actions and/or threat posed by the suspect warranting the need for force;
  - b. A description of the force used; and
  - c. Any subsequent actions taken by the officer.

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2. Any officer involved in a deadly force incident may be requested, as part of the criminal and/or administrative investigation, to submit to analysis of their blood or urine.

#### C. Day of the event

1. The supervisor on scene will advise dispatch to send command page to include the FOP President and Peer Support Program Manager.
2. Each officer involved in the critical incident will be assigned an officer on the scene. These officers are responsible for transporting the officer, one to a car, from the scene to the Law Enforcement Center and remain with them until relieved.
3. Officer(s) involved will be placed in a room that is not recorded or monitored.
4. While at the Law Enforcement Center an assistance employee, of their choice, will be made available to them.
5. The Topeka Fire Department and/or AMR may be called to the LEC to preliminarily check the general health/wellness of the officer(s) involved.
6. The employee shall complete his/her shift and may remain on-duty in an overtime status as long as necessary to facilitate investigation of the incident;
7. Affected officer(s) will be relieved of their assignments except those related to the incident. They will be placed on Administrative Leave/Duty until such time they are returned to full duty, administrative duty or, in some cases, light duty.
8. A critical incident debriefing session involving the affected officer(s) and a City of Topeka approved psychologist will be scheduled no later than **24-48** hours following the officer providing a statement to the criminal investigation.
  - a. The officer(s) spouse or immediate family should be involved if possible.
  - b. The session affords the member the opportunity to address immediate psychological concerns he/she may be experiencing and will allow the department to make the member aware of available resources to assist him/her.
9. The affected officer(s) will be given an explanation of the Stress Evaluation Process by the Bureau Commander which will be arranged for him/her. The Peer Support Team member can assist in the explanation process when requested by the Bureau Commander or his/her designee.

#### D. Days following the incident

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### **4.4 Deadly Force – Incident Procedure**

1. In an effort to enhance a safe return to full duty, the affected employee shall participate in a series of steps to ensure he/she is ready and confident to return to his/her regular duty assignment. After the traumatic or significant event, Department employees may be assigned a peer support team member to help assist in these processes.
2. If the affected employee is on administrative leave or duty he/she in some circumstances may be assigned to a limited duty assignment in the following days as determined by the Chief.

#### **E. Six months following the incident:**

1. The Bureau Commander will be responsible for ensuring there is contact through phone or physical visits between the affected officer(s) involved and a professional psychological service for further evaluation.

#### **F. One year following the incident:**

1. The Bureau Commander shall continue to work with the officer(s) involved and the Department psychologist if additional services/evaluations are needed.

#### **C. Administrative Leave/Duty and Assistance Services**

1. When an officer is involved in a deadly force incident causing death or serious bodily harm, they will be placed on administrative leave/duty or as determined by the Chief of Police.
  - a. Assignment to administrative leave/duty will be automatic in every incident and does not imply that the employee has acted improperly.
  - b. The officer(s) may return to full duty only after the Department's psychologist has determined that the employee is ready to return to duty and is approved by the Chief of Police.
  - c. The involved officer(s) shall have various services available to them, including the Employee Assistance Program, Peer Support Program and Department Chaplains. The assistance from the professionals involved in these programs will be independent of internal or criminal investigations and will be appropriately confidential.
  - d. The Department encourages the involved officer's family to take advantage of counseling services through the City's Employee Assistance Program.
  - e. While on administrative leave/duty, the officer shall remain available for official departmental interviews and statements regarding the incident, and shall be subject to recall to duty.

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### **4.4 Deadly Force – Incident Procedure**

2. In the event of an officer's line of duty death, the officer's family will have the support of the Department.
  - a. Family members shall have the opportunity to talk to the Department Chaplains.
  - b. A Department member shall be designated a family liaison and will coordinate family needs with a designated Department supervisor(s).
3. Each supervisor is responsible for monitoring his/her officers for signs or symptoms of post-traumatic stress. These signs or symptoms may not be noted immediately after the incident and supervisors should take care to check on officers. It is also important to be cognizant of incidents or conversations that may contribute to the stigma of an officer seeking help.

**TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL  
4.6 ARREST PROCEDURES AND PRISONER TRANSPORT**

<b>SUBJECT: Arrest Procedures and Prisoner Transport</b>		
<b>4.6</b>	<b>EFFECTIVE:</b> 10-09-2018	<i>William Cochran</i> William Cochran, Chief of Police
	<b>REVISED:</b> 09-24-2018	
	<b>TOTAL PAGES:</b> 14	
<b>CALEA:</b> 11.3.1; 44.2.1; 61.1.2; 70.1.1; 70.1.2; 70.1.6; 70.1.7; 70.1.8; 70.2.1; 70.4.2; 82.2.2		

**4.6.1 PURPOSE**

This policy identifies the rules and guidelines for safe, effective and lawful arrest and prisoner transportation.

**4.6.2 POLICY**

Officers shall arrest persons and transport prisoners only as permitted by law and department policy.

**4.6.3 ARREST PROCESSES**

A. Officer Discretion <11.3.1; 44.2.1; 61.1.2>

1. Officers are accountable for their exercise or failure to exercise legitimate, legal authority. There are situations, when neither laws nor policies apply precisely to the circumstances confronting the officer. Officers shall use good judgment and exercise sound discretion in choosing which action to take, if any. The use of discretion requires each officer to make competent, responsible, and reasonable decisions that will withstand review by the officer's supervisors.
2. In regard to the arrest function, such discretionary decisions may be:
  - a. Release with no further action;
  - b. A verbal warning and release;
  - c. A written warning citation;
  - d. A written citation;
  - e. Written citations for juveniles in lieu of taking them into custody;
  - f. A referral of a juvenile or juvenile's guardian to Juvenile Court;
  - g. Referral to another agency, if appropriate; and
  - h. Custodial arrest, including transporting a juvenile to the Juvenile Intake or Juvenile Detention Center.
3. In dealing with juvenile offenders, officers shall use the least intrusive alternatives among the above discretionary alternatives.

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**B. Arrest Alternatives**

What is reasonable in terms of appropriate police action or what constitutes probable cause varies with each situation, and the particular facts and circumstances may justify an investigation, a search, an arrest, or no action at all. In every case, an officer must act reasonably within the limits of his or her authority as defined by statute, judicial interpretation, and the policy of the Department.

**C. Arrests in General <1.2.5>**

1. Only sworn personnel shall execute arrest warrants.
2. Officers shall arrest only on probable cause and shall comply with consular notification and access requirements when arresting a foreign national.
3. Factors to be considered in making a custodial arrest decision include:
  - a. Seriousness of the offense(s) (e.g., felonies, misdemeanors, status offense) and/or if a juvenile, whether or not the guardian or Juvenile Facility is available to and/or able to take charge of the juvenile;
  - b. Department policy or procedure;
  - c. Officer's evaluation of the offender's intent and/or mental state;
  - d. Victim's willingness to prosecute, except in domestic violence matters where arrest is mandatory;
  - e. Ability to conclusively identify the suspect;
  - f. Applicable state law; and
  - g. Any other unusual circumstance or additional factors

**D. Warrantless Arrest <1.2.5>**

1. Officers may arrest without a warrant:
  - a. When there is probable cause to arrest;
  - b. When an offense is committed in the officer's presence; and
  - c. In felonies
  - d. Certain municipal & other statutory violations
2. A fugitive arrest may be made based on reasonable belief that a warrant exists in the jurisdiction from which the suspect fled. Officers will not make an arrest of fugitive from outside the jurisdiction without a warrant except when completing a fresh pursuit.

**E. Arrest Procedures < 82.2.2e>**

1. When a notice of warrant from NCIC occurs, officers may request that SCECC personnel contact the agency indicated in the notice of want to

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confirm the existence of a valid warrant for the person in question. When confirmation is received that a warrant is in existence then the person may be taken into custody. This shall be made part of the arrest report.

2. Officers shall complete an arrest report when an arrest is made.

#### **F. Receiving Arrestees from another Jurisdiction <70.1.1>**

Prior to accepting custody of a wanted person from another jurisdiction/agency the officer will:

1. Make positive identification of the person presenting the arrestee for detention;
2. Verify the person's authority to make the commitment;
3. Obtain confirmation of the warrant through SCECC;
4. Conduct an officer safety and inventory search prior to placing the arrestee into the patrol vehicle and follow the procedures relating to same; and
5. Note the name of the officer, officer's agency, and warrant confirmation in the Arrest Report.

#### **G. Arrest Documentation <1.2.5; 82.2.2>**

1. An officer who makes an arrest, with or without a warrant will document the arrest in an Offense Report and/or an Arrest Report.
  - a. This documentation includes any arrestee who is taken to see the appropriate Judge, and released from court.
2. Officers may use their discretion and take any additional photographs of the arrestee(s) prior to transport to the jail facility, depending upon the circumstances (e.g., injuries).

### **4.6.4 TRANSPORTATION OF ARRESTEES**

#### **A. In General**

1. Officers shall take necessary precautions while transporting and securing arrestees to protect the lives and safety of officers, the public, and the arrestee.
2. The Department does not operate a jail, holding facility, or court holding facility. All arrestees shall be transported to the appropriate destination without unnecessary delay.
3. The primary vehicle for arrestee transport shall be a Department vehicle which has the driver separated from the detainee by a safety barrier, generally the marked patrol car or the police prisoner transport van.
4. Prisoners shall not be left unattended during transport.
5. Officers shall have their Body-Worn Camera (BWC) activated during all transportations of prisoners.

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6. Subjects with City warrants may be picked up from bordering or other counties at the Watch Commander's discretion.

#### **B. Search of Arrestees <70.1.1>**

1. Arrestees shall be searched before any transport begins. If custody of the arrestee is turned over to another officer, the receiving officer shall again search the arrestee.
2. Searches shall include a thorough pat down of the arrestee's clothing. Pockets and other areas where items might be concealed shall be searched thoroughly.
3. All of the arrestee's items shall be removed and transported separately from the arrestee so that the arrestee has no access to any of his or her personal property during the transport.
4. The arrestee's property shall be safeguarded and secured in a reasonable manner by the transporting officer.
5. When the arrestee is turned over to jail personnel, the personal property of the arrestee shall also be turned over.
6. If a person under arrest is injured and in the care of an emergency medical service, the search of the arrestee may be delayed, but shall be conducted as soon as reasonably possible. Officers shall maintain visual contact, for safety reasons, until the arrestee is searched.

#### **C. Marked Patrol Car <70.2.1; 70.4.2>**

1. Only sworn personnel in marked patrol cars equipped with security screens/safety barriers or the prisoner transport van shall transport arrestees. Such vehicles have had modifications to minimize the risk of prisoner escape.
2. All officers transporting an arrestee shall provide SCECC the police vehicles' mileage and beginning and end locations, regardless of gender of arrestee.
3. In the case of a violent arrestee or an unusual security risk, the officer will notify detention personnel of the appropriate agency of his or her arrival and shall wait for the assistance of a detention officer prior to removing the arrestee from his or her vehicle. No restraining device, with the exception of the seatbelt, will be removed from the arrestee until he or she is safely contained within the book-in area of the detention facility.

#### **D. Seating in the Vehicle and Transports**

1. When transporting only one arrestee, the officer shall place the arrestee in the rear seat behind the protective barrier in the right rear passenger side of the transport vehicle to allow maximum visibility for the officer.
2. If there are two officers in the vehicle, the arrestee may be seated in the left back seat behind the protective barrier, and the second officer will be responsible for observing the arrestee from the right front seat.

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3. Officers shall not be seated in the rear seat with an arrestee when the transporting vehicle is equipped with a protective barrier.
4. Seat belts shall be placed on all arrestees during transport, unless the arrestee's actions make this impossible. If seat belts are not placed on the arrestee during transport, the reasons will be documented in the report.  
(Note: Those exempt by state law are outlined in KSA 8-2503; 8-2504, and amendments thereto).
5. If possible, only one arrestee shall be transported in each vehicle. If more than one arrestee must be transported in the same vehicle, they will be seated in locations that provide maximum security and visibility for the transporting officer(s).
6. Arrestees of the opposite sex shall be transported separately, if possible.
7. Persons arrested as a result of a domestic violence charge against each other shall be transported separately.
8. Juvenile arrestees shall always be transported separately from adult arrestees.

#### E. Prisoner Transport Van (PTV)

1. The PTV is not an authorized emergency vehicle.
2. Officers operating the PTV should not be dispatched on calls for service. They may serve as backup, but remain available to transport prisoners.
3. The driver is responsible for proper ventilation of the vehicle during transport.
4. The transport area of the van shall be recorded.

#### F. Transports in Ambulance

1. When an arrestee who is in danger of hurting others is transported by ambulance, a supervisor shall be notified, and it may become necessary for a police officer to ride in the ambulance with the individual when requested by EMS. Upon supervisor approval, another police officer will follow the ambulance in a police vehicle.
2. Upon arrival at a mental health facility or hospital, the officer shall use the same standard procedures for delivering an arrestee to a temporary detention facility.

#### G. Detective Vehicle

1. In the event that the primary transport vehicle, (marked patrol), is unavailable or not conducive to the situation, detectives are authorized to transport arrestees in a detective vehicle after notification of, and approval by, their immediate supervisor.

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2. If transporting an arrestee, there shall be two officers in the vehicle. The arrestee will be placed in the front seat beside the driver and the second officer will sit behind the arrestee.

H. Inspection of Vehicles Used to Transport Arrestees <70.1.2>

1. Officers are required to inspect patrol vehicles at the beginning and at the end of each shift. As a part of that inspection the interior of the vehicle will be checked for weapons and contraband. The inspection for weapons and contraband will be documented on the Vehicle Inspection Form.
2. If possible, concealed areas shall not be searched with bare hands.
3. If the officer has not been in continuous control of a vehicle, it will be searched prior to an arrestee transport. If the patrol vehicle has been left in an unsecured location, it shall be checked prior to an arrestee transport.
4. When an arrestee is removed from the vehicle at the end of a transport, the vehicle will be searched prior to it being re-mobilized to locate items the arrestee may have left in the car, including any weapons or contraband.
5. Search of the vehicle immediately after arrestee transport shall be documented on the report.

I. Avoiding Diversions

The primary duty of a transporting officer is to deliver the arrestee safely to the destination. Officers will avoid diversions or distractions, even those based on needs for law enforcement services, while transporting an arrestee.

1. Transporting officers shall proceed directly to the proper destination and shall not be diverted from the transport.
2. If a transporting officer observes an incident that requires law enforcement attention, contact SCECC and another officer shall be dispatched to handle the problem. Only if a risk to a third party is clear, grave, and imminent and only if the risk to the arrestee is minimal, shall a transporting officer stop and attempt to rectify the situation.
3. Officers shall not engage in vehicle pursuits while transporting an arrestee.
4. Officers shall not operate a vehicle with lights and siren engaged while transporting an arrestee unless directed to do so by a supervisor, and only then for a valid reason related to officer or arrestee safety.
5. In the event the transporting vehicle is involved in an accident, the officer will immediately notify SCECC of the incident. The officer will provide all pertinent information such as unit number, location, vehicles involved, the need for medical response, etc. Officers involved in traffic accidents will remain at the scene until properly relieved by a supervisor.
6. Officers will keep the arrestee being transported in sight at all times. Arrestees will not be left unattended in patrol vehicles except under the most extreme circumstances involving a threat of death or great bodily harm.

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J. Arrestee Communications

1. To ensure the safety of the arrestee and the transporting officers, arrestees being transported will not be allowed to communicate with anyone outside the police vehicle with the exception of police officers.
2. The arrestee will be able to communicate with the transporting officer at all times during the transport and officers shall assure this ability.

K. Arrival at Transport Destination <70.1.2; 70.1.6 70.1.8; 82.2.1; 82.2.2>

Upon arriving at the destination facility, transporting officers will, at a minimum:

1. Notify SCECC of his or her arrival at the destination and vehicle mileage when transporting arrestee regardless of gender;
2. Secure their firearms and other weapons for safekeeping;
3. Leave the arrestee handcuffed until inside a secured area;
4. Complete the initial arrest information sheet and any other documentation needed by the facility;
5. Deliver documentation to receiving personnel;
6. Advise the receiving agency personnel about any medical or unusual security risks;
7. Search the transport vehicle prior to leaving the facility;
8. Document the transfer by way of the Offense or Arrest Report; and
9. Notify SCECC of his or her departure of the facility.

**4.6.5 RESTRAINING DEVICES**

A. In General <70.2.1>

1. Prior to being placed inside the transport vehicle and unless it would be unreasonable because of injuries or disabilities, all arrestees will be secured with properly placed handcuffs using two or more sets of handcuffs when necessary and/or any other approved restraint device.
2. Generally, the person in custody shall be restrained with their arms handcuffed behind their back. Handcuffs will always be double locked prior to transport, and officers will check the handcuffs for proper tightness.
3. Officers will not use any unauthorized restraining devices.
4. Arrestees may not be handcuffed to any part of the vehicle, unless emergency circumstances exist.
  - a. Should such circumstances exist; the officer will contact a supervisor immediately and inform him or her of the situation.
5. Restraint devices described in this policy are authorized for use by officers who have successfully completed Department-approved training in the use of those devices.

B. Types of restraints include:

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1. Handcuffs;
  - 1) Only department authorized handcuffs are approved for use.
  
2. Leg Restraints; <70.2.1>
  - a. Only department authorized leg restraints are approved for use.
  - b. In the event that an officer feels the need to utilize this form of restraint, he or she must first obtain permission from a supervisor, when circumstances permit. If no permission is obtained beforehand, officers shall advise a supervisor as soon as possible.
  - c. No individual shall be “hogtied” (i.e., restrained by connecting the lower limbs to the upper body or upper body limbs behind the back).
  
3. Flex-cuffs; <70.2.1>
  - a. Flex cuffs - a commercially produced plastic flexible band cuff with a one-way locking system that can be fastened as a restraint around a person's wrists.
  - b. Only department authorized flex cuffs are approved for use.
  - c. In certain situations officers may find the need to use flex cuffs in order to restrain a subject.
  - d. When flex cuffs are used in restraining a subject, the officer must ensure that the device is not applied in a manner that restricts the blood circulation.
    - 1) Because of the nature of the ratcheting mechanism of flex cuffs and their inability to be double locked, officers shall make frequent checks to insure the suspect secured has not tightened them restricting blood flow.
    - 2) Flex cuffs should be removed as soon as the situation warrants a safe resolution and/or environment.
  
  - e. Officers will not use an open bladed knife to remove flex cuffs.

**4.6.6 MEDICAL NEEDS AND TRANSPORT TO MEDICAL FACILITIES**

- A. If a subject is transported to hospital for medical clearance it shall be noted in the report.
- B. Refer to TPD policy 4.23 titled, “First Aid and Medical Attention.”

**4.6.7 SPECIAL CONSIDERATIONS**

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A. In General <70.2.1>

Handicapped or physically impaired arrestees are those that have an obvious physical disability or impairment. Officers shall assure that such individuals, including the deaf and hard of hearing, are treated in a manner that is reasonable in light of such disabilities or impairments.

1. The transporting officer shall treat these persons with appropriate restraint of action while providing for security and safe transport.
2. The transporting officer shall determine if a physically impaired arrestee who uses supporting devices such as crutches, canes, or walkers is of such a disposition as to use the device as a weapon. Normally, the physically impaired arrestee will be allowed to use supporting devices to move to and from the transporting vehicle. During transport, supporting devices will be removed from the arrestee and placed in a separate, secure area.
3. If a physically impaired person is violent, supporting devices will be removed from that individual. If the arrestee is not ambulatory without devices, he or she will be assisted to and from the transport vehicle by the transporting officer who will take care to ensure that the arrestee is safely restrained. Medical personnel will be utilized if needed.

B. Physically Handicapped Prisoners

1. When it is necessary to arrest and transport an individual who is physically handicapped, care must be taken so as not to aggravate the prisoner's condition or to humiliate the individual.
2. In those cases where normal measures would be ineffective or might aggravate physical or medical problems, qualified medical personnel shall be summoned and utilized to provide appropriate assistance.

C. Restraining Disabled, Sick or Injured Arrestees

1. Discretion and judgment are called for when making the decision to handcuff a disabled or injured person.
2. Persons with missing limbs, severe deformities, and persons confined to wheel chairs or those who use devices to assist walking may not always require handcuffs or other restraints.
3. The decision to use or not to use handcuffs in such situations must be reasonable. The officer's supervisor may be consulted for advice or direction.
4. If medical personnel are caring for a sick or injured person, their advice shall be sought before handcuffs are applied unless an imminent threat exists. The officer's discretion, after consultation with his or her supervisor, shall be the deciding factor in the use of restraints.

D. Restraining Deaf or Hard of Hearing

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1. When the person has a hearing or speech disability consideration should be given, safety permitting, to handcuffing in the front in order to allow the person to sign or write notes.

**E. Restraining Mentally Impaired Individuals**

1. Handcuffs and physical restraint may be used on violent or uncontrollable mentally disabled persons until emergency medical assistance arrives or when he or she no longer presents a threat to the officer or to others.
2. The selected device shall restrain the arrestee securely without causing injury to the individual, department employees, and the public.

**F. Special Considerations**

In most cases it shall be reasonable to transport a handicapped subject in the same manner as any other person, but in special situations it may be necessary to accommodate the subject's limitations. An example would be providing a larger vehicle for transportation when the handicap would make transportation in the back of a patrol car unreasonable, collecting and transporting the subject's aids (e.g., wheelchairs and walkers), or providing other reasonable assistance.

**4.6.8 OTHER PRISONERS REQUIRING SPECIAL ATTENTION**

**A. Pregnancy**

1. Care and discretion will be taken if a prisoner is obviously pregnant or indicates that she is pregnant.
2. Pregnant prisoners shall be transported by a medical unit if at any time they complain of unusual symptoms, pain, miscarriage or labor. Officers shall immediately re-route to a hospital if they are in the process of transporting a pregnant prisoner to booking or detention facilities and she indicates any kind of medical problem.

**B. Diabetes**

Persons suffering from certain diseases may appear to be under the influence of alcohol/drugs. A medical unit shall respond and immediately transport the prisoner to a hospital if an officer becomes aware that a prisoner is diabetic, and there is reason to believe that the diabetes is not under control (high blood sugar or insulin shock).

**C. Unconscious Prisoners**

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1. Unconscious prisoners shall immediately be transported by an emergency medical unit to the nearest hospital.
2. Officers transporting a prisoner who loses consciousness shall immediately inform SCECC, pull over, attempt to ascertain the reason for the prisoner's unconsciousness, summon medical attention, and begin first aid and/or CPR. Officers shall begin CPR immediately if the prisoner has stopped breathing or his or her heart has stopped. (Note: unconscious for the purpose of this order means "unresponsive" or "unresponsive to verbal requests or commands.")

#### G. Mentally Ill Prisoners <41.2.7; 70.2.1>

1. KSA 59-2970 and amendments thereto require committed individuals to be transported in an unmarked police car when it is available. Officers will use an unmarked vehicle with an installed safety barrier if it is available. If not, the officer shall use a marked vehicle with a safety barrier.
2. Mentally disabled prisoners may pose a significant threat to the transporting officer(s), and shall be handled in a manner that is designed to reduce the danger to both the subject and the officer(s).
3. Officers shall apply the following guidelines when required to transport a prisoner who is believed to be mentally ill:
  - a. As much as reasonably possible, gather information related to the person's condition, particularly related to expected behaviors and responses, and likely "triggers" of those responses;
  - b. Avoid agitating comments and attempt to be truthful with the subject, which may help to establish some rapport;
  - c. Take time in dealing with the subject, attempt to calm the person, move slowly, and turn off sirens and lights when they are not necessary;
  - d. Handcuff the subject in accordance with restraining devices, but make reasonable efforts to keep the subject calm; and
  - e. Utilize multiple assisting officers or qualified medical personnel during transportation rather than resort to extraordinary restraint measures.
4. Officers will use "the least amount of restraint necessary" when transporting such persons per KSA 59-2970.

#### H. Other High Risk Prisoners

1. High-risk prisoners are individuals that possess one or more of the factors that contribute to sudden death in custody. Those indicators generally include:
  - a. Bizarre/violent activity and excited delirium;
  - b. Obesity;
  - c. Drug and/or alcohol impairment; and/or

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- d. Apparent ineffectiveness of Oleoresin Capsicum (OC) spray
  2. Officers shall take special precautions to assure the safety and well-being of themselves and high risk prisoners, and shall immediately summon or provide medical assistance upon the first sign that a person is experiencing a medical emergency. Prisoners who may have difficulty breathing shall not be restrained or positioned in any way that may add to that problem.
- I. Transportation between Facilities <70.1.1 >
1. In the event that an arrestee is transported from one facility to another, the officer shall:
    - a. Make positive identification of the arrestee to be transported from Facility personnel;
    - b. Receive written documentation accompanying the arrestee to be transported;
    - c. Request all information relating to the arrestee's escape or suicide potential, along with other personal traits of a security nature.
    - d. Conduct an inventory search prior to placing the arrestee into the patrol vehicle and follow the procedures relating to same; and
    - e. Note in the report the name of the facility where the arrestee was received, the names of the facility personnel involved, and the personal traits of a security nature of the arrestee, along with pertinent other information.
- J. Transportation to Law Enforcement Center
- a. Officers shall positively ID subject to be transported.
  - b. Officers shall search subject to be transported.
  - c. Officers shall use reserved "Transport" parking spaces on north side of LEC and bring arrestee in through most convenient entrance.
2. Provide all necessary documentation, such as (arrest report/juvenile data report; offense reports, and property), to the receiving agency or facility. Any information regarding the arrestee's escape or suicide potential, in addition to other security risks that the arrestee may present must be documented on the booking report or citation.
  3. The transporting officer will notify the receiving agency of any potential medical or security hazards that the arrestee may present.
  4. Officers should record all pertinent information regarding the transport on the Officer's Activity Log. This should include the case number, and transport destination. <70.1.6>

#### 4.6.9 ESCAPES <70.1.7>

- A. If an arrestee being transported escapes from custody, the following actions will be taken immediately:

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1. Notify SCECC of the escape, the location, the direction of travel, and the description of the arrestee;
  2. Notify SCECC why the person is in custody; and
  3. Pursue the arrestee on foot or in compliance with the vehicle pursuit policy if it is reasonably safe to do so, unless directed not to by a supervisor.
- B. SCECC shall coordinate responding officers and notify the appropriate patrol supervisor.
- C. Prepare a complete report detailing the circumstances that resulted in the escape. The report will furnish details of the situation before, during, and after the event, to include type and extent of arrestee restraints used, security precautions taken, and efforts to apprehend.
- D. The Watch Commander shall determine which Department personnel need to be notified of the escape.

**4.6.10 SUDDEN IN-CUSTODY DEATH SYNDROME (EXCITED DELIRIUM) <41.2.7>**

Officers shall attempt to identify persons displaying symptoms of excited delirium (ED) and to de-escalate such situations with care, utilizing department training and this policy, ensuring that the person receives a response which is appropriate to his or her needs and protects the safety of all concerned. A person displaying this acute excited state shall be considered in medical crisis.

- A. Responding officers shall:
1. Assess the situation and confer with other responding officers and the supervisor in an attempt to determine whether the person is suffering from, but not limited to, mental illness or excited delirium.
  2. If excited delirium is suspected, the officer shall request:
    - a. A supervisor;
    - b. Medical personnel; and
    - c. The Crisis Intervention Team (CIT) officer, if practical.
  3. Establish containment of the area.

Formulate a custody plan prior to making physical contact with the person. The object of the plan shall be to de-escalate the situation, calm the person and gain control as soon as practical. This shall include:

- a. Verbal communication;
- b. Request for CIT-trained officers; and
- c. Levels of force reasonable for the situation.

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4. Closely observe the person prior to arrival of qualified medical personnel and share any observations.
  5. Once sufficient officers are present, and if the determination is made that physical force is necessary, the custody plan must be executed quickly to prevent the escalation of the excited physical state of the person and an increase in distress.
  6. Consider options available to help reduce the physical and mental distress that person may be experiencing:
    - a. Using two sets of handcuffs to avoid further discomfort;
    - b. Assisting the person in sitting upright or lying on his or her side to facilitate breathing; and
    - c. Calming the person verbally by reassurances, explaining the situation and advising that medical personnel have been summoned to assist.
  7. Once the person is secured, the officers shall quickly release any pressure on a person while they are in the prone position. Move the person, as soon as reasonably practical, to his or her side or into a sitting position.
    - a. The person is never to be left in the prone position. Do not place the person on his or her stomach in the patrol vehicle seat. The person shall be seat-belted during transport to reduce the chance of the person falling into the prone position.
    - b. The hog-tie restraint shall never be used.
    - c. The person shall be constantly monitored while in custody.
  8. A person who suddenly becomes quiet or who no longer offers resistance shall be immediately assessed to ensure adequate breathing and the presence of a pulse.
  9. Officers shall coordinate with qualified medical personnel to transfer custody of the person, assisting as appropriate, to avoid delay in transporting the person to a medical facility.
  10. The officer shall complete the appropriate paperwork, reports, and a Use of Force report if necessary.
- B. Supervisor's response shall include:
1. Responding to the scene and ensuring that proper procedures are being followed and appropriate decisions are being made.
  2. Ensuring that reports are completed as required.
- C. In the case of a death when excited delirium is suspected, both a blood sample and core temperature shall be requested as soon as possible.

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<b>SUBJECT: Rules of Conduct</b>		
<b>4.9</b>	<b>EFFECTIVE:</b> 5/1/2019	<i>William Cochran</i> William Cochran, Chief of Police
	<b>REVISED:</b> 4/17/2019	
	<b>TOTAL PAGES:</b> 16	
<b>CALEA:</b> 1.1.1; 1.1.2; 1.2.1; 12.1.3; 22.2.7; 26.1.1; 26.1.3		

**4.9.1 PURPOSE**

This policy identifies the high expectations of performance and professionalism the Department requires of its employees in their professional and personal lives.  
<26.1.1>

**4.9.2 POLICY**

All employees shall conduct themselves in accordance with the Department's standards of conduct as prescribed in this policy and other Departmental guidance and shall act reasonably and appropriately in everything they do on and off-duty that may reflect professionally on them or the Department.

**4.9.3 STANDARDS OF CONDUCT FOR SWORN AND CIVILIAN PERSONNEL**

A. Legal Mandated Authority <1.2.1>

Officers shall exercise their legally mandated authority, derived from the Kansas State Constitution and the Municipal Code, in a fair and impartial manner, ever mindful of the needs of the community.

B. In General

1. Officers and, as applicable, other employees, shall to the extent reasonable under the existing circumstances:
  - a. Uphold the Department's mission;
  - b. Protect life;
  - c. Preserve property;
  - d. Maintain peace and order;
  - e. Prevent crime;
  - f. Make forcible arrests, including the pursuit of offenders;
  - g. Enforce and obey federal, state, and local laws and ordinances;
  - h. Promote the highest moral standards, by always behaving fairly, ethically, and legally, which portrays a sense of duty and honor; and

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- i. Uphold a commitment to the administration of law and order, based on the constitutional idea of justice for all where every citizen will be treated with dignity, fairness, and respect.

2. These basics are required of every officer, regardless of rank or position.

**C. Integrity**

1. Employees shall scrupulously avoid any conduct that might compromise their personal integrity, the integrity of their co-workers, or the Department.
2. Employees shall report misconduct and dishonesty on the part of other employees.

**D. Abuse of Position or Authority**

Employees shall not use their official position or identification for:

1. Personal or financial gain;
2. Obtaining privileges not otherwise available to them except by performance of their duty; and
3. Avoiding the consequences of illegal acts.

**E. Intervention**

When it can be done reasonably and safely, employees shall intervene in any unethical, illegal or clearly inappropriate action of another employee, including use of excessive force.

**F. Accountability**

1. Employees are directly accountable to the Chief of Police for their actions, through the chain of command.
2. Employees shall accept responsibility for their actions without attempting to conceal, divert, or mitigate any culpability nor shall they engage in efforts to thwart, influence, or interfere with an internal or criminal investigation.

**G. Advertisements**

Employees shall not permit the use of their names, photographs, or official titles such as would identify them as employees of the Department in connection with testimonials for or advertisements of any commodity or commercial enterprise and shall not in that manner endorse, certify, or approve any product or service, without the prior written authorization of the Chief of Police.

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H. Alcohol and Drugs

1. An employee shall not be under the influence of alcohol while on-duty.
2. Employees shall not consume any intoxicating beverage while on-duty unless authorized by a supervisor.
3. No employee shall report for duty with the odor of alcoholic beverage on his or her breath.
4. Employees must report the use of any substance, prior to reporting for duty, which impairs their ability to perform their job task. No officer shall report to work or be on-duty as a law enforcement officer when alcohol, medication, or other substances have impaired his or her judgment or physical condition.
5. Employees shall submit to a drug or alcohol test in a timely manner when asked or ordered to do so by appropriate Departmental authority.
6. Supervisors shall order a drug or alcohol screening test when they have reasonable suspicion that an employee is using and/or under the influence of drugs or alcohol while on-duty or is at any time using drugs illegally. Such screening shall conform to the City policy and applicable labor contracts on employee drug-screening and testing.
7. Any use of illegal drugs or abuse of legally prescribed drugs is strictly prohibited. No employee shall use any illegal drug or controlled substance in any manner, unless a physician prescribes such use. Employees shall use prescription drugs only in accordance with the physician's instructions.

I. Associations

1. Employees shall not voluntarily associate with known felons, or persons, organizations, or places known to be involved in criminal activity, except as necessary in the performance of official duties or where unavoidable because of family relationships and obligations. Employees shall avoid regular or continuous associations with persons who they know or should know are convicted felons.
2. Employees shall not have regular or continuous personal contact with individuals, organizations, or places that are under active criminal investigation or indictment, or persons, organizations, or places, which have criminal or immoral reputations in the community or the Department for involvement in felonious or criminal behavior.

J. Attitude and Demeanor

1. Employees shall exhibit and maintain a fair and impartial attitude toward complainants, violators, witnesses, suspects and any other persons.
2. Employees shall further community relations by presenting a positive, professional and helpful demeanor to members of the public.
3. Employees shall treat one another with respect and courtesy.

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**K. Businesses**

1. Employees shall not engage in private business while on-duty unless granted specific permission by their supervisor. Such permission may be given only with respect to meal breaks and will not be used to extend meal breaks beyond standard limits.
2. Employees shall not engage in any business transaction of any type with a person under arrest, liable to be arrested, in custody, after release from custody during the time any court or other legal action is pending against the person, or during any police contact with such a person.

**L. Buying/Selling Related to Case**

Buying, receiving, or selling, or attempting to buy, receive or sell, anything of value to any complainant, suspect, witness, defendant, prisoner, or any other person involved in a case is prohibited, except as may be specifically authorized by the Chief of Police.

**M. Chain of Command**

The chain of command shall be respected and preserved during tactical and operational incidents. In other matters, the Chief of Police adheres to an "open door" policy but employees are expected to discuss issues and concerns with their direct supervisors in order to keep them informed of problems before jumping the chain of command.

**N. Common Sense and Judgment**

Employees shall exercise good judgment and common sense in their professional actions and decisions and in their personal life as it might bear on the professional effectiveness or reputation of the employee and/or the Department.

**O. Communications**

Officers shall effectively communicate with their immediate supervisor, keeping him or her promptly informed of all matters which would be of concern to a supervisor, including but not limited to major incidents, incidents involving felonies, matters which have the potential to become major incidents, and types of injuries at a collision scene.

**P. Conduct toward Co-Workers**

1. Employees have the right to go to work each day and do their job in peace. Each employee shall protect the rights of their fellow employees to work in an atmosphere free from unlawful intimidation, hostility or offensiveness. All

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employees shall work toward a hostile-free environment and follow all relevant Departmental and City policies. <26.1.3>

2. Employees shall conduct themselves in a manner that will foster cooperation among members of this Department, showing respect, courtesy, and professionalism in their interactions with each other.
3. Employees shall not use language or engage in acts that demean, harass, abuse, threaten or intimidate another employee.
4. Employees shall treat superior officers, subordinates and associates with respect. Employees will be courteous and civil at all times in their relationships with one another.
5. When on-duty and in the presence of the public, officers will be referred to by rank.

#### **Q. Conduct Unbecoming**

Employees shall conduct themselves at all times, on and off-duty, in a manner that reflects favorably on the City and the Department and is in keeping with the high standards of the law enforcement profession.

#### **R. Conflicting or Illegal Orders <12.1.3>**

1. Employees who are given an otherwise proper order that is in conflict with a previous order, rule, regulation, or directive shall respectfully inform the supervisor issuing the order of the conflict. If the supervisor issuing the order does not alter or retract the conflicting order, the order shall stand. Under these circumstances the responsibility for the conflict shall be upon the supervisor. Employees shall obey the conflicting order and will not be held responsible for disobedience of the order, rule, regulation, or directive previously issued.
2. A supervisor who countermands another supervisor's previous order shall promptly inform that supervisor of the countermanding action and explain the justification for it.
3. A supervisor who directs an officer to act in a way that is not consistent with Department directives or training shall promptly notify his or her chain of command in writing of that action and its justification.
4. Employees shall not obey any order which they know or should know would require them to commit an illegal act. If there is doubt as to the legality of an order, employees shall request the issuing employee to clarify the order or to confer with a higher authority.

#### **S. Conformance to Laws**

Employees shall obey all laws of the United States and of any state and local jurisdiction in which the employees are present. Ignorance of the rules, regulations and directives, orders or policies shall not be considered a justification for any such violations.

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T. Courtesy

1. Employees shall be patient, courteous, and respectful when dealing with the public and each other.
2. Employees will be tactful in the performance of their duties, control their tempers, and exercise the utmost patience and discretion.
3. Employees will not engage in argumentative discussions even in the face of extreme provocation. Employees will not express any prejudice, hostility or bias concerning race, religion, politics, national origin, gender, sexual orientation, social background, or similar personal characteristics, or physical disabilities.

U. Department Letterhead

Employees shall not use Department letterheads except for authorized Departmental correspondence. See also "Written Communications" below.

V. Dissemination of Information

1. Members of the public have a right to security and privacy, and information obtained about them shall not be improperly divulged.
2. Employees shall treat the official business of the Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with law and established Departmental procedures.
3. Employees shall not divulge the identity of persons giving confidential information except as authorized by proper authority.
4. Employees shall not reveal facts about the official business of the Department except to those for whom it is officially intended, unless directed to do so by a superior officer or under due process of law.
5. Employees will not divulge any information about any person's criminal history except to other authorized law enforcement agencies or under due process of law.
6. Information concerning the activities of the Department shall only be released to the public by the Public Information Officer, or designee. This requirement will not apply to employees assigned to address community meetings, etc.
7. Officers shall not publicly criticize the Department, its policies or employees by talking, writing, or expression in any manner where such talking, writing, or expression: (a) is defamatory, (b) is obscene, (c) is unlawful, (d) tends to impede the operation of the Department by impairing its efficiency, interfering with the ability of supervisors to maintain discipline, or is made with reckless disregard for truth or falsity.

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**W. Driver's License Requirement**

1. A valid driver's license, issued by the State of Kansas, is required for all sworn employees of the Department. Failure of a sworn officer to maintain a valid driver's license may be cause for disciplinary action, up to and including termination. The circumstances surrounding a license suspension or revocation will be considered in any disciplinary decision.
2. An officer who has his or her driver's license suspended or revoked for any reason will immediately notify their commander. An officer whose license is under suspension or revoked will not operate a City owned vehicle under any circumstances.
3. Non-sworn Department personnel are not specifically required to maintain a valid driver's license. However, they may not, under any circumstances, operate a City owned vehicle unless they have a valid driver's license issued by the State of Kansas.
4. In compliance with State law, Department employees, sworn or non-sworn, will not operate a City owned vehicle unless their valid driver's license is in their immediate possession or on their person at the time the vehicle is being operated.

**X. Ethics <1.1.2>**

All sworn members of the Department will conduct their assigned duties in accordance with The Law Enforcement Code of Ethics and the Law Enforcement Oath of Honor.

**Y. False or Incomplete Reports or Testimony/Tampering with Records**

Employees shall not:

1. Knowingly make or cause to be made any false or inaccurate report.
2. Knowingly omit or cause to be omitted any information that is required for a complete and accurate report.
3. Knowingly make a false, incomplete, or deliberately misleading statement on any application or statement.
4. Make any false, incomplete, or deliberately misleading statement in any judicial hearing, administrative hearing, or investigation.
5. Steal, forge, sell, tamper with, or remove from the Department any Department record, report, citation, card, report, letter, document, or official file except by process of law or as directed in writing by the Chief of Police. When by process of law any record, card, report, letter, document, or official file is removed, then a copy of the judicial order or order of the Chief of Police shall remain on file in the Department.

**Z. Financial Obligations**

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Employees shall avoid incurring financial obligations beyond their ability to pay.

**AA. Fraternalization**

1. Employees of the Department shall not fraternize with any Departmental volunteers, including but not limited to Explorers or interns.
2. Supervisors, managers and administrators shall not fraternize with persons who work in their chain of command and all other supervisory personnel are strongly discouraged from fraternizing with those subordinate in rank, irrespective of their current chain of command.
3. For purposes of these rules, "fraternization" means romantic and/or sexual involvement, including "dating" as that term is commonly understood, or any other more than casual social involvement.

**BB. Gifts and Gratuities**

1. Employees shall not accept any gift, gratuity, loan, fee, or other thing of value when such acceptance tends to influence directly or indirectly the actions of said employee or any other employee in any matter of police business or which might tend to cast an adverse reflection on the Department.
2. Police employees shall not receive private or special advantage from their official status or duties.
3. Employees shall not solicit or accept rewards for performance of their duties, ask for gratuities, or use their position to seek favors or preferential treatment of any kind.
4. Employees shall not solicit or accept contributions for this agency or for any other agency, organization, event, or cause without the express consent of the Chief of Police or his or her designee.
5. Employees shall not directly or indirectly accept any gratuity, gift, fee, or favor from any person under arrest, liable to be arrested, in custody, or after release from custody.
6. Employees will not solicit or accept any bribe or gratuity in exchange for permitting an illegal act.

**CC. Identification <22.2.7>**

1. All employees shall have their badge and Department photo identification card on his or her person at all times while on-duty or during official business, except as otherwise authorized in specific instances by the Chief of Police.

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2. Police employees may not lend their identification cards or badges to another person, or permit them to be photographed or reproduced without the approval of the Chief.
3. Employees will politely provide their name and badge number, in person or on the telephone, when asked to do so by any person while the employee is on-duty or otherwise conducting Department business.

**DD. Insubordination**

Employees shall not be insubordinate to those superior in rank or position. Examples of insubordination include, but are not limited to:

1. Refusal to promptly obey a lawful order of a ranking employee or supervisor;
2. The use of derogatory remarks or criticism directed toward or about a ranking employee or supervisor that affects the Department's operations or efficiency;
3. By-passing a ranking employee or supervisor in the chain-of-command without justification; or
4. Refusal to submit to any examination or procedure required during an internal investigation in accordance with current union contracts.

**EE. Language**

Employees shall avoid using insulting, profane, or unnecessarily antagonistic language to any citizen or fellow employee.

**FF. Meal Breaks are outlined in the FOP Labor Agreement and apply to all bargaining unit employees except 9 hour employees, who have a 1-hour meal break**

**GG. No Expectation of Privacy in Department Owned Areas**

If employees choose to occasionally store personal items in department lockers, desks, vehicles, file cabinets, computers or similar areas, employees shall be aware that these and similar places may be searched as outlined in union contracts.

**KK. Notifications Required By Employees in Respect to Legal and CPOST Matters**

1. Notification will be made to his or her immediate supervisor as soon as possible, both verbally and in writing when the employee:

## TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

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- a. Is charged, arrested or accused of violating any offense under federal, state, or local law;
  - b. Is notified that their driver's license is suspended, or otherwise have knowledge that their driving privileges may be suspended; or
  - c. Receives legal service or other notification as a party, witness, or defendant of a civil lawsuit where the City is defendant.
2. Voice mail notifications are not sufficient. If the employee cannot immediately contact his or her supervisor he or she shall immediately seek assistance in doing so via their chain of command. This notification must include the details of the incident and/or any paperwork received.
  3. Failure to properly notify the Department as provided in this policy may result in termination of employment.
  4. No employee shall file a suit for damages, or settle such a suit, arising out of his or her official duties, without prior notice to the Chief of Police. If an officer is notified that legal action has been filed against him or her, the City Attorney and the Chief of Police shall be notified immediately. This provision does not regulate civil suits unrelated to the City.
  5. Non-supervisors
    - a. All non-supervisory employees of the Department shall promptly notify their supervisors of any request or other attempt to communicate with such employee about any legal or administrative proceeding or other such matter as to which the City is either a party or has the potential to become a party. Such proceedings include City grievance hearings; proceedings involving the Department of Labor, the Equal Employment Opportunity Commission, or any other federal or state agency; and actual or potential lawsuits filed against the City.
    - b. In the event that a non-supervisory employee is contacted by any person seeking to discuss such proceedings or other legal matters involving the City, he or she shall report such contact to his or her immediate supervisor without delay. Absent a court order, a subpoena, or a directive from the Chief of Police, the City Manager, or the City Attorney, employees are not required to communicate with anyone about such proceedings, including any current or former employee who may be involved in such a proceeding, any non-City attorney, or any other individual outside the chain of command. This is not meant to prohibit any employee or FOP representative from meeting with their attorney concerning a legal matter involving their employment.
  6. Supervisors
    - a. Unless directed to do so by the Chief of Police or as otherwise provided herein, no Department supervisory employees shall communicate with any person, including current and former employees, citizens, and non-City attorneys, regarding any legal or

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administrative proceeding or other such matter as to which the City is either a party or has the potential to become a party. Such proceedings include City grievance hearings; proceedings involving the Department of Labor, the Equal Employment Opportunity Commission, or any other federal or state agency; and actual or potential lawsuits filed against the City.

- b. In the event that a supervisory employee is contacted by any person seeking to discuss such proceedings or other legal matters involving the City, he or she shall decline such communications, obtain the person's name and contact information, and report the contact to his or her immediate supervisor without delay. The Chief of Police will then determine whether it is necessary, appropriate, or permissible for the supervisory employee to participate in such communications.

LL. Oath of Office <1.1.1>

All personnel employed by the City shall take and subscribe an oath or affirmation as set forth in K.S.A. 54-106 before entering upon the duties of their respective office or employment.

MM. Off-Duty Police Action

- 1. Employees shall not use their police powers to resolve personal grievances (e.g., those involving the officer, family members, relatives, or friends) except under circumstances that would justify the use of self-defense, actions to prevent injury to another person, or when a serious offense has been committed that would justify an arrest. In all other cases, employees shall summon on-duty police personnel and a supervisor in cases where there is personal involvement that would reasonably require law enforcement intervention.
- 2. Employees shall refrain from acting in a law enforcement capacity while off-duty, except in cases of emergencies, when serious criminal offenses have been committed or as necessary for extra-duty employment. In such exceptional circumstances, officers are empowered to place themselves on-duty without additional authority, but must promptly report the matter through their chain of command. Outside the city limits employees are acting in the capacity of a private citizen.

NN. Off-duty Time

- 1. Employees shall have regularly assigned duty hours. All other times shall be considered off-duty time.
- 2. All employees are subject to recall to duty if a situation arises that requires additional staff.

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3. Employees shall cooperate with and respond to requests from Department supervisors or command employees for information related to their work responsibilities even while off-duty.
4. When on their scheduled off-duty time, employees may be required to report to duty to provide information, perform assigned duties, participate in investigations, and/or respond to messages or requests for information via telephone. A Commander may change off-duty time at any time when that change is necessary for the proper operation of the Department.

OO. Political Activities

1. Employees shall not solicit contributions, directly or indirectly, in support of any political activity while on duty and shall not use their official position for political purposes related to the City.
2. Employees shall not engage in a political campaign for themselves or another candidate while in uniform or on-duty or as a representative of the Department, without prior written approval of the Chief of Police.
3. No employee shall hold any elective or appointed public or political office while they are a member of this Department without prior approval by the Chief of Police.
4. No employee shall place any advertisement supporting any candidate for public or political office on a City owned vehicle or property.
5. Political activity not related directly or indirectly to the City will be conducted as a private citizen. Such political activity will be conducted off-duty, in ordinary civilian attire and without reference to the City personnel, policies, or operations.
6. Nothing in this section shall be construed as a restriction on an employee's right to vote.

PP. Prohibited Establishments

Employees will not knowingly visit, enter, or frequent a house of prostitution, illegal gambling house, or establishment wherein the laws of the United States, the State, or the local jurisdiction are regularly violated, except in the performance of duty.

QQ. Public Relations

1. All plans for public appearances before groups of any kind, including the press, for the purposes of discussing Department business of any kind shall be done in conjunction with the employee's job assignment or must be pre-approved by the Chief of Police.
2. Nothing in this rule prohibits employees from making extemporaneous statements in response to questions for information at meetings, etc.

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3. Employees shall not engage in discussions of political, sexual or religious matters while on-duty and in public unless necessary for an official investigation.
4. Employees will not speak negatively of another person's race, ethnicity, nationality, sex, sexual orientation, or other protected category while on-duty or off-duty where such comments could negatively affect the efficiency or public perception of the Department. Employees shall not participate as a judge or as a sponsor of public contests or debates because of their membership in the Department or as a representative thereof, without prior written authorization of the Chief of Police.
5. Employees shall obtain permission from the Chief of Police before publishing articles as official representatives of the Department.

**RR. Racial, Religious, & Ethnic Violence**

Employees are strictly prohibited from engaging in incidents of racial, religious, or ethnic hatred.

**SS. Radio Discipline**

Officers will be patient, professional, and courteous during radio transmissions.

**TT. Recommendations of Products, Services and Businesses**

While on-duty or acting in an official capacity, employees will not recommend or suggest in any manner, except in the transaction of personal business with family and close friends, the employment or procurement of a particular product, professional service, or commercial service.

**UU. Roll Call**

FOB officers will attend roll call before going in-service or the start of their shift.

1. A shift supervisor or designee will conduct shift briefing. The supervisor or designee will take roll and distribute pertinent information. The supervisor will also evaluate officers for their appearance and readiness to assume duties.
2. Information should include:
  - a. Changes in schedules or assignments;
  - b. New directives or changes;
  - c. Wanted persons/runaways;
  - d. Officer safety issues;

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- e. Major investigations; and
- f. Stolen vehicles.

- 3. Periodically detectives may informally attend patrol roll call to exchange information.

**VV. Reduction or Dismissal of Charges**

Unless specifically authorized by the Chief of Police, an employee shall not recommend that a criminal or traffic offense be reduced or dismissed unless the employee is the arresting officer or the complainant. Such action will be taken only in an effort to cooperate with a prosecutor or a court, and only in the interest of justice.

**WW. Residence and Telephone Numbers**

Each employee shall have a functioning telephone where they may be reached 24 hours a day, seven days a week. Employees shall inform their supervisor, the administrative assistant for the Chief of Police, and the Human Resources Director of any change in their permanent address or telephone number before the end of the next business day after making such change.

**XX. Retaliation**

- 1. All employees of this Department have a duty to report serious acts of misconduct or failures to perform actions, as defined by Department policy and procedure. Failure to report shall result in corrective or disciplinary action.
- 2. Acts of retaliation against employees who make good faith complaints or disclosures of misconduct against another employee are strictly forbidden. Such acts shall form the basis for charges of misconduct resulting in serious disciplinary action.
- 3. All employees have an affirmative duty under this policy to cooperate fully during the investigation of any allegation of employee misconduct whether conducted by this department or another authorized authority. Protection from retaliation is extended under this policy to all employees who cooperate in good faith.
- 4. Employees who have been subjected to retaliation by fellow employees are encouraged to seek assistance through personal counseling or other services, as available from this department's employee assistance program or human resources department.
- 5. All complaints of retaliation shall be submitted to a supervisor. If the supervisor is the subject of or is involved in the complaint, an employee

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shall submit the complaint to the next higher ranking employee in the chain of command.

6. In uncommon situations involving highly egregious offenses or illegality that may have departmental or governmental implications, a complaint may be made directly to the Chief of Police.

**YY. Sales and Collection of Funds**

1. No employee shall distribute or sell tickets, offer any type subscription, or advertise, collect, or receive, directly or indirectly, any funds for any purpose or cause, either for an individual or organization within or outside the Department, while on-duty or in uniform, except with the approval of the Chief of Police or designee.
2. Employees shall not offer or make available for sale or publication, or reveal for publication by any public information media, any writings, case histories, photographs, Department patches, and/or other materials pertaining to the work or activities of the Department without prior written approval by the Chief of Police.
3. Employees will take no part, either directly or indirectly, in sales promotions, solicitations, fund raising campaigns, or similar activities for personal gain or benefit of commercial enterprise while representing themselves as police employees or as employees of the Department, or authorize others to conduct themselves in a manner as indicated above that would leave the impression they are representing the Department, without prior written authorization of the Chief of Police.

**ZZ. Strikes and Sickouts**

Employees shall not engage in strikes or sickouts for any reason.

**AAA. Timesheets**

1. The accounting for employees' work hours, any leave taken, and the submission of timekeeping records (electronic or paper), will be done accurately and in a timely manner.
2. Any willful falsification of timesheets will be grounds for disciplinary action up to and including termination.

**BBB. Tobacco Products**

1. No form of tobacco may be used by employees when they are on duty when in view of the public, dealing with the public, conducting police business, or in any facility or vehicle owned or maintained by the Department.
2. While on-duty in or around any Department facility, employees shall not use any tobacco product unless they are in an area officially designated for that use.

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3. Employees shall not abuse their scheduled on-duty time by taking excessive smoke breaks; smoking shall occur only during otherwise authorized breaks.
4. Employees shall not use tobacco in violation of the law, ordinance or city policy.

CCC. Truthfulness

1. Employees shall not intentionally make any materially false statements in police business or in connection with their performance of official duties.
2. Employees shall not intentionally fail to disclose information in connection with the performance of official duties when the purpose of such nondisclosure is to conceal misconduct or unsuitability for duty of themselves or another or to gain improper personal advantage or to otherwise mislead persons conducting police department business.
3. No employee shall change, alter, or otherwise distort the information on any official document written or issued by himself or herself or another member of the Department without prior written approval by a supervisor.
4. Any material falsification of or any intentional failure to disclose information relevant to suitability or fitness for police employment which is discovered after an individual is hired may result in the termination.

DDD. Written Communications

Any non-routine written Department communication to a person or agency outside the City shall be signed by the Chief of Police, or must be previously approved by the Chief of Police. In all cases, a copy of any such communication shall be provided to the Chief of Police.



# TOPEKA POLICE DEPARTMENT MEMORANDUM



TO: Department Employees  
FROM: Chief Bill Cochran  
SUBJECT: Police Reform Bills  
DATE: June 24, 2020

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Currently the House of Representative and the US Senate are both discussing Police Reform Bills. They include similar points, but different answers and solutions to those points. From what I have heard the State of Kansas will be discussing a reform bill this upcoming legislative session. I have been told there is a lot of talk focusing on the bill that was recently passed in Colorado. Colorado SB 217 could serve as a template for Kansas if there is no reform bill passed by Congress before our legislative session starts in January.

Here are the key points to the Colorado Senate Bill:

- **Body-worn cameras:** Every officer in the state-with some exceptions for jail deputies in facilities that already have cameras, undercover officers and those in administrative position-will have to use body-worn cameras by July 1, 2023.
- **Use of force:** Chokeholds and carotid control holds will be banned. The police would require officers to only use force if absolutely necessary and deadly force can't be used against someone for a minor or nonviolent offense. Officers can only use force against someone fleeing from the police if they pose an immediate risk to the officer or other, which advocates say is already case law
- **Failure to intervene:** An officer who fails to try to stop another from using excessive force could face a class 1 misdemeanor or greater charge. Officers will be protected from retaliation if they intervene.
- **Fired cops:** Officers who plead guilty to or are convicted of an inappropriate use of force, failure to intervene to stop excessive force or found civilly liable for excessive force or failure to intervene will lose their Peace Officer Standards and Training board certification permanently. Beginning Jan. 1, 2022, the POST board will create and maintain a public database of officers

who have been decertified, fired, found to be untruthful or repeatedly failed to follow training requirements.

- **Qualified immunity:** The bill removes the qualified immunity defense, allowing people to bring civil rights claims in Colorado court. People who allege civil rights violations will be able to sue officers in their individual capacities. Officers determined not to have acted in good faith or with a reasonable belief that what they did was legal can be held personally liable for 5% of a judgment or settlement or \$25,000, whichever is less.
- **Police prosecutions:** The state attorney general has the authority to prosecute persistently bad departments and officers.
- **Protester protections:** Officers will be prohibited from shooting rubber bullets indiscriminately into a crowd as well as targeting rubber bullet shots at someone’s head, torso or back. It also prevents officers from using tear gas before announcing it and giving time to for people to disperse.
- **Data tracking:** Law enforcement agencies will have to send the state data on their use of force resulting in serious injury or death as well as stops, unannounced entries and use of firearms. Some demographic information will also be required. Agencies who don’t provide the information could put their funding in jeopardy.

This table is a snapshot of the differences between the US House of Representative and the US Senate’s version of police reform.

US House of Representatives	US Senate
<b>Chokeholds</b>	
*Ban on Chokeholds by law enforcement agencies *Criminal offense if utilized *Civil rights violation if utilized	*No ban *If an agency authorizes them the agency will not be eligible for federal grant
<b>No-knock Warrants</b>	
*Ban all no-knock warrants	*No-knock warrants would have to be reported annually to the Federal Attorney General *Failure to report would result in a 20% reduction in agencies normal federal funding
<b>Qualified Immunity</b>	
*Eliminates qualified immunity *Colorado’s version is gaining ground in Kansas -Limits judgments to 25K -Allow for the agencies to pay the judgement	*Keeps qualified immunity -Deal breaker on any reform *Will provide more legal options for citizens -Those have not been announced yet *Includes more training on de-escalation *Wil establish common ground on decertification process for abusive officers

<b>Misconduct Database</b>	
*Establish a nationwide database to track misconduct and prevent abusive officers from moving to different agencies	*State & local agencies would have to report OISs and other significant use-of-force each year *Failure to do so would result in significant reductions federal funding
<b>Misconduct</b>	
*Amends Section 242 of Title 18, United Stated Code -Sticking “willfully” and inserting knowing or with reckless disregard (allows for easier prosecution)	*Develop national training standard on -Alternative to use of force and de-escalation tactics -Responding to persons experiencing a behavioral health crisis
<b>Racial Bias in Policing</b>	
*Maintains adequate policies and procedures designed to eliminate racial profiling *Eliminate any excising practices that permit or encourage racial profiling *Policies -a prohibition on racial profiling -training on racial profiling issues Participation in an administrative complaint procedure of independent audit program	*Create an educational curriculum on the history of racism in the United States that focuses on -Racial reconciliation -Improving relationships between law enforcement and the communities they serve -Train-the-trainer program on this curriculum

Attachment B

# Office of the Independent Police Auditor

## Introduction

On October 21, 2019, the City of Topeka hired the first independent police auditor and thereby established the office of the Independent Police Auditor (IPA). The IPA was created for the purpose of auditing the Professional Standards Unit (PSU) investigations of citizen complaints alleging misconduct and/or improper service by the Topeka Police Department (TPD) and all use of force reports. The goal of this type of civilian oversight is to instill confidence and transparency in the complaint process.

The Auditor independently reviews investigations conducted by PSU for the purpose of determining if the investigation was complete, thorough, objective and fair. The Auditor may review all reports, statements, videos, and evidence necessary to establish these goals. A complaint may be returned for further investigation should the Auditor determine that the investigation is not complete. The Auditor has authority to conduct investigations. The Auditor does not make determinations regarding disciplinary action. The IPA is appointed by and reports directly to the City Manager.

## Responsibilities of the Independent Police Auditor

The responsibilities of the Office of the Independent Police Auditor are:

- (1) To serve as an alternative forum where citizens may file complaints.
- (2) To review all completed investigations of citizen complaints and use of force by TPD PSU.
- (3) To monitor on-going investigations as deemed necessary.
- (4) To do its own investigations.
- (5) To be an independent civilian oversight of use of force incidents such as officer involved shootings and deaths in custody.
- (6) To conduct outreach and public awareness of the checks and balances that exist within the civilian oversight of TPD.

What triggers a use of force review?

All use of force beyond verbal commands?

- Use of hand strikes or compliance techniques
- Use of intermediate weapons pepper spray, tasers, baton, bean bag weapon, K-9
- Any use of force which results in death or serious injury
- In TPD custody death
- Any use of force combined with complaint from public
- Use of deadly force against human or domestic animal

What is the process?

- Officer(s) involved immediately (while at the scene) contact their supervisor
- Supervisor responds to the scene and inquire from the officer, they read the administrative review card to the suspect advising of the administrative questioning separate from the alleged crime. The supervisor the proceeds to inquire about injuries sustained, the suspects version of events and whether they believe the force used was necessary. Surprisingly, as I watched the videos, a large majority indicate in some form that the force was not excessive or that the officer(s) did their job.
- The supervisor begins a use of force review.

Use of Force review

- The supervisor initiates the process on "Blue Team" describing the incident, covering specific questions and giving her/his opinion as to the reasonableness of the force used based upon policy, Kansas Law, Federal Law and Case Law.
- That Blue Team entry is the reviewed by each supervisor in the chain of command, Lieutenant, Captain, Major and Deputy Chief.
- The use of force team then meets and reviews all pertinent media (videos, photos) and reports. After which they reach a conclusion as to the adequacy and necessity for the force utilized.
- Upon completion of this review, the cases are assigned to the office of the independent police auditor (IPA) for final review.
- The IPA receives the Blue Team notification indicating that the case has been assigned for review.

- The IPA reviews the case notes, reports and all media video and audio attached to the case. If necessary, the IPA can review additional media, which may not be attached to the case from other officers.
- The IPA primarily looks at the use of force incident and its reasonableness based on the circumstances as mandated by law and policy. However, the IPA is also looking at any collateral issues which may arise.
- Should the IPA have any concerns and/or questions about the use of force or any other collateral issues, the IPA may contact the professional standards unit commander, the training commander or the chief of police. The IPA may also advise the City Manager should there be a pattern of behavior or action, which may lead to liability for the City.

To date, the independent police auditor (IPA) has reviewed a total of 104 use of force cases with 36 falling into more than one category. The cases are categorized as follows:

**Show of Force** (force not actually used but pointing a weapon at the citizen) – **24**

**Pepper (OC) Spray – 18**

**Taser (ECD) – 18**

**Physical use of force** (the officer uses take down and control techniques to achieve compliance) – **75**

**Firearm Discharge – 2**

**Less lethal – 3** (Bean bag deployments)

After the review of the cases the IPA has determined that the use of force by the officers was appropriate and in accordance with Topeka Police Department policy as well as current case law. None of the cases rose to the level of referral to the City Manager.

The IPA has also completed:

13 administrative investigation reviews

3 audit reviews

11 citizen complaints

8 review of civilian complaint submitted to PSU

Attended 14 NIA/NA meetings and a number of other community meetings, such as SPCP and George Floyd rally at the State House.

Attachment C

## Brenda Younger

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**From:** Author Regina Platt <plattregina@gmail.com>  
**Sent:** Monday, July 06, 2020 2:14 PM  
**To:** Brenda Younger  
**Subject:** Re: July, 7 2020 City Council Meeting

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

General Public Comments, please forgive me

On Mon, Jul 6, 2020 at 2:12 PM Author Regina Platt <plattregina@gmail.com> wrote:  
[https://youtu.be/mUeexmVD\\_-E](https://youtu.be/mUeexmVD_-E)

On Mon, Jul 6, 2020 at 2:11 PM Author Regina Platt <plattregina@gmail.com> wrote:  
A video that is a testimony of why it works. Please share with the Council Members  
<https://youtu.be/0C7LOtNGrUk>

On Mon, Jul 6, 2020 at 1:57 PM Author Regina Platt <plattregina@gmail.com> wrote:  
When the Peacekeeper becomes the Peace- Restorative Justice in the Police Department

On Mon, Jul 6, 2020 at 1:46 PM Brenda Younger <BYounger@topeka.org> wrote:

Ms Platt,

Is there a specific item you would like to speak about on the agenda or do you want to speak under general public comment.

Thanks.

---

**From:** Author Regina Platt [mailto:plattregina@gmail.com]  
**Sent:** Monday, July 06, 2020 12:58 PM  
**To:** City Clerk  
**Subject:** July, 7 2020 City Council Meeting

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.