



KANSAS CITY MISSOURI POLICE DEPARTMENT
PERSONNEL POLICY

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NO.
312-6

SUBJECT

**Policy Series 300 – Employee Relations
 312 – Member Investigation, Discipline, and Appeals**

AMENDS

REFERENCE

PPBMs: 201 Code of Ethics and Rules of Conducts
 310 Discrimination and/or Harassment
 315 Workplace-Related Incidents of Sexual Misconduct, Domestic/Dating Violence
 403 Personnel Actions and Salary Adjustments
 418 Overtime/Court Time Policy
 506 Sworn Ranks, Titles, and Promotion Process
 543 Transfer of Members
 934 Records Management Retention and Disposal
 P.I. Response to Community Complaints
 RSMo. Chapters 84.600, 84.610, 590.502, 590-070

RESCINDS

PPBM 301-6, 308-4, 312-5, 312-5 Annex A, and 317-5
 DM 20-07
 SO 21-15

I. INTRODUCTION

This written directive provides information and guidelines regarding the investigations, disciplinary actions, and appeals process of Department members (member or members).

II. TERMINOLOGY

A. **Administrative Action** – A direct action, which personally affects a member that creates dissatisfaction and resentment and generally can be classified in the broad areas of:

1. **Arbitrary Actions** – An action or decision based on individual or personal discretion not necessarily based on established facts or on the basis of established written directives.
2. **Double Standards** – An action/decision which is unfairly applied in different ways to different members or groups of members.
3. **Favoritism** – Unfair preferential treatment to one member or a group of members at the expense of another member or group of members.
4. **Involuntary Transfer** – A change in unit of assignment, not requested by a member, due to a reduction in force, a vacancy within a unit, alleged member misconduct, etc. Members should refer to the current written directive entitled, "Transfer of Members," for further information.

B. **Administrative Authority** – A body authorized by a law enforcement agency to hear and make final decisions regarding appeals of disciplinary actions issued by such agency, in accordance with Section 590.502. The Board of Police Commissioners (BOPC) or sub group is the authorized body under the provisions of the statute.

- C. **Administrative Investigation / Investigatory Interview** – Any investigation/interview conducted by the Internal Affairs Unit (IAU), the Chief of Police (COP) or their designee, or any other person requested by and/or on behalf of the Department (e.g., outside contractor for specific investigations) that could lead to disciplinary action, reduction in rank, termination, transfer, or placement on a status that could lead to economic loss of the member being investigated or interviewed.
- D. **Arbitration** – A process in which 2 parties in a dispute use an independent, impartial third-party to settle the dispute as agreed upon by the Department and the member.
- E. **Arbitrator Panel** – A list of qualified individuals agreed upon by the BOPC and the Fraternal Order of Police (FOP). Once an arbitrator has served on the panel they will be placed at the bottom of the list.
- F. **Categories of Appeal** – Dependent on the final discipline disposition, the following are the four (4) categories available for appeal.
 - 1. Discipline Dispute Committee
 - 2. Due Process Hearing
 - 3. Arbitration
 - 4. BOPC Hearing
- G. **Color of Law** – Any act by a sworn member, whether on-duty or off-duty performed in furtherance of their sworn duty to enforce laws and to protect and serve the public. (590.502 RSMo.)
- H. **Discipline Dispute Committee (DDC)** – A committee consisting of 5 members and a chairperson in which a member may request appeal for a disciplinary determination of Disciplinary Counseling or Letter of Reprimand.
- I. **Discipline Coordinator (Coordinator)** – A major, with the administrative authority, designated by the COP, to serve as the commander of the Discipline and Accountability Division.
 - 1. The Coordinator will oversee the Department's disciplinary process, identify members in need of educational and remedial assistance, and ensure a thorough and consistent review of use of force incidents.

2. The Coordinator's primary responsibility will be to fulfill the duties outlined in the respective members' Collective Bargaining Agreement (CBA).
 - a. Work performed by the Coordinator may be performed by the Coordinator or by their designee.
 - b. A log of all possible violations and their discipline assessments will be permanently maintained as a guide for future disciplinary cases and as a guide for similar discipline assessments in similar incidents.
 - (1) The log with the name of members redacted, will be provided upon request of a member and/or their representative prior to any appeal, to ensure the discipline recommendation is within historical normal range (norms) and that any aggravating or mitigating details of the incident have been examined.
 - (2) The log may not cover all violations nor similar past incidents to reference.
 - (3) Disclosure of the log will not prohibit a member from proceeding with any appeal process as outlined within this directive.
- J. **Due Process Hearing** – An appeal process that either affirms or decreases assessed discipline in which the member presents their argument against the assessed discipline to a panel of 3 majors or non-sworn directors not in their command (2 of their own selection and 1 selected by the Coordinator).
- K. **Economic Loss** –Any economic loss including, but not limited to, loss of overtime accrual, overtime income, sick time accrual, sick time, secondary employment income, holiday pay, and vacation pay. (590.502 RSMo.)
- L. **Good Cause** – Sufficient evidence or facts that would support a member's request for extensions of time or any other requests seeking accommodations outside the scope of the rules.
- M. **Instructional Notice** – A form of corrective action, not a form of disciplinary action, used for the purpose of training or instructing a member regarding inappropriate behavior.

- N. **Outside Agency** – A law enforcement agency outside the Department that, after consult with the COP or their designee, agrees to investigate the incident.

III. POLICY

- A. The Department has a compelling interest in protecting the integrity of investigations involving members. In every investigation, the Department has an obligation to protect witnesses from harassment, intimidation and retaliation, to keep evidence from being destroyed, and to ensure statements are truthful.
- B. The Department strives to protect all members against unfounded accusations, personal spite, or unreasonable supervision.
- C. A member may submit an individual complaint free from restraint, interference, discrimination, or retaliation.
- D. Members will refer to the current written directives entitled, “Workplace-Related Incidents of Sexual Misconduct, Domestic/Dating Violence” or “Discrimination and/or Harassment” regarding the filing of a complaint.
- E. Any complaints filed against a member must be supported by a written statement to include the Personal Identifiable Information (PII) of the person filing the complaint pursuant to 590.502 RSMo.
- F. Any member on probationary status or on an eligibility list receiving discipline may be considered for the additional administrative action of extension of probation or removed from the eligibility list only by the COP.
- G. Confidentiality
 - 1. Members providing statements will treat as confidential the official business of the Department as outlined in the current written directive entitled, “Code of Ethics and Rules of Conduct.”
 - 2. Members are prohibited from knowingly interfering or hindering an investigation; e.g., coaching a statement, sharing pertinent information.
 - a. Maintaining confidentiality does apply to:
 - (1) All pre-employment background investigations.

- (2) Any specific investigation as ordered by the COP or designee.
 - b. Maintaining confidentiality does not apply to communication with:
 - (1) A mental or physical health professional;
 - (2) A Fraternal Order of Police (FOP)/Department representative of the member's choice; or
 - (3) An attorney.
 3. The Department may request a protective order and/or request to redact and/or otherwise keep confidential all witness PII. All parties shall comply with 590.502(2)(14) RSMo. regarding the confidentiality of the file.
 4. If it is discovered that confidentiality is not maintained, the offending member may be subject to disciplinary action, up to and including termination.
- H. Records compiled as a result of any investigation subject to the provisions of this written directive will be held confidential except by lawful subpoena, court order, release approved by the Coordinator or subject member, or as provided under provisions of 590.070 RSMo., or as otherwise required by law.
- I. The Department will defend and protect members from and against civil claims made against them in their official and individual capacities if the alleged conduct arose in the course and scope of their obligations and duties as members, as is consistent with Board Resolution regarding indemnification.
 1. This includes any actions taken while working secondary employment or off-duty if such actions were taken under the color of law.
 2. In the event the member is convicted of, or pleads guilty to, criminal charges arising out of the same conduct, the Department will no longer be obligated to defend and indemnify the member in connection with related civil claims.

- J. Failure to address misconduct by any supervising or commanding member could result in disciplinary action for that supervising or commanding member.

IV. TABLE OF ANNEXES

This directive has been arranged in annexes for easy reference.

ANNEX A	Instructional Notice
ANNEX B	Investigation of Members
ANNEX C	Internal Affairs Unit (IAU) Investigations
ANNEX D	Disciplinary Actions
ANNEX E	Appeals Process

Stacey Graves
Chief of Police

Adopted by the Board of Police Commissioners this _____ day of _____ 20__.

Cathy J. Dean
Board President

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INSTRUCTIONAL NOTICE (NOTICE)

- A. Prior to the initiation of a notice, supervisors and commanders will seek guidance from the Coordinator.
- B. A notice may be implemented by supervisory level members and does not require subsequent approval by a higher level of command; however, prior to administering the notice to a member:
 - 1. The notice will be provided to members up to the divisional level of the chain of command for their information.
 - 2. Any recommendation or change will stay within the parameters of norms and will be appropriate for training.
- C. Immediately following the administration/completion of a notice; e.g. training completed, the supervisor/commander will complete a summarization on an Interdepartment Communication, Form 191 P.D. (Interdepartment Communication).
 - 1. The Interdepartment Communication will be signed and dated by the member and placed in the member's unit jacket.
 - a. The finalized date will be the date the notice was administered or the date in which training was completed.
 - b. The notice will be purged from the member's unit jacket, if the inappropriate behavior addressed does not recur within 1 year from the date the notice was administered or the training was completed.
 - 2. A copy will be sent to the Coordinator for tracking purposes only.
- D. A notice may be used as an underlying factor for future disciplinary action if similar behavior continues within a year from the date of occurrence.
- E. Will not appear on the member's Demeanor Record, Form 386 P.D. (Demeanor Record).
- F. In the event the notice relates to information reportable pursuant to the Department's obligations under *Giglio v. United States*, 405 U.S. 150 (1972), a copy of the notice will be forwarded to the Office of General Counsel (OGC).

INVESTIGATION OF MEMBERS

A. Administrative Investigation/Investigatory Interview

1. Any supervisor/commander who becomes aware of an incident(s) that could result in discipline, reduction in rank, termination, transfer that may or may not result in economic loss to a member will complete the proceeding procedures.
 - a. Prepare a Request for Incident Review, Form 388 P.D. (RIR), addressed to the Coordinator that lists the potential written directives violated and a basic statement of the facts of how those directives may have been violated. The following will not be included in the RIR:
 - (1) Personal opinion.
 - (2) Speculation.
 - (3) Extensive narrative about unrelated incidents.
 - (4) Recommendations about specific disciplinary actions or transfers.
 - b. If deemed appropriate, mitigating and aggravating information will be provided to the Coordinator with the RIR via a memorandum.
 - (1) If any member was asked questions, the questions and the responses may be aggravating or mitigating information that should be included within the memorandum.
 - (2) If no questions were asked, this information should also be included within the memorandum.
 - c. A copy of the RIR and memorandum will be provided to the member by the initiating supervisor/commander as formal notification of the existence and nature of any and all allegations and the individual, agency or other entity conducting the administrative investigation.

- d. The member will be allowed a reasonable amount of time to secure a FOP representative or attorney when a member is requested to provide a written statement or participate in an interview. The reasonable amount of time is not to exceed 24 hours and is separate from the 48-hour time frame for which a written response is to be provided.
 2. Unless further investigation is required; (i.e., miscellaneous or criminal investigation), the supervisor/commander will complete the investigation by gathering all information, evidence, and statements and provide it to the Coordinator unless otherwise agreed upon by the FOP and the COP in the following:
 - a. Supervisor/commander-initiated investigation (Section B, 1, of this ANNEX).
 - b. Any outside agency or investigator's investigations.
- B. Review and Determination of Disposition
 1. The Coordinator will review all written statements from the member and all documentation from the supervisor/commander.
 2. Once the investigation is complete, the Coordinator will determine one or more of the following dispositions.
 - a. No further action.
 - b. Policy review.
 - c. Instructional notice.
 - d. Disciplinary action.
 - e. Immediate suspension pending further action.
- C. No Further Action
 1. The Coordinator found the documentation did not support disciplinary action, require additional training, or an Instructional Notice be given to the member.
 2. The Coordinator will document the decision and rationale in a memorandum or appropriate document addressed to the supervisor/commander.

- a. The supervisor/commander will inform the member of the decision.
- b. The Coordinator will determine the appropriate time frame in which the original documentation will be retained for tracking purposes.
- c. A copy of the documentation may be kept by the member.
- d. The supervisor/commander will destroy any remaining copies.

D. Policy Review

1. The Coordinator found the current written directive(s) needs review and possible clarification.
2. The Coordinator will submit a memorandum documenting the problem and forward the recommendation to the Research and Development Unit.

E. Instructional Notice

1. The Coordinator will:
 - a. Notify the member's supervisor/commander of the decision.
 - b. Forward the member's written statement to the supervisor/commander if one was completed.
 - c. Retain copies of all documentation for tracking purposes.
2. The supervisor/commander will:
 - a. Discuss with the Coordinator the best form/course of action for the training/counseling.
 - b. Document the training/counseling provided to the member on an Interdepartment Communication and have the member sign it as detailed in Section A of this Annex.
 - c. Place all documentation in the member's unit jacket.

- F. A complete record of any investigation involving a member will be retained in accordance with the written directive entitled, "Records Management Retention & Disposal," and will be reported to OGC if required by law.

INTERNAL AFFAIRS UNIT (IAU) INVESTIGATIONS

- A. Members have a duty and obligation to answer questions and provide information during an IAU (not criminal) investigation.
- B. IAU will conduct administrative investigations into the following incidents:
 - 1. Allegations of misconduct filed through the Office of Community Complaints (OCC) and forwarded for investigation by the Director of OCC.
 - 2. Miscellaneous Investigations including, but not limited to:
 - a. Allegations of misconduct.
 - b. The disarming of a member.
 - c. Any discharge of a firearm whether on-duty or off-duty that injures a person or damages a third-party's property. Euthanizing/destroying animals most generally will not be investigated.
 - d. The discharge of a member's Department owned firearm by a non-Department member.
 - e. In-custody deaths and serious bodily injuries to suspects likely to result in death.
 - f. Commendations/honor awards.
 - g. Any other investigations as ordered by the COP or their designee.
 - 3. Pre-employment background investigations.
 - 4. Discrimination/harassment complaints in accordance with the current written directive entitled, "Discrimination and/or Harassment."
 - 5. Review and follow-up of police involved incidents.

C. Notification of Investigation

1. To notify a member of a pending investigation, a Notification of Internal Investigation, Form 5272 P.D. (Notice of Internal Investigation) will be forwarded to the member's division commander by the IAU detective. If applicable, a copy of the Community Complaint Report, Form 337 P.D. (Community Complaint Report), or complaint initiating documentation, will be attached.
2. The member's supervisor/commander will ensure the member receives the Notice of Internal Investigation and any related documentation.
3. Upon receipt, the member will sign and complete the Notice of Internal Investigation.
4. The supervisor/commander will complete the witness' signature section and return the signed Notice of Internal Investigation to IAU for inclusion in the investigation file.

D. Interviews/Statements

1. Interviews
 - a. At least 24 hours prior to an interview, the member will be provided with a copy of any complaint that is the basis of the alleged violation. PII as well as information not related to the incident may be redacted from any such complaint, as agreed upon by the aggrieved member.
 - b. Interviews may be conducted by members of the IAU or by the COP's designee, such as an outside agency investigating at the request of or on the on behalf of the Department.
 - c. Members who are witnesses or who are not the subject of the investigation, may request to have a representative or attorney present when providing a statement in connection to an investigation, if they reasonably believe they could be subject to disciplinary action.
2. Member's Rights During the Interview for Any Internal Investigation
 - a. Any interview or questioning will be conducted at a secure location or at the place where the member reports to work, unless the member consents to another location.

- b. Interviews may be conducted by IAU, the COP designee, or outside agencies.
- c. Members will be questioned by up to 2 members and will be informed of the name, rank, and command of the member(s) conducting the investigation.
- d. Prior to an interview session by the IAU, the member(s) conducting the investigation will advise the member of the rule set out in *Garrity v. New Jersey*, 385 U.S. 493 (1967), specifically that the member is being ordered to answer questions under threat of disciplinary action and that the member's answers to the questions will not be used against the member in criminal proceedings.
- e. When a member is questioned or interviewed regarding potential policy violations, such questioning will be conducted for a reasonable length of time and only while the member is on-duty unless reasonable circumstances exist that necessitate questioning the member while they are off-duty.
- f. There will be times provided for the member to allow for such personal necessities and rest periods as are reasonably necessary.
- g. Members may have a FOP representative or an attorney present during the interview.
 - (1) While present, the FOP representative or attorney may:
 - (a) Ask questions to clarify the member's previous answers during the interview.
 - (b) Ask questions to further clarify information regarding the investigation.
 - (2) The FOP representative or attorney will not interrogate or interrupt the questioning by the interviewer, badger the interviewer or prevent the interviewer from questioning the member.

- (3) The member and the representative will be allowed to confer in private to determine if any other information is needed or if the member's previous answers need to be clarified.
 - (a) After conferring with the member, the representative may return to the interview with the member.
 - (b) At this time, the member may provide additional information or clarify any answers that were given to the interviewer.
 - (4) Members and/or representatives giving statements will be allowed to take notes and can request the audio of the interview/investigation.
3. If an outside agency is conducting the administrative investigation, the member will be ordered, in writing or otherwise, to provide a statement by their supervisor and/or a commander.
4. If the member refuses to appear for a statement with IAU, the IAU Commander and/or Sergeant will order the appearance and document the member's refusal to appear. If the member continues to refuse, the IAU Commander or designee may immediately suspend the member with pay, pending further review and action by the Coordinator.
5. The investigatory method is at the discretion of the IAU detective. Under normal circumstances, a statement will be taken from the complainant prior to Department members or witnesses.
6. Interview questions will be within the area of knowledge thought to be possessed by the member. No devious techniques or accusatory statements will be utilized.
7. The IAU detective taking the statement may require all electronic devices, including phones and body worn cameras, be left outside the interview room.
8. A member's supervisor or commander will not be present when a statement is being given.
9. IAU interviews, whether in person or by telephone, will be recorded.
 - a. All recordings will be transcribed.

- b. The IAU detective should explain breaks in the recording during the interview such as "Parties are taking a 10-minute break to go to the restroom" or "During the break, the member conferred with their attorney or representative."
- 10. When it is necessary to conduct an interview beyond a normal tour-of-duty or during off-duty time, the member involved may make calls to such persons they believe may need information about the delay.
 - a. The member will refrain from discussing the subject of the investigation.
 - b. The Coordinator must approve any restriction against calls being made.
- 11. If a member refuses to answer questions, the IAU detective may continue to ask other questions pertinent to the investigation.
 - a. The IAU detective will return to the unanswered questions and if the member still refuses to answer, the IAU detective will stop the interview.
 - b. The IAU Commander or IAU Sergeant will direct the member to answer questions.
 - c. If the member still refuses to answer the questions, the IAU Commander or designee, may immediately suspend the member with pay, pending further review and action by the Coordinator.
 - d. The refusal will be on the recording, if possible.
- 12. Members are required to sign their statement(s) from an internal investigation interview and will be directed to do so by an IAU detective.
 - a. If the member refuses to sign their statement, the IAU Commander or designee will direct the member to sign the statement.
 - b. If the member continues to refuse, the IAU Commander or designee may immediately suspend the member with pay, pending further review and action by the Coordinator.
- 13. If a member wishes to make substantive change to any statement(s), the change will be included on a supplemental statement, and the signed original will be retained in the investigative case file.

E. Completion of the Investigation

1. The IAU detective(s) conducting the investigation will have 90 days from the date the investigation is requested.
 - a. The IAU detective conducting the investigation may request an extension of time to complete the investigation.
 - b. If the member under investigation consents or the Administrative Authority finds good cause has been shown, an extension of up to 60 days may be granted.
 - c. If the member does not consent, the Administrative Authority will set the matter for hearing and will provide notice of the hearing to the member under investigation and the IAU detective.
 - (1) The member and/or FOP representative or attorney will have the right to attend the hearing and to present evidence and arguments against the extension request.
 - (2) The IAU case detective and their supervisor or designee may attend the hearing to provide clarification of the request for the extension.
2. Extension requests will be limited to 2 per investigation; except that, if there is an ongoing criminal investigation there will be no limitation on the amount of 60-day extensions.
3. For investigations that originate from an OCC, refer to the current written directive entitled, "Response to Community Complaints" for further information.
4. Upon completion of a miscellaneous investigation that did not originate with OCC, IAU will forward the file to the Chief's Office for review, consideration, and further processing.

F. Polygraph Examination

1. The COP may direct a member to submit to a polygraph examination to clarify any matter concerning an investigation. Representation may be present during the interview portion but will not be permitted during the examination.

2. If a member refuses to submit to a polygraph examination as directed, the member may be suspended with pay for refusing to obey an order pending further review and action by the COP.
3. The polygraph examination will not be given to an individual who has just completed a lengthy interview session or who is not, in the judgment of the polygraph examiner, physically or mentally fit to be examined.
4. A member will not be subjected to accusatory statements during the polygraph examination.

G. Criminal Law Violations

1. If, during the course of an IAU investigation, it appears there is or may have been a significant violation of criminal law; i.e., Federal, State, or municipal ordinance, the administrative investigation will be suspended pending a determination as to whether a criminal investigation will be initiated.
 - a. The COP will be immediately notified in writing of the criminal aspect of the investigation with a request for a determination of the need for a criminal investigation.
 - b. If the COP determines a criminal investigation is warranted, the appropriate investigative element or outside agency will be notified and will assume responsibility.
 - c. If the IAU is assigned the criminal investigation, separate IAU detectives will be assigned to investigate the policy violation(s) and criminal violation(s) of the same incident.
 - d. The IAU detective conducting the administrative investigation will not disclose any information to the investigative element or other investigative member(s) conducting the criminal investigation, unless as may be required by law or policy.
2. When the criminal case file is completed, the administrative investigation will be resumed by an IAU detective, if necessary.
3. Once completed, the investigative element conducting the criminal investigation will share its investigative file with the IAU detective(s) conducting the administrative investigation.
4. When the crime occurs in an outside jurisdiction, IAU will follow the same protocol as if the incident occurred within the Department's jurisdiction.

5. When a criminal investigation is completed involving a member in any jurisdiction (including Kansas City, Missouri) it will be forwarded to the COP for review and recommendations.

DISCIPLINARY ACTIONS

A. General Guidelines

1. Discipline will be established and maintained through practices that motivate members to perform in an acceptable manner, achieve a quality work product, and help prevent further disciplinary action.
2. Each supervisor is accountable for members under their scope of supervision. The supervisor should not look to higher authority for approval to initiate an instructional notice or disciplinary review.
3. For discipline to be effective, it should be an instructive device, not a retaliatory measure, and it must meet the following criteria:
 - a. Discipline will be timely or as soon as practical.
 - b. Discipline will be consistent with the violation regardless of the member's status.
 - c. Discipline will be impersonal.

B. The Coordinator may determine the following:

1. No Further Action.
2. Instructional Notice.
3. Disciplinary Counseling.
4. Letter of Reprimand.
5. Suspension time of less than 7 days.

C. The Coordinator may recommend the following that will be reviewed and approved by the COP.

1. Suspension time of 7 days or more.
2. Involuntary transfer.
3. Reduction in rank.

4. Termination.
5. Any disciplinary action involving economic loss; e.g., suspension of secondary employment, removal from the field training officer program.

D. The Coordinator will:

1. Consult with the Human Resources Division, the Administration Bureau Commander, and the OGC in lieu of the member's chain of command, on any violations of the written directive entitled, "Workplace-Related Incidents of Sexual Misconduct, Domestic/Dating Violence."
2. Consider commanders as being held to a higher level of expectation regarding conduct and adherence to department policy and procedure, when determining appropriate discipline.
3. The Coordinator will have the authority to issue a determination of suspension time of less than 7 days.
4. Submit a monthly report of the member, nature of the violation, and discipline assessed to the COP or their designee.

E. Disciplinary Action

1. The Coordinator will:
 - a. Complete a factual summary and PIR.
 - b. Request an optional, informal pre-determination meeting with the representative and/or member.
2. When the recommendation for discipline determined by the Coordinator is:
 - a. Accepted by the member the discipline packet will be completed, signed, and properly tracked and filed.
 - b. Not accepted by the member, the Coordinator will:
 - (1) Provide the member the opportunity to submit a written response within 48 hours.
 - (2) Contact the member's chain of command to obtain mitigating/aggravating information if not already included with the RIR.

- (3) Have 5 days from receiving all documentation and evidence to review and decide on discipline.
 - (4) Present the PIR to the member with the factual summary and a recommendation.
 3. If the discipline recommendation is accepted by the member, the discipline packet will be completed, signed, and properly tracked and filed.
 4. If the discipline recommendation is not accepted by the member:
 - a. Upon request, the Coordinator has 5 days to provide the member with copies of the following:
 - (1) PIR.
 - (2) Factual summary.
 - (3) Supporting documentation and evidence.
 - b. The member has 5 days from receipt of indicated copies to provide a written response and/or request to meet with the Coordinator.
 - (1) If the written response and/or meeting resolves the matter, the discipline packet will be completed, signed, and properly tracked and filed.
 - (2) If the matter is not resolved, the member has the following options for an appeal; when applicable:
 - (a) DDC Review.
 - (b) Due Process Hearing.
 - (c) Arbitration Hearing.
 - (d) Board of Police Commissioners Hearing.
- F. A member may be placed on immediate suspension, relieving the sworn member of vested policy authority, with or without pay, when:
 1. They are the subject of a criminal investigation, or

2. In a commander's best judgement, the member remaining on-duty would be detrimental to the member or others, or reflect adversely upon the Department.

G. Finalized Date of Discipline

1. For disciplinary action that does not require review and approval by the COP, the finalized date of discipline will be the date the discipline was accepted and signed by a member.
2. Disciplinary action that requires review and approval by the COP, the finalized date of discipline will be the date of COP approval.

H. Immediate Suspension Pending Further Action

1. A supervisor/commander will:
 - a. Notify the member of the reasons for the immediate suspension.
 - b. Prepare RIR, as outlined in Annex A, Section B, 1, a of this directive and document the notification of the member.
 - c. Notify the member's chain of command as soon as practical.
2. Pending further action, the bureau commander will notify Personnel Records Section (PRS), as soon as possible.
3. The member will relinquish the following Department issued items to the supervisor/commander, or other member designated by the COP:
 - a. Department owned firearms.
 - b. Ammunition.
 - c. Badge and shield.
 - d. Police Radio.
 - e. Identification card.
 - f. Access card (i.e., key card) and key fob.
 - g. Any other Department-owned equipment the supervisor/commander believes should be relinquished; e.g. computer equipment, Department vehicle, K-9.

4. The Coordinator will follow the procedures outlined in Section B of this Annex.
- I. Final Disposition of 14 Days or Less of Suspension Time
 1. The Coordinator will inform the member of their option to elect in writing to either serve the suspension time or forfeit accumulated vacation, extra, or compensatory time.
 - a. The member may elect to use any combination of forfeiture time and suspension time on the Notification of Disciplinary Action – Suspension Days, Form 20 P.D.
 - b. The option to forfeit leave time is strictly voluntary for the member.
 - c. If member elects to forfeit accumulated leave, PRS will adjust the member's leave balance.
 - d. When the forfeiture option is selected, no record of the suspension time will appear in the Timekeeping System. To ensure all assessed suspension time is included on Demeanor Record, copies of the Notification of Disciplinary Action – Suspension Days, Form 20 P.D. and PIR, Form 5099 P.D. will be filed in the members' unit file.
 2. If the member elects to serve the suspension time, the time will be scheduled and entered in timekeeping by the element of assignment. Suspension time will be served without undue delay. All pay and allowances will be forfeited for that period.
 - J. Final disposition of 15 days or more of suspension time will follow the state statute (84.600 RSMo.).
 - K. On final disposition of any PIR which has a Disposition of Time Lost, Form 6 P.D. attached:
 1. The original Disposition of Time Lost will remain with the disciplinary packet.
 2. A copy of the Disposition of Time Lost will be forwarded to PRS for processing.
 - L. Final disposition of reduction in rank or termination are handled on an individual basis. PRS will prepare letters for signature of the COP as needed.

M. Suspended members will refer to the current written directive entitled, "Overtime/Court Time Policy" when submitting documentation for compensation.

1. Members will be authorized for overtime compensation:
 - a. For work time involved in the completion of reports and other job-related functions that exceed a regular tour-of-duty or occurred on a regular day off (R day).
 - b. For time during a member's suspension time associated with the investigation of the incident(s) involving the member for which they were suspended.
 - c. For participating in the promotional process, selection process, or attending Department-sponsored training.
 - d. If the member appears in court when a continuance could not be obtained.
2. For members suspended from duty without pay and allowances:
 - a. All payments will be delayed until the member is returned to full duty.
 - b. Any overtime earned during the suspension time, as described previously, will be paid if terminated or the member resigns without being restored to full duty.

N. Suspension Time with Pay and Allowances

1. A member's time will count as creditable service toward retirement.
2. Vacation leave (V time) will be earned.
3. Daily sick leave (S time) accrual will be credited to the member's sick leave balance.
4. The member's anniversary date will not be adjusted.

O. Suspension Time Without Pay and Allowances

1. Members will refer to the current written directive entitled, "Personnel Actions and Salary Adjustments," regarding changes to a member's anniversary date.

2. A member's time during the suspension time will not count as creditable service toward retirement.
 3. Vacation leave (V time) will not be earned if the accumulated suspension days total 15 or more days during the vacation (calendar) year.
 4. Daily sick leave (S time) accrual will not be credited to the member's sick leave balance. Adjustments to timekeeping records reflecting non-accrual of sick leave will be made automatically at the end of the affected work period(s).
- P. A member on suspension time through the end of the calendar year who has vacation (V) time remaining, may submit a request to:
1. Receive payment (straight time) for the remaining V time, or
 2. Have the leave extended into the following calendar year. The request will be forwarded for final decision by the COP.
- Q. A suspended member will:
1. Relinquish the items listed in Section H, 3 of this Annex to their supervisor/commander to be delivered to the following locations:
 - a. On suspension time of 14 days or less, items may be placed in a secure location at the member's element, designated by the element commander, until the member's return to full duty.
 - b. On suspension time of 15 days or more:
 - (1) Department issued firearm(s) and/or ammunition, and hand-held radio will be turned into the Supply Section until return to full duty.
 - (2) Badge, shield, identification card, and access card will be turned into PRS until return to full duty.
 2. Contact:
 - a. The Employee Benefits Unit to determine payment obligations for insurance benefits.
 - b. The Credit Union and Police Benefit Association to determine the status of insurance benefits and loan obligations, if applicable.

- c. The OGC if a court appearance is scheduled during the suspension time.
 3. Retain membership on any Department committee, but will not serve on the committee until the member returns to full duty.
 4. Be allowed to participate in the promotional process in accordance with the current written directive entitled, "Sworn Ranks, Titles, and Promotion Process."
 5. Cooperate in any investigation if a statement is required concerning any other matter.
- R. A suspended member will not:
 1. Carry a firearm in a law enforcement capacity and will comply with municipal ordinances and state statutes pertaining to the carrying of firearms as applicable to other citizens.
 2. Participate in secondary employment that entails the wearing of the police uniform or need for police authority. The member may work jobs not related to law enforcement.
 3. Participate in in-service training. Training will be rescheduled once the member returns to full duty.
 4. Participate in the Aerobics Program.
 5. Attend or participate in previously authorized training/school if the suspension time falls within the scheduled school period. If the suspension time is initiated while the member is attending a Department-sponsored school, the COP will determine if the member will continue attendance.
- S. On returning to full duty, the member will obtain any previously relinquished items from the locations as described previously.
- T. Record Retention
 1. The Notification of Disciplinary Action – Disciplinary Counseling, Form 21 P.D., The Notification of Disciplinary Action - Letter of Reprimand, Form 22 P.D., and The Notification of Disciplinary Action - Suspension Time (less than 7 days), Form 20 P.D. will be permanently placed:
 - a. In the member's unit file.

- b. On the member's Demeanor Record.
 - c. In the member's personnel file.
2. The Notification of Disciplinary Action – Suspension Day (7 days or more), Form 20 P.D., The Notification of Disciplinary Action – Involuntary Transfer, Form 23 P.D., reduction in rank and termination will be permanently placed:
- a. In member's unit file.
 - b. On member's Demeanor Record.
 - c. In member's personnel file.

APPEALS PROCESS

- A. No member will unnecessarily delay the processing of appeals.
- B. Discipline Dispute Committee (DDC) and Review
 - 1. The DDC will consist of the following members:
 - a. The HRD Director or their designee will be the DDC Chair (Chair).
 - b. One captain/commander/manager.
 - c. One sergeant/supervisor.
 - d. One non-sworn member.
 - e. One sworn member of the same rank of sworn member or 1 non-sworn member, at the preference of the member.
 - f. The remaining member will be of the same rank as the subject member.
 - 2. Selection of Members
 - a. Members of the DDC will be randomly selected through the computer system.
 - b. A member that is selected but does not wish to serve on the DDC will submit an Interdepartment Communication, Form 191 P.D., through their chain of command to the Chair.
 - c. DDC members will not have been involved in the incident being reviewed, assigned within the same division as the subject member or where the incident occurred, or be a relative of the subject member.
 - d. The aggrieved member will be allowed 1 peremptory challenge of a DDC member for a conflict of interest. The challenge will be presented to the Chair in writing.
 - e. Another member of the same rank as the challenged DDC member will be randomly selected through the computer system.

3. The DDC may affirm or decrease the recommended discipline.
4. Requesting A DDC Review
 - a. A member has 7 calendar days from the date of receiving a disciplinary disposition of Disciplinary Counseling or Letter of Reprimand from the Coordinator to prepare and submit a written request for a DDC review.
 - b. Any willing Department member or bargaining unit representative may assist in the presentation or creation of the written request except for the members assigned to:
 - (1) The OGC.
 - (2) The Chief's Office (including the COP, Executive Officer, Operations Sergeant and Operations Officer).
 - (3) Discipline and Accountability Division.
 - c. The member will:
 - (1) Detail the rationale for their request by citing specific Department rules, written directives, orders, or conditions for which the member believes apply to the situation. No copies of the memorandum will be made.
 - (2) Submit their request, details, and supporting documentation via email to ddcreviewprocess@kcpd.org from an identifiable email account to allow the Chair or designee to follow up on the request. This email account will be checked on a daily basis during normal business hours by the Chair or their designee.
5. The DDC Chair will:
 - a. Act as the liaison for the DDC and will not be a voting member.
 - b. Receive and review submitted appeal requests within 10 calendar days of receipt to ensure:
 - (1) Appeals are submitted within the specified time periods and meet the qualifications for DDC review.

- (2) If more documentation is required, the request will be returned to the member for completion within 5 calendar days.
 - b. Within 14 calendar days of request receipt, notify the Coordinator that an appeal has been filed in response to either a disciplinary disposition of Disciplinary Counseling or Letter of Reprimand.
 - c. Mediate an appeal when the action taken is mutually acceptable to all affected members.
 - d. Within 30 calendar days of receipt of the request:
 - (1) Review the randomly selected members to ensure the committee has proper composition.
 - (2) Notify the committee members in writing of their selection.
 - (3) Schedule committee meetings and preside as chairperson and non-voting member of the meetings.
 - (4) Ensure dissenting opinion reports are developed when there is a dissenting opinion from that of the majority of the committee.
- 6. DDC Member Responsibilities
 - a. Review appeal requests submitted by members, the investigative file, the testimony of the aggrieved member and/or representative, and interview any member/individual who can verify relevant information not included in the investigative file.
 - b. The confidentiality of all appeals submitted will be maintained by committee members. No portion of the proceedings will be transcribed or recorded.
 - (1) Committee members may take notes for their final analysis.
 - (2) Any notes taken by DDC members will be given to the Chair once the DDC has adjourned for the final decision.

- c. After all facts pertaining to the incident are collected and analyzed:
 - (1) Determine whether:
 - (a) The investigation of the incident was adequate to document the event or violation occurred.
 - (b) The member's violation/deficiency was clearly documented and the member's treatment was fair, equitable, and consistent through the Department.
 - (c) The aggrieved member responded to the allegations by either a memorandum or statement.
 - (d) The action taken/recommended, when compared with the totality of circumstances, was:
 - i. Appropriate.
 - ii. Inappropriate. Provide an explanation.
 - (2) Provide a final determination with supporting documentation to the Coordinator.
 - (a) The DDC has the authority and responsibility to recommend any or all of the following:
 - i. Revision of recommended action. Discipline can only be affirmed or decreased from the original recommendation.
 - ii. Policy or procedure modifications.
 - (b) Complete the Disciplinary Dispute Committee Report, Form 71 P.D. (DDC Report), documenting the findings and determination of disciplinary action for signature by the Chair.
 - (c) Once signed, the DDC Report will be forwarded to the Coordinator.

- (d) The Coordinator will notify all concerned members of the disposition and forward copies of DDC Report with the final disposition to the aggrieved member and the member's bureau.
 - 7. Investigative and internal files prepared within the Department will be made available to the aggrieved member, their representative, and the DDC unless all parties agree that doing so would be contrary to good order and discipline within the Department.
 - 8. An annual report will be submitted by the DDC to the COP of appeals received and notate any significant problems which occurred during the reporting year.
- C. Due Process Hearing
- 1. The Due Process Hearing may only decrease or affirm discipline.
 - 2. Members may request a Due Process Hearing within 7 calendar days from the date of receiving a disciplinary disposition for the following disciplinary actions:
 - a. Suspension time of less than 7 days without pay.
 - b. Placed on a status resulting in economic loss.
 - 3. The member, or their designated non-attorney representative, will present their argument against the assessed discipline to a panel of 3 majors not in the member's chain of command.
 - a. The member will select 2 majors for the panel.
 - b. The Coordinator will select 1 major for the panel.
 - 4. The member will:
 - a. Notify the Coordinator in writing requesting a Due Process Hearing. The members selection of majors for the panel will be included within the written request.
 - b. Have an opportunity to access and review documents that are in the Department's possession and that were used as a basis for the disciplinary action at least 7 days in advance of the Due Process Hearing.

- c. Have the right to refuse to testify at the Due Process Hearing if the member is concurrently facing criminal charges in connection with the same incident. A member's decision not to testify will not result in additional internal charges or discipline.
5. The Coordinator will:
 - a. Notify the selected majors in writing of their selection.
 - b. Schedule the Due Process Hearing.
 - c. Present their justification for the determination of disciplinary action to the panel during the Due Process Hearing.
6. Any decision, dissenting opinion, order, or action taken following the Due Process Hearing will be in writing and will be accompanied by findings of fact. The decision will be final and binding.
7. The findings will consist of a concise statement upon each issue in the case.
8. A copy of the decision or order accompanying findings and conclusions along with the written action will be delivered or mailed promptly to the member or to the representative of record.
9. A complete record of the Due Process Hearing will be kept by the Department. The record will be provided to the member or representative upon written request.
10. The entire record of the Due Process Hearing will remain confidential and will not be subject to disclosure under 84.610 RSMo., except by lawful subpoena, court order, consent of the member, or as otherwise required by law.

D. Arbitration Hearing

1. The Arbitration Hearing may only decrease or affirm discipline.
2. Members who receive a disciplinary disposition of 7 to 14 days suspension time may appeal the disposition through arbitration.
3. The member has 7 calendar days to submit a written request to the Coordinator for an Arbitration Hearing.

4. The arbitrator will:
 - a. Determine the procedural rules.
 - b. Hear evidence and witnesses from both parties.
 - c. Allow cross-examination of opposing parties' evidence.
 - d. Render a written decision within 30 days of the hearing.
5. The arbitrator's decision will be final and binding.
6. The cost of the arbitrator will be split between both parties.

E. BOPC Hearings

1. Disciplinary action resulting in reduction of rank, suspension time of 15 days or more, or termination may be appealed to the BOPC by requesting a hearing (BOPC Hearing) as indicated in state statute (84.600 RSMo.).
2. The member will file a written request to the OGC Board Assistant (Board Assistant) within 10 business days after the effective date of such action.
 - a. No extension of the 10-day period will be allowed.
 - b. The member, member's attorney, or representative will provide a courtesy copy of the appeal to the COP or their designee at the time the appeal is filed.
3. The BOPC will grant a BOPC Hearing within 15 calendar days after the filing of the appeal, unless the date of the BOPC Hearing falls on a legal holiday or weekend, in which case the following business day will be used.
4. The COP or their designee, or member, or both, may request an extension of the 15-day time period by filing a written motion for an extension of time with the Board Assistant.
 - a. A motion for an extension of time will indicate, at a minimum, the following:
 - (1) If the member has previously requested an extension of time for the BOPC Hearing.
 - (2) The reason for the request of extension.

- (3) If the member has conferred with the other party(s) and whether the other party(s) agrees or disagrees with the request.
 - b. Any such motion that does not contain the above information will not be considered by the BOPC's Attorney/Secretary.
 - c. The Board Assistant will forward the motion to the BOPC's Secretary/Attorney for disposition.
 - d. A courtesy copy of the motion will be provided to the other party(s) at the time of filing.
 - e. The BOPC's Attorney/Secretary will review and consider such motion and issue a written order on behalf of the BOPC sustaining or overruling the motion.
5. The parties to the BOPC Hearing will follow the procedures established by the BOPC's Secretary/Attorney.
6. Failure to comply with the BOPC Hearing procedures, without good cause, may result in dismissal of a member's BOPC Hearing.
7. The BOPC may:
 - a. Affirm the disciplinary action.
 - b. Reverse the disciplinary action.
 - c. Modify the disciplinary action.
8. The BOPC will report all decisions in writing to the COP or their designee and the member.

F. Overtime

1. The DDC review and Due Process Hearing members will be eligible for overtime compensation in accordance with the current written directive entitled, "Overtime / Court Time Policy."
2. The aggrieved member and the representative will **not** be compensated for overtime incurred in the presentation of an appeal or during a hearing.
3. Participation in a BOPC Hearing is voluntary and therefore, not compensable for overtime incurred.