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Effective Date: July 1997	Revision Date: January 2012
Amends/Supercedes: 1000.80/ July 2007	Approved by: Chief Kevin Higdon
Meets Accreditation Standard:	1.12

Section 1500.80 Officer Involved Critical Incidents

Policy

It shall be the policy of the Shively Police Department to take appropriate and necessary actions in response to critical incidents that involve any member of the Shively Police Department. Investigations that could result in criminal prosecution stemming from an officer involved critical incident may be referred to an outside law enforcement agency. While it is critical to conduct such an investigation to uncover the truth and to preserve evidence, it is equally important to preserve the dignity of the personnel involved. The Internal Affairs unit of the Shively Police Department shall conduct the administrative investigation of all critical incidents in which an officer's actions result, or potentially could have resulted, in death or serious physical injury to the public or to another police officer. Such incidents include:

- Officer involved shootings resulting in injury or death.
- Discharge of a firearm by an officer when the intention is to use deadly force.
- Officer involved use of force actions resulting in death or serious physical injury.
- Incidents resulting in death or serious physical injury to persons while in the custody of Shively Police Department Personnel.
- All traffic deaths or serious physical injuries resulting from police pursuits or other officer involved traffic collisions.
- Other officer involved incidents resulting in death or serious physical injury to the public.

Responsibilities of Commanding Officers

The responsibilities of commanding officers shall include:

- Ensuring proper crime scene maintenance.
- Notifying appropriate support personnel (e.g. EMS, Fire, Command Staff, Traffic Unit, FOP Representative, Chaplain).
- Gathering basic information from officers involved.
- Ensuring that required paperwork is completed (e.g. Use of Force Reporting Forms, First Report of Injury Forms, Exposure Report Forms).
- Securing all video from in-car cameras at the scene.
- Determining if additional personnel are needed to respond for duty.

Commanding officers shall not secure the officer's weapon unless exigent circumstances are present (e.g. officer is being transported to the hospital by EMS, officer is extremely distraught, etc.). The officer's weapon and any other evidence may be collected by the Crime Scene Unit as directed by investigators. In most cases, the officer will be issued a replacement weapon. In incidents involving collisions, the traffic unit may be utilized to map the scene.

Procedures for Officers Involved in Critical Incidents

Each officer directly involved in a critical incident that results in death or serious physical injury will be assigned an escort officer. The escort officer shall not have been involved in the critical

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incident and should remain with the officer throughout the entire initial investigation. Officers must complete departmental training as an escort officer before being assigned.

The escort officer is responsible for:

- Explaining the investigative process to the officer involved.
- Assisting the officer in contacting his/her private attorney, friends or family members as requested.
- Ensuring that the officer is isolated from all non-essential individuals for the remainder of the initial investigation.
- Transporting the officer to the current worker's comp facility for drug / alcohol testing if the officer is not injured.
- Transporting the officer home at the conclusion of the initial investigation.

Investigation of Officer Involved Critical Incidents

There will be two separate and independent investigations of **ALL** Officer involved critical incidents, Administrative and Criminal. The purpose of these investigations is not to imply that there was wrong-doing on the part of any officer. It is simply to determine the facts in the case and protect the integrity of both the officer and the Shively Police Department. Every officer shall be afforded his/her rights as guaranteed by the Constitution of the United States, Kentucky Revised Statute and The Police Officer's Bill of Rights.

Administrative Investigation

The purpose of an administrative investigation following an officer involved critical incident is to determine if actions taken by members of the Shively Police Department are in accordance with the Shively Police Department Standard Operating Procedures and Policy.

- Officers involved in critical incidents will be taken by an escort officer to submit to Drug/alcohol testing prior to securing from duty.
- Officers will be ordered to give a written statement regarding the incident prior to securing from duty. (The written statement may be delayed if the officer is injured or other circumstances prevent the statement from being provided before the officer secures from duty).
- Officers will be placed under 48 (Forty-eight) hour notice to give a taped statement and shall be ordered not to discuss the incident with other officers of the Shively Police Department.
- Officers involved in critical incidents will be placed on paid administrative leave and will be served with a Notification of Suspension or Limitation of Police Powers. The officer involved shall be available, upon reasonable notice, for official departmental interviews and statements regarding the incident. The leave shall be without loss of pay or benefits and shall not be interpreted to imply that the officer acted improperly.

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- After a minimum of 48 (Forty-eight) hours, officers will be scheduled to give a taped statement to the Internal Affairs Unit. This statement is required and information gathered during this statement cannot be used in any criminal proceeding.
- Officers will be given an opportunity to review a typed transcript of their taped statement and will be asked to swear to its truthfulness and sign the statement.
- After all evidence and statements have been reviewed, The Internal Affairs Unit will submit an investigative summary along with the entire case file to the Chief of Police for review. The summary shall include a finding regarding whether or not actions taken by members of the Shively Police Department were in accordance with Shively Police Department Standard Operating Procedures and Policy.
- After reviewing the completed Internal Affairs Investigation, The Chief of Police will make a determination if the investigation is closed with no further action or if disciplinary action is warranted.
- If disciplinary action is warranted, the officer may accept the discipline and will be asked to sign a Waiver of Right to Appeal.
- If the officer wishes to appeal the findings of the investigation and the subsequent disciplinary action, he/she may file an appeal and will be granted a hearing before the City of Shively Civil Service Board within 60 (sixty) days. Employees may have legal and FOP representation throughout the appeal process.
- The recommendation of the Civil Service Board shall be presented to the Mayor of the City of Shively. The Mayor will either uphold or overturn the recommendation.
- If the employee wishes to appeal the disciplinary action further, proceedings may be initiated in Jefferson Circuit Court. Further appeals will take place in the Appellate Courts of the Commonwealth of Kentucky and the United States.

Criminal Investigation

The purpose of a criminal investigation following an officer involved critical incident is to determine if the actions taken by members of the Shively Police Department are in accordance with Kentucky Revised Statutes. These investigations may be referred to another law enforcement agency to ensure the integrity of the investigation process.

- If an officer agrees to an interview, a standard interview format shall be used and the officer shall be advised of his/her constitutional rights prior to questioning. The officer will also be asked to sign a standard Rights Waiver form.
- The officer may have access to private legal counsel, FOP legal counsel and/or chaplain prior to being interviewed.
- At the conclusion of this investigation, the Office of the Commonwealth's attorney will review the entire case file to determine if charges should be filed against the officer as a result of his/her action(s).

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- If the officer is cleared of any wrong-doing, the Office of the Commonwealth's Attorney will send a letter of confirmation to the Lead Investigator. That letter will be forwarded to the Chief of Police and the officer's full police powers will be restored and the officer will be given a Notification of Restoration of Police Powers form.
- If the officer is not cleared of wrong-doing, the case will be presented to the Jefferson County Grand Jury. After presentation to the Grand Jury, the case shall follow criminal court proceeding as established by Kentucky Revised Statute.

Post Critical Incident

Upon determination that a critical incident debriefing may be beneficial to involved officers, the Chief of Police may contact the Kentucky Crisis Response Board or other resources to request services. A debriefing will be scheduled as soon as possible after all statements have been given in any pending criminal investigation. The purpose of the debriefing is to provide a confidential setting where an officer can share his / her personal thoughts and feelings about the incident and to educate affected officers in stress management techniques. Debriefings shall deal only with the personal side effects of the incident and shall not be used as an operational critique.

It is the duty of those facilitating debriefings to maintain strict confidentiality regarding all matters that come to their attention during debriefings. The Shively Police Department will not question any debriefing participants regarding facts or opinions gathered from a critical incident debriefing that are not related to an involved officer's physical or mental well-being. Information gathered during a critical incident debriefing will not become part of any investigation regarding the incident.

A mental health assessment may be required when an officer has been involved in a critical incident. Mental health assessments are completely unrelated to critical incident debriefings and will be conducted by a departmentally-furnished mental health professional/psychologist. If a mental health professional determines that an officer is fit to return to duty, a letter of confirmation will be sent to the Chief of Police.

Obligations of All Members of the Shively Police Department

All members of the Shively Police Department are obligated to discuss with the Chief of Police or any Commanding Officer matters concerning another officer when:

- The officer presents a danger to himself / herself or others. This includes drug abuse, excessive use of alcohol, the use of alcohol on duty, and/or mental or physical disability.
- There is reason to believe that the officer has committed a felony.
- There is reason to believe that an officer has committed child abuse or domestic violence.