

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:
COLLISIONS INVOLVING
DEPARTMENT MEMBERS**

DATE: May 24, 2023

APPROVED

Memo# 2023-014

BACKGROUND

The San Jose Police Department Internal Affairs Unit currently uses [REDACTED], a software platform designed for Internal Affairs investigations. [REDACTED] is software which works in conjunction with IAPro by automating frontline documentation, supervisory oversight, and organizational accountability for Internal Affairs investigations. On June 5, 2023, the Department will begin using [REDACTED] to complete and track the supervisory review process for all vehicle collisions involving Department members.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike through~~ form.

L 7004 RESPONSIBILITY OF SUPERVISOR ASSIGNED:
Revised ~~2-20-17~~XXXX

Supervisors assigned to a Department-involved vehicle ~~accident~~collision are responsible for ensuring that the following tasks are performed:

ASSIGNING INVESTIGATIVE RESPONSIBILITY: Assign a field officer from the district of occurrence to investigate and report the ~~accident~~collision.

RESPONSE TO THE SCENE: Respond to the ~~accident~~collision scene and ensure that a proper investigation is being conducted pursuant to Department policy and procedures.

INVESTIGATION: Assist in or direct the actual gathering of facts, statements, and citizen interviews. Examine the damaged vehicles and direct photographs be taken as necessary. If suspicions of City vehicle equipment failure are present, remove the City vehicle to the City Garage and request a special inspection.

ENFORCEMENT OF VEHICLE CODE VIOLATIONS: Make an on-scene determination as to the enforcement of California Vehicle Code infractions or misdemeanors against the civilian driver(s).

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Law violations such as ~~Drunk Driving~~ under the influence of alcohol or drugs or ~~Hit-and-Run~~ should be enforced. When there is evidence of a violation by the civilian driver that can be corroborated by physical evidence and/or impartial witnesses, then a citation is appropriate. Such information should appear on the accident report.

SUPERVISOR'S CONCLUSIONARY REPORT AND RECOMMENDATION: The supervisor will prepare a memorandum detailing their conclusions as to the cause and preventability of the ~~accident~~collision. ~~Attach the memorandum to all other reports pertinent to the accident.~~ The memorandum will be addressed to the Chief of Police. The memorandum will conclude with a recommendation assigning the ~~accident~~collision to one of the following categories:

- Preventable: The City employee did not exercise prudent and careful judgment to prevent the ~~accident~~collision, or operated the vehicle in an unsafe manner or in disregard of the rules of the road or contrary to Department procedures.
- Non-Preventable: The City employee exercised good judgment and used every possible means to avoid the ~~accident~~collision.
- Other: The City vehicle is damaged while properly performing a task necessary to protect citizens or their property; or the City vehicle is properly parked and/or unattended; or damage is caused solely by striking birds, rocks or debris thrown up by other vehicles or by road tar or spray.
- Other: Mechanical failure not within the control of the driver. Line/Operations Procedures Property of San Jose Police Department For Official Law Enforcement Use Only Page 603 DM2023 V1 040123
- Other: Responsibility cannot be determined.

~~The memorandum will be addressed to the Chief of Police and will be given to the first level command officer in the driver's chain of command. A transmittal form will be used. Within 30 days of being assigned the investigation, the supervisor will forward the memorandum and all relevant files and reports to the first level command officer in the driver's chain of command in BlueTeam.~~ If the supervisor who investigates the accident is not the driver's immediate supervisor, ~~a copy of the package is given to the immediate supervisor for their information. The immediate supervisor may submit a memorandum to the first level command officer if they have information which would assist the command officer in making a decision as to a finding and discipline.~~

L 7007 COMMAND OFFICER RESPONSIBILITIES:

Revised 02-20-17-XXXX

The Area Commander who received notification of the collision will create an entry in [REDACTED] assigning the investigation to the investigating supervisor by the end of the Area Commander's shift. The Area Commander will forward a notification to the driver's immediate supervisor, if different than the investigating supervisor, the driver's Captain, and the analyst assigned to process vehicle collisions in the driver's bureau. If the Area Commander creating the entry is not in the driver's chain of command, they will forward a notification of the entry in [REDACTED] to the first level command officer in the driver's chain of command.

The first level command officer in the driver's chain of command is responsible for reviewing the all ~~accidents~~collisions which occur in their command to ensure proper investigation and documentation, proper classification based upon establishment of cause, and recommendation for disciplinary action where appropriate.

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- **NON-PREVENTABLE AND OTHER ACCIDENTS COLLISIONS:** These categories of ~~accidents~~ collisions indicate that no violation of departmental policy and procedure occurred. They require only the concurrence of the command officer and the chain of command to the Bureau Chief who will forward them to the IA Commander.
- **PREVENTABLE ACCIDENTS:** Once this recommendation is received and concurred with, the first level Command Officer will obtain a three-year history of the driver's preventable ~~accidents~~ collisions from the IA Commander. At the same time the Command Officer should determine if photographs and any other special reports are necessary to assist in making a finding.

The Command Officer will then conduct an interview with the City driver as required by Duty Manual section C 1717—~~COMMAND OFFICER'S RESPONSIBILITIES~~.

The Command Officer will include the following elements in their report:

- **INVESTIGATION AND CONCLUSIONS:** This will be a summary of their investigation, interviews and collection of documentary material.
- **FINDING:** Determine if any sections of the Duty Manual have been violated. Any violation is handled as a case of misconduct and will be Sustained, Not Sustained, or Exonerated.
- **DISCIPLINARY RECOMMENDATION:** Evaluate all the information available and make a recommendation for any action to be taken by the Department. Support all recommendations by reference to facts obtained from the investigation.

The investigation, finding, and disciplinary recommendation will be forwarded *in* [REDACTED] to the Chief of Police through the chain of command: within 90 days of the Area Commander's initial entry into [REDACTED].

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections once they have been trained in the use and application of [REDACTED].



Anthony Mata
Chief of Police

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