

**MEMORANDUM OF
UNDERSTANDING AMONG
TENNESSEE BUREAU OF INVESTIGATION
THE DISTRICT ATTORNEY GENERAL FOR THE 20th JUDICIAL DISTRICT
AND THE METROPOLITAN NASHVILLE POLICE DEPARTMENT**

This Memorandum of Understanding (MOU) is entered into by the Tennessee Bureau of Investigation (TBI), the District Attorney General for the 20th Judicial District for Tennessee (DA) and the Metropolitan Nashville Police Department (MNPD), hereinafter collectively referred to as the "Parties," in furtherance of their respective duties, under law, for the purpose of facilitating investigations of incidents as described hereafter.

The Parties agree to the following terms and conditions of this MOU:

1. Pursuant to Tenn.Code.Ann. § 38-6-102 (a), the DA, through this MOU, shall request that the TBI investigate any incident involving use of force towards a human being that results in a law enforcement officer discharging their firearm, or the death of a human being occurring in the custody of an MNPD Officer, or person holding a MNPD Special Police Commission, acting in their official capacity (hereinafter referred to as "Incident").
2. Upon the occurrence of Incident, the MNPD shall:
 - A. Immediately notify the DA, or a representative of the DA;
 - B. Secure an Incident scene perimeter; and,
 - C. Identify all eyewitnesses for subsequent interview by TBI.
3. Upon notification of the Incident by the MNPD or the DA, the TBI, in furtherance of the provisions of T.C.A. § 38-6-102(a), is responsible for the following:
 - A. Initiating an investigation in accordance with the TBI Standard Operating Procedure: Law Enforcement Use of Force and Custodial Deaths Investigation Manual;
 - B. Providing an electronic copy of said manual to all Parties, to include any future updates;
 - C. Dispatching any TBI personnel necessary for the proper conduct of such an investigation. At least one TBI investigator shall arrive at the scene without unreasonable delay after being notified of the Incident in accordance with the provisions of this MOU, with the

remainder of the TBI response team to arrive as soon as possible after being notified;

- D. Notifying the medical examiner;
 - E. Retaining operational direction of investigations and forensic assistance or coordination initiated pursuant to this MOU to include all laboratory testing being overseen by the TBI Crime Laboratory;
 - F. Issuing of investigative reports and summaries to the DA as appropriate in the investigative process; and,
 - G. Submitting final reports to the DA for review. TBI will report factual findings of the investigation but will offer no recommendations or reach legal conclusions concerning whether the force used was justified.
4. MNPDP shall assign at least one investigator to serve as the administrative liaison between MNPDP and TBI during the investigation.
5. The Parties agree the Incident investigation conducted by TBI takes precedence over any internal or administrative investigation conducted by the MNPDP. The Parties also agree that there may be situations where both the TBI investigation and the MNPDP internal or administrative investigations can be conducted simultaneously without interference. Accordingly, the MNPDP agrees to advise TBI and the DA before initiating any internal or administrative investigation. When there is a reasonably foreseeable likelihood an internal or administrative investigation would interfere with the Incident investigation, MNPDP agrees to postpone components of the internal administrative investigation that would likely interfere with the Incident investigation until an appropriately agreed upon time. At the conclusion of the TBI Incident investigation or when the DA and TBI jointly agree to release, the Chief of the MNPDP may request a copy of the TBI file for use in any MNPDP administrative investigation. TBI cannot release the file to the MNPDP until the DA approves said release.
6. The Parties agree that the DA may disclose the TBI Case File pursuant to T.C.A. § 38-8-311.
7. The Parties agree protocols shall exist to ensure the role of the MNPDP in these types of investigations is strictly limited to scene

security, crowd control, traffic control, reporting and administrative investigations that do not interfere with the TBI investigation. The following protocols are designed with the sole purpose to create transparency and to reduce or remove any appearance to the public that the MNPD is in any way interfering with, participating in, or influencing the TBI Incident investigation. In summary, the Incident investigation will be conducted under the direction of TBI. MNPD will be responsible for ancillary or procedurally required procedures (reporting, safety, security, etc.) at the direction or approval of TBI.

8. Incident Scene Protocols:

- A. MNPD will be responsible for scene security and TBI will be responsible for directing scene investigation.
- B. MNPD officers and supervisors will immediately begin securing the Incident scene area by cordoning off the inner perimeter, intermediate perimeter, and outer perimeter.
- C. Media shall be placed within an area that will allow an easy transfer of information from the TBI Public Information Officer (PIO) and the MNPD Public Affairs personnel to the news media, provided that media shall not be permitted within the Incident scene or otherwise interfere with the investigation.
- D. If a weapon is on the scene, MNPD will secure that weapon and notate who was assigned to secure it. This will be accomplished where possible and necessary by posting an officer to stand near the weapon. If, for safety reasons, the weapon is collected, this information will be notated and forwarded to TBI upon their arrival. MNPD involved officer weapons should remain holstered until instructed otherwise.
- E. Exigent circumstances may arise (weather, safety issues, etc.) that could require involvement by the MNPD Crime Scene Investigations (CSI) Unit. Circumstances may also arise that call for any deceased individuals to be moved prior to TBI arrival. MNPD will notify the TBI Special Agent in Charge or Assistant Special Agent in Charge (SAC/ASAC) prior to actual involvement by MNPD CSI.
- F. MNPD CSI may deploy a tent and side shields prior to the arrival of TBI, if needed. Deployment of these items will be documented and given to TBI (who deployed, when deployed, etc.). MNPD may post an officer near the body if determined to

be needed for security.

- G. If any deceased individual must be moved prior to TBI arrival, the preferred action is to mark the position and location of the head, hands, and feet. These actions will be documented in detail, to include photographs, and provided to TBI.
- H. If MNPD CSI officers take photos of a scene (in exigent circumstances) that is later surrendered to TBI, TBI Agents will be able to download electronic media from the camera/device(s) at the scene.
- I. All reports that might be generated (in exigent circumstances) by MNPD CSI will be provided to TBI as soon as possible.
- J. All offense reports will be the responsibility of MNPD. TBI will provide all the necessary information for MNPD to complete Law Enforcement Officers Killed or Assaulted (LEOKA) reports as soon as is practicable.

9. Handling of Witnesses at the Incident Scene:

- A. To the extent possible, all identified witnesses will be separated as soon as possible until the arrival of TBI. Such witnesses are not to be questioned by MNPD Investigators unless otherwise directed by TBI.
- B. TBI will canvass witnesses upon their arrival.
- C. MNPD will transport lay or civilian witnesses to TBI Headquarters only after being instructed to do so by TBI Personnel. To the extent legally permissible, lay or civilian witnesses should remain separated and secured on the scene until TBI Agents advise otherwise. Lay or civilian witnesses shall not be taken to any MNPD facility prior to being transported to TBI Headquarters. If medical treatment is needed or requested, it shall be provided prior to the lay or civilian witness being transported to TBI Headquarters.
- D. Public safety is the highest priority and if a suspect remains at large, MNPD should continue efforts to apprehend the suspect(s). Any need to apprehend suspect(s) will be articulated to TBI.
- E. MNPD Officers who are witnesses should be interviewed by TBI prior to giving any administrative statements. MNPD agrees that all witnesses (civilian or sworn) will be interviewed by TBI

first. The Metro Office of Professional Accountability ("OPA") will obtain approval from TBI to approach witnesses prior to interviews (in the event additional investigative tasks are necessary). This in no way shall preclude the asking of "Public Safety Questions" to involved officers by MNPD on-scene supervisors.

- F. TBI encourages MNPD, as with all agencies where TBI conducts Use of Force Investigations, to delay conducting administrative or internal investigations until TBI has concluded their investigation. However, TBI realizes that agencies may stay their administrative investigations prior to the conclusion of the TBI investigation. With this in mind, any "walk-throughs" associated with administrative or internal investigations should be delayed until TBI has completed their on-scene investigation. This in no way shall preclude the asking of "Public Safety Questions" to involved officers by MNPD on-scene supervisors.

10. Involved Officers:

- A. TBI will photograph the involved officers, including any injuries they may have sustained, in the clothing and gear they were wearing at the time of the incident. TBI will collect and photograph gun belts, uniforms, boots, and any other items necessary for testing.
- B. TBI will collect any weapons used by involved officers for testing.
- C. If TBI suspects an involved officer is impaired, TBI will obtain a search warrant(s) or consent from the officer(s) for the appropriate testing before OPA conducts any administrative testing. After TBI has completed any necessary testing, then OPA may conduct post-incident drug testing

11. Video/ Digital Media:

- A: MNPD audio/video, incident scene photographs, 911 call recordings, recovered surveillance video, etc., shall only be released to the news media or on any social media platforms after notifying TBI of it's intended release. TBI understands that MNPD will make an independent decision

as to when and if to release the above listed items but agrees to notify TBI for situational awareness prior to it's release.

- B. Per TCA §38-8-311 after the completion of the investigation by TBI and the completion of the DA's prosecutorial function, the record may be accessed via an open record request to the TBI's Public Records Coordinator, and the redacted contents of the file will be released to the requestor, unless protected by other applicable statutes.

12. Charges

Should it appear that charges are to be filed on any individuals ("Individuals"), all Parties to this MOU should consult with the District Attorney concerning what entity should be the charging party of the Individuals involved in the incident. For the purposes of this MOU, Individuals shall be defined as non-law enforcement officers.

13. Updates

TBI shall provide periodic updates to OPA regarding the status of the investigation as agreed upon by the Parties.

This agreement shall become effective on the last date of execution by the Parties and may be terminated upon thirty (30) days' notice by mutual agreement of the Parties

Entered this 23rd day of May, 2022.



Glenn Funk
District Attorney General
Tennessee 20th Judicial District



John Drake, Chief
Metropolitan Nashville Police Department



David B. Rausch, Director
Tennessee Bureau of Investigation