A RESOLUTION OF THE BOARD OF POLICE COMMISSIONERS OF KANSAS CITY, MISSOURI, PROVIDING FOR INDEMNIFICATION FOR CIVIL JUDGMENTS AND FOR THE APPOINTMENT OF COUNSEL FOR DEPARTMENT EMPLOYEES AND MEMBERS OF THE BOARD OF POLICE COMMISSIONERS IN CIVIL AND CRIMINAL ACTIONS.

WHEREAS, the Board of Police Commissioners ("Board") has the authority to purchase insurance to cover liability of Department employees and Board members;

WHEREAS, the cost of liability insurance coverage is prohibitive;

WHEREAS, the Board has legal authority and power to provide counsel at public expense to itself and employees of the Department in the defense of both civil and criminal actions arising out of and in the course of its statutory duties and responsibilities as set out in Chapter 84 of the Revised Statutes of Missouri.

THEREFORE, BE IT RESOLVED, by the Board of Police Commissioners of Kansas City, Missouri with regard to providing counsel that:

1. The decision to provide counsel for the Board and/or its individual members shall be made by the Board on an individual case by case basis.

2. The decision to provide counsel for a Department employee shall be made by the Chief of Police with the aid of his advisors on an individual case by case basis. Where it is deemed appropriate to provide counsel on an immediate basis, either the Secretary/Attorney to the Board or the Police Department Legal Advisor may engage counsel for an employee on an immediate basis pending a review by the Chief of Police. The Chief of Police shall have the authority to continue with the employment of said counsel or may terminate said employment after a complete review of the facts of the individual case.

3. The decision to provide counsel shall be an exercise of discretion on an individual case by case basis and the following factors, among others, may be used in making the decision:

   (a) The circumstances surrounding the incident which gave rise to the civil or criminal action.

   (b) Whether or not the actions of the party involved appeared to be in substantial compliance with current Department policies, procedures, instructions and orders.

   (c) Whether or not the party involved appeared to be acting in the scope and course of his/her employment.

   (d) Whether or not the party involved appeared to be acting in good faith.

   (e) The extent to which the action may impact on the duties and responsibilities of the Board as set out in Section 84.420 of the Revised Statutes of Missouri.

   (f) The extent to which the decision may impact on the morale and effectiveness of the Department.

4. In the event that counsel is provided and the party fails to cooperate with counsel or in the case of a criminal action enters a plea of guilty or is found guilty, the party involved will reimburse the Board for the funds on counsel.

5. A decision to provide counsel as referred to in this RESOLUTION may, in the sole discretion of the party making the decision, result in the action being handled by the Legal Advisor's Office of the Department or by private counsel retained to handle the matter. The party making the decision to provide counsel shall have the sole discretion of attorney selection if private counsel is provided, except that in criminal cases a panel of not more than three (3) attorneys may be selected and the party involved may choose one of the three (3) as his or her attorney.

6. The decision to provide counsel does not determine the issue of indemnification by the Board for civil judgments. The Board will not be responsible for the payment of a fine or other such expenses in a criminal action.

BE IT RESOLVED, with regard to indemnification, that in consideration for any employee of the Kansas City, Missouri Police Department ("Department") or any member of the Board of Police Commissioners of Kansas City, Missouri ("Member"), past, present or future service to the Department or upon the Board and for any present, past or future cooperation in the defense of any threatened, pending or completed claim, action, suit or proceeding:

7. The Board shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding by reason of the fact that any person is or was a member of the Board, against expenses, judgments, fines and amounts paid in settlement, actually and reasonably incurred by Member in connection with such action, suit or proceeding if Member acted in good faith and in a manner the Member reasonably believed to be in or not opposed to the best interests of the Board. The termination

of any action, suit or proceeding by judgment, order, settlement or its equivalent, shall not of itself create a presumption that the Member did not act in good faith and in a manner which Member reasonably believed to be in or not opposed to the best interests of the Board.

8. The Board shall indemnify any Department employee (hereinafter "Employee") who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding by reason of the fact that any person is or was a Department employee, against expenses, judgments, fines and amounts paid in settlement, actually and reasonably incurred by Employee in connection with such action, suit or proceeding if Employee acted in good faith and in a manner the Member reasonably believed to be in or not opposed to the best interest of the Department. The termination of any action, suit or proceeding by judgment, order, settlement or its equivalent, shall not of itself create a presumption that the Employee did not act in good faith and in a manner which Employee reasonably believed to be in or not opposed to the best interest of the Department.

9. Expenses incurred in defending an action, suit or proceeding may be paid by the Board in advance of the final disposition of the action, suit or proceeding upon receipt of an undertaking by or on behalf of the Member or Employee.

10. The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled, and shall continue as to a person who has ceased to be a Member or Employee and shall inure to the benefits of the heirs, executors and administrators of such person.

11. Each party involved in a civil or criminal action will be advised of the provisions of this RESOLUTION and will be asked to agree to the same before counsel is provided.

12. This RESOLUTION is an interagency "rule" within the meaning of Section 536.010(4) of the Revised Statutes of Missouri.

RESOLVED this 26th day of October, 1993.