



PORTAGE DEPARTMENT OF PUBLIC SAFETY POLICY AND PROCEDURE		ORDER NO. 300-4
SUBJECT: Internal Affairs		
EFFECTIVE DATE March 12, 2001	DISTRIBUTION AP	NEW <input type="checkbox"/> AMENDED <input checked="" type="checkbox"/> January 3, 2022 REVISED <input type="checkbox"/> REVIEWED <input type="checkbox"/>
ISSUED BY: <i>Nicholas J. Arnold</i> Nicholas J. Arnold, Public Safety Director		MICHIGAN STANDARDS: 1.3.1, 1.4.1 CALEA STANDARDS: 26.1.4, 26.1.5, 26.1.6, 26.1.7, 26.1.8, 26.2.1, 26.2.2, 26.2.3, 26.2.4, 26.2.5, 26.3.2, 26.3.3, 26.3.4

- I. Purpose
- II. Policy
- III. Definitions
- IV. Complaint Procedures
- V. Public Safety Director Notification
- VI. Policy Reviews
- VII. Administrative Review Numbering System
- VIII. Workflow
- IX. Supervisory Responsibilities
- X. Employee's Duties and Rights During Investigations
- XI. Additional Internal Investigation Procedures
- XII. Internal Affairs Summary Format
- XIII. Complaint Disposition
- XIV. Filing and Retention of Reports
- XV. Yearly Analysis
- XVI. Complaint Process Brochure
- Appendix A – Internal Investigation Interview – Administrative
- Appendix B – Notice of Internal Investigation

I. PURPOSE

The purpose of this order is to establish the policy and procedure used by the Portage Department of Public Safety to receive, define, document, investigate, and make dispositions of allegations against the department and employees.

II. POLICY

It is the policy of the Portage Department of Public Safety to accept and investigate all complaints about conduct of its employees from any individual or employee, including anonymous complaints.

It is the policy of the Portage Department of Public Safety to make a determination of facts. A prompt adjudication will occur so appropriate corrective action can be taken, or the employee exonerated. Corrective action includes formal and informal discipline. In lieu of discipline, coaching, counseling, and training may be used to correct behavior.

It is the policy of the Portage Department of Public Safety to support employees falsely accused of wrongdoing and to defend legitimate directives issued to department personnel. In as much as the department will legally defend and indemnify employees in connection with lawsuits and liability claims arising out of proper performance of their police duties, it is imperative that the department conducts objective and impartial investigations of all allegations and complaints in order to ensure public confidence.

It is understood that the department expects the highest degree of integrity from its members and, accordingly, presumes that all employees' actions are performed in good faith and within the law, rules and regulations. Unless evidence is discovered to the contrary, that presumption will remain throughout any complaint investigation. The department will take immediate action where known criminal acts have occurred by any of its employees. Action taken will be consistent with criminal procedures followed in the case of any known crime occurring.

The Public Safety Director is responsible for the direction and control of the investigation of complaints and the department's internal affairs function. If assigned an internal affairs investigation, the investigator will have the authority to report directly to the Public Safety Director, or designee.

III. DEFINITIONS

- A. Coaching: Instruction on how something should be done.
- B. Complaint: An allegation of misconduct.
- C. Counseling: The provision of assistance to employees in resolving uncorrected behavior, more than coaching.
- D. Department Directive: Any oral or written statement, including electronic communication, used to guide or affect the performance or conduct of employees.

- E. Garrity Rights: The protection of compelled statements which cannot be used in a subsequent criminal proceeding and the employee cannot be terminated for refusing to waive their Fifth Amendment right to self-incrimination.
- F. Internal Affairs Investigation: All investigations concerning employee misconduct.
- G. Misconduct: Unacceptable or improper behavior by an employee.
- H. Not Sustained: Allegation that cannot be clearly proved or disproved.
- I. Policy Review: A review of department policies, operating procedures, rules, or tactics.
- J. Sustained: The allegation is true.

IV. COMPLAINT PROCEDURES

- A. Any employee learning of a complaint, either written or oral, signed or anonymous, about an employee or a department directive, will complete an Administrative Review outlining the allegation(s). The completed Administrative Review will be forwarded to the Public Safety Director through the chain of command. It should be noted that nothing in this order is intended to prevent complaints from being resolved at the initial supervisory level in Guardian Tracking (refer to Policy and Procedural Order 200-84).
- B. Any employee becoming aware of misconduct on the part of another employee must report the misconduct to a supervisor.
- C. The supervisor taking the complaint should listen carefully to the complainant. In some cases, what may initially appear to be a complaint may only be a lack of understanding of what occurred. By listening politely and giving a responsive explanation of the activity in question, the concerns of the citizen or employee may be resolved.
- D. A supervisor may relieve an employee from duty in severe cases. Examples of situations where such action may be deemed appropriate would be the arrest of an employee for a criminal offense or a determination by the supervisor that the employee is unfit for duty. The decision rests with the supervisor in charge at the time of the incident, based on the circumstances.
- E. This procedure to register complaints against, or to commend the agency or its employees, is made available to the public on the department's website.

V. PUBLIC SAFETY DIRECTOR NOTIFICATION

- A. The following allegations/complaints will be immediately reported to the Public Safety Director, or designee:
 - 1. Allegation of misconduct that resulted in death or personal injury.
 - 2. Allegation that a department member has committed a felony.
 - 3. Allegation that a department member has been the assailant in an assault.
 - 4. A personal protection order has been filed against a member of the department
- B. These and all other allegations will follow the workflow outlined in Section VIII, which includes the Public Safety Director.

VI. POLICY REVIEWS

- C. Review of Use of Force incidents will be conducted pursuant to Policy and Procedural order No. 200-4.
- D. Review of Vehicle Pursuits and Stop Stick Deployments will be conducted pursuant to Policy and Procedural order No. 200-8.
- E. Review of Foot Pursuits will be conducted pursuant to Policy and Procedural order No. 200-82.
- F. In all cases where property is damaged, lost or stolen, the incident will be reported to the immediate supervisor. The supervisor will complete an Administrative Review and the appropriate City of Portage Incident Report Form.

VII. ADMINISTRATIVE REVIEW NUMBERING SYSTEM

- A. For accounting and follow-up purposes, each Administrative Review created will be assigned a sequential number beginning January 1 of each year. The Public Safety Director's administrative assistant is responsible for assigning the numbers and maintaining the investigative records.
- B. Each numbered investigation will be categorized in the following manner:
 - 1. IA – All investigations concerning employee misconduct.

2. PR – Review of personnel actions regarding department policies, operating procedures, rules or tactics; including property loss and property damage investigations.
 3. LS – Lawsuits brought against the department or department employee(s).
- C. Once a number is used, it will not be voided or used over again for a different complaint.
- D. Multiple employees and multiple categories may be associated with the same numbered investigation record.

VIII. WORKFLOW

- A. Once a number has been assigned, the Public Safety Director will review the complaint and assign a category. The investigation will be routed in one of the following ways:
1. Assignment for further investigation, or
 2. Determine that no further action is required.
- B. The department does not have anyone assigned full-time to internal affairs investigations. Based on the circumstances of individual complaints, or where deemed necessary, an internal affairs investigation may be assigned to any supervisor by the Public Safety Director.
- C. All Administrative Reviews will be routed to Professional Standards through the Public Safety Director's administrative assistant.
- D. If it is determined that no further action is required, Professional Standards will publish the incident in Guardian Tracking and return the file to the Public Safety Director's administrative assistant. For cases involving additional investigation, Professional Standards will route to the assigned investigator.
- E. After the investigation has concluded, the completed file will be submitted to Professional Standards for review. Incomplete files will be returned to the assigned investigator for additional follow-up.
- F. All cases will contain a Summary of Investigation and will be submitted to the Public Safety Director's administrative assistant.
- G. If a criminal investigation is to be conducted, as well as an internal affairs investigation, different supervisors will be assigned to each investigation.

IX. SUPERVISORY RESPONSIBILITIES

- A. Supervisors are responsible to know and follow the provisions of any affected labor agreement, city personnel rules, or administrative orders, as appropriate.
- B. If a citizen requests/demands to make a criminal complaint against an employee where the incident occurred in the performance of their duties, the supervisor will complete the Administrative Review indicating the request for a criminal complaint. Professional standards will determine if the elements of a crime are present.
- C. Investigations will be initiated in a timely manner and in accordance with the provisions of any affected labor agreement, city personnel rule, or administrative order.
- D. Investigations of complaints against command personnel and non-union personnel will be conducted within 30 days from the date the employee is notified, in writing, of the complaint and allegations. And, the employee will be notified, in writing, of the investigative findings and disposition within three working days of the conclusion of the investigation.
- E. Investigations of complaints against members of the Portage Police Officers Association (PPOA) will be normally completed within 70 working days of the date of the complaint, and the employee will be notified within seven days of the completion of the investigation in accordance with the provisions of the agreement between the City of Portage and the PPOA.
- F. If it appears that it will be necessary to extend an investigation, a communication will be directed to the Public Safety Director who will address the need to extend the investigation with the appropriate representative.

X. EMPLOYEE'S DUTIES AND RIGHTS DURING INVESTIGATIONS

- A. It is important to initially make a decision as to whether the criminal investigation will be pursued first, or if the internal investigation will be pursued first, or whether they will be pursued concurrently.
- B. In any internal investigation of a complaint about an employee's conduct, the employee must answer questions narrowly and specifically related to the issue being investigated, in writing or verbally, as directed by the investigating supervisor.
- C. Scope of Questioning During Interview

1. Prior to an internal interview, if criminal misconduct may have occurred, the employee will be advised of their Garrity Rights. The investigation will use the Internal Investigation Interview – Administrative Form (see Appendix A).
 - a. The employee is required to answer all questions specifically, narrowly and directly related to the performance of his official duties.
 - b. Refusal to comply with an order to answer such questions is a violation of departmental rules, which may subject the employee to further discipline up to and including dismissal.
2. If, after being directed to provide the written statement or answer the questions posed, the employee still refuses to follow the directive, the supervisor may immediately relieve the employee from duty pending further review and action.

D. Representative at Interview

1. Employees will be permitted to have a union representative, supervisor, or other personal representative with them in the room during any interview concerning allegations of misconduct. The employee's representative will not interfere or impede an investigation but will be allowed to ask clarifying questions during the interview.
2. When an interview focuses on, or leads to, evidence of potential criminal activity by the employee, an employee's representative may confer with the employee.

E. Rights During an Internal Investigation

1. Prior to any interview, the employee under investigation will receive written notification of the complaint. This notification will be provided using the Notice of Internal Investigation (see Appendix B) adequately listing the relevant facts and the employee's rights and responsibilities during the investigation.
2. Unless mutually agreed to by the employee and investigator, all interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
3. The interview will be held at the Department of Public Safety Headquarters or at a location agreeable to both parties.

4. Interviews may be recorded and the transcript will be included in the internal affairs file.
5. Employees, or their supervisor, may contact the Public Safety Director's administrative assistant to ascertain the status of the investigation.
6. Employee(s) will be given an opportunity to explain their actions to the Public Safety Director prior to the imposition of any disciplinary action that results in a loss of property rights, i.e. suspension, demotion, or termination. (See Policy and Procedural Order No. 300-36, Section III, B.)

XI. ADDITIONAL INTERNAL INVESTIGATION PROCEDURES

A. Use of Medical and Laboratory Examinations

1. Medical or laboratory examinations may be required when the examination is specifically directed and narrowly related to a particular internal affairs investigation, such as criminal sexual conduct, illicit drug usage, etc. Any examination requested by the department will be at the expense of the Portage Department of Public Safety and consistent with laws governing evidence search and seizure.
2. Medical and psychological examinations will be done in connection with the concept of "guidelines for fitness for duty."
3. An employee under investigation may request a breath, blood, urine, psychological, polygraph, or medical examination if it is believed that such an examination would be beneficial to his or her defense. In addition, the department may require, with exception of polygraph, such examinations upon the direction of the investigative authority.
4. An on-duty supervisor is required to direct an employee to submit to a breath, blood or urine test when a level of intoxication or drug usage is suspected as the factor directly related to duty performance or operating a department vehicle.

B. Photographs of Employees

1. At the time of hire, all employees will be photographed for record and identification purposes.
2. Photographs will become part of the employee's photo file and maintained by the Public Safety Director's administrative assistant. The photographs will be updated as needed.

3. Citizens may view photographs of employees when such identification is necessary to proceed with the investigation
- C. The department does not utilize line-ups, financial disclosures, and polygraph exams during internal affairs investigations.

XII. INTERNAL AFFAIRS SUMMARY FORMAT

- A. The finalized Summary of Investigation will conform to the following format:
1. Complaint and Notification – Outlining the timeline of complaint receipt, investigative assignment, and employee notification.
 2. Overview – A concise and complete synopsis of allegations and related facts.
 3. Investigative Interviews, statements, review of video and audio recordings, and other information.
 4. Findings – Outlining the facts in a succinct manner.
 5. Review of Employee Personnel Record and Discipline.
- B. The assigned investigator will not make recommendations as to disposition or corrective action.

XIII. COMPLAINT DISPOSITION

- A. Upon completion of the investigation, the original Administrative Review and all supporting documentation will be forwarded by Professional Standards to the Public Safety Director's administrative assistant who will organize the case file.
1. The Public Safety Director will review the case file and arrive at a conclusion of fact. The Director may proceed with reaching a conclusion or solicit input from the employee's direct supervisor. Input may also be sought from the Director of Human Resources, legal staff and/or the City Manager prior to reaching findings regarding the allegations.
 2. Final disposition will be one of the following:
 - a. Sustained – Evidence is sufficient to prove the allegation(s).
 - b. Not Sustained – Insufficient evidence to either prove or disprove the allegation(s).
 - c. Exonerated – Incident occurred but was lawful and/or proper.

- d. Unfounded – Allegation is false or not factual.
3. If the investigation warrants corrective action, the Public Safety Director may solicit a recommendation from the employee's supervisors. The Public Safety Director will determine the extent of any correction action.
4. Other alternatives to improving employee performance include:
 - a. Training in lieu of discipline.
 - b. Coaching and counseling in lieu of discipline.

B. Complainant Notification and Status Notifications

1. Upon receipt and assignment of a complaint for investigation, the Public Safety Director, or designee will notify the complaining party that the allegation(s) are being investigated.
2. Investigative status notifications will be made to the complainant for the following:
 - a. Verification that the complaint has been received;
 - b. Periodic status updates of the investigation;
 - c. When an extension of timelines occurs;
 - d. Notification that the investigation has concluded.
3. Once the investigation has concluded, the Public Safety Director, or designee, will notify the complaining party in writing of the findings.

C. Discipline

Policy and Procedural Order 300-36 establishes a procedure for determination of disciplinary action and for safeguarding of employee rights.

1. The employee will receive a written Determination of Corrective Action, to include:
 - a. The particular rule(s) alleged to have been violated;
 - b. The dates and places where the alleged acts or omissions occurred;
 - c. A statement of the alleged acts or omissions;

- d. If necessary, the employee's right to a pre-determination conference (Loudermill Hearing).
2. The employee's pre-determination conference will be scheduled within seven calendar days of the completion of the investigation.
3. Within 10 working days after the conference, the employee will be notified of the results and be notified of the discipline, if the charge is sustained.
4. All punitive actions applied as a result of discipline will be documented and forwarded to the Public Safety Director, or designee

D. Employee Appeal

The grievance procedure established by City policy and/or by contractual agreement will be used by employees to appeal sustained complaints.

E. Citizen Appeal

Complainants who are not satisfied with the findings may appeal to the City Manager's office.

F. Final Recommendation for Discipline

1. The Public Safety Director will make a final recommendation to the Director of Human Resources pursuant to Administrative Order as to the imposition of any disciplinary measures.
2. Upon determination of the Public Safety Director or the pertinent appointed authority that dismissal or other disciplinary action of the employee is merited, the Public Safety Director, or designee, will prepare and submit a statement to the employee, including the following:
 - a. The reason for the disciplinary action;
 - b. The effective date of dismissal or other disciplinary action;
 - c. The status of fringe and retirement benefits after dismissal, where appropriate;
 - d. A statement detailing the contents of the employee's employment record as pertains to the disciplinary action;
 - e. The appropriate procedures for appeal of the disciplinary action.

3. Authority, criteria and procedures and to apply training, counseling and coaching in lieu of punitive discipline.
 - a. The Public Safety Director has the authority to apply training, counseling and coaching in lieu of discipline.
 - b. Criteria to apply training, counseling, and coaching in lieu of discipline:
 1. Upon determination that the violation was minor, was not willful.
 2. A negative sanction is inappropriate as a method to correct behavior.
 3. When the determination of facts do not rise to the level of formal discipline.
 4. When training, retraining, and remedial training is a more effective way of changing behavior.
 - c. Procedure
 1. Professional Standards will be notified of the determination that training, counseling or coaching will be utilized in lieu of discipline.
 2. Professional Standards will assign counseling and coaching to the appropriate supervisor. The supervisor will meet with the employee and discuss corrective measures to avoid future violations.
 3. Professional Standards will coordinate the appropriate training in lieu of discipline.
 4. All training and counseling resulting from a performance issue will be documented in Guardian Tracking and forwarded to the Public Safety Director, or designee.

XIV. FILING AND RETENTION OF REPORTS

Personnel complaints, lawsuits, policy reviews, and internal affairs complaints and their investigations will be maintained in a confidential electronic file in the office of the Public Safety Director. A copy of written notice of discipline will be filed in the employee's personnel file in Human Resources. No record of a complaint, unless sustained, will appear in the personnel file of an employee. Access to the

electronic file with completed personnel and internal affairs investigations is limited to the Public Safety Director, Senior Deputy Chiefs, Human Resources and the Public Safety Director's administrative assistant.

XV. YEARLY ANALYSIS

During the first quarter of each calendar year, the Public Safety Director and/or the executive management staff of the Department of Public Safety – Police Division will conduct an analysis of all citizen complaints, internal affairs investigations, policy reviews, lawsuits, lost property/damage reports, and prepare a report. The report will be sent to the following:

- A. Accreditation Manager
- B. Department of Public Safety – Police Division supervisors
 - 1. The Deputy Director and Professional Standards Lieutenant will review the report and make recommendations for training, if appropriate.
 - 2. Any supervisor may make recommendations for policy changes or other needed changes based upon review of the yearly report.

XVI. COMPLAINT PROCESS BROCHURE

The Department of Public Safety – Police Division will develop a brochure detailing the citizen complaint process and post copies at the PDPS Headquarters front desk and at City Hall.

INTERNAL INVESTIGATION INTERVIEW – ADMINISTRATIVE

At this time, I am going to question you concerning _____

This questioning concerns administrative matters relating to the official business of the Portage Department of Public Safety. During the course of this questioning, if you disclose information which indicates that you may be guilty of criminal conduct, neither your self-incriminating statements nor the fruits of any self-incriminating information you may disclose will be used against you in a court of law. You are required to answer my questions fully and truthfully. This requirement is set forth in our Portage Police Policy and Procedure Code. Section VII, subsection A, of Order 100-1 requires all employees to be truthful in all reports and statements, and Section V, subsection K, requires all employees to obey lawful orders given by a superior officer. Violations of these sections and/or a refusal to answer all questions may result in separate disciplinary action up to and including dismissal from the Portage Department of Public Safety.

Do you understand what I have just explained to you?

Do you have any questions concerning what I have just explained to you?

I, _____, by my signature below, affirm that I have been advised of the “Garrity warning” and have had its meaning explained to me.

Employee’s Signature _____ Date _____

Investigator _____

CITY OF PORTAGE

COMMUNICATION

NOTICE OF INTERNAL INVESTIGATION

DATE:

TO:

FROM:

This letter is to inform you that a complaint has been received from (complainant) regarding (behavior / actions and/or work performance) on (date). Subsequently, an internal investigation has been initiated. If substantiated, violations may result in discipline up to and inclusive of termination.

According to Portage Department of Public Safety Policy and Procedures, you may have violated (Policy and Procedural Order cited).

During this investigation, you are directed not to discuss this matter with any Police Department or City of Portage employees; however, you may discuss this with your police union representative. If a violation of this directive occurs, it will be considered insubordination, as defined by Department Policy and Procedural Order 100-1, and could result in separate disciplinary action. Employee's duties and rights during an investigation are outlined in the applicable labor agreement and/or Department Policy and Procedural Order 300-4.

The undersigned hereby acknowledges receipt of the above information and directive:

Signature: _____ Date: _____ Time: _____

Witnesses:

c: Employee
Original to Investigation File