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| PORTAGE DEPARTMENT OF PUBLIC SAFETY POLICY AND PROCEDURE | | ORDER NO. 300-27 |
| SUBJECT: Officer Involved Shooting | | |
| EFFECTIVE DATE January 11, 2016 | DISTRIBUTION AP | NEW <input type="checkbox"/> AMENDED <input checked="" type="checkbox"/> December 28, 2021 REVISED <input type="checkbox"/> REVIEWED <input type="checkbox"/> |
| ISSUED BY: <i>Nicholas J. Arnold</i> Nicholas J. Arnold, Public Safety Director | | REPLACES: CALEA STANDARDS: 1.3.6, 1.3.7, 1.3.8 |

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I. PURPOSE

To establish an investigative procedure that will be followed in all officer-involved shootings.

II. POLICY

The purpose of this order is to perform an investigation in accordance with current law enforcement techniques, establishing a factual reconstruction of the event that (1) satisfies the needs of the criminal justice system, (2) allows the Public Safety Director the ability to properly manage the department, (3) allows the city attorney

to adequately represent the city in civil litigation, and (4) observes the rights of employees.

Exception: This order is not intended to fully address the details or procedures that may be followed in the completion of any administrative investigations that will be conducted by the department and/or the city attorney's office.

An investigation conducted by the Internal Affairs unit, or other administrative investigators, would be governed by different procedures, policies, and statutes not detailed in this procedure.

III. DEFINITIONS

A. Officer – Any person who is a peace officer, as defined in the Penal Code, whether on-duty or off-duty status, or

Any other official representative or employee of the Portage Department of Public Safety Police Division, acting in an official capacity.

B. Intentional Shooting – Any intentional discharge of a firearm, whether on-duty or off-duty.

Does not apply to the intentional discharge of a firearm during range practice, hunting, sport-shooting, or the disposal of an animal, with prior supervisor approval.

C. Unintentional Shooting – Any unintentional discharge of a firearm by an officer, whether on-duty or off-duty.

D. Public Safety Statement – A statement provided to initial supervisors about issues of public safety following a shooting.

E. Internal Affairs Unit – Investigators assigned to conduct the administrative investigation.

F. Training Unit – Staff assigned to conduct the identification of tactical issues for presentation and discussion with executive staff.

G. Companion Officer – Designated uninvolved department personnel member assigned to accompany the involved officer after a shooting. The companion officer will stay with the involved officer until relieved by investigators and a command officer.

H. Preliminary Scene Management – Initial controlling of the scene, maintaining security, identifying evidence and potential witnesses prior to the arrival of the investigating agency (Michigan State Police).

IV. INVESTIGATION REQUIREMENTS

- A. “Intentional” officer-involved shootings will be investigated by the Michigan State Police and the Internal Affairs unit.

If sworn personnel are forced to shoot or shoot at an animal because it is a danger to them, is a danger to others, is a danger to a police service animal, or when necessary to complete some other duty, such as service of an arrest or search warrant or security checks of a premise, the shooting will be investigated as directed by the Public Safety Director, or designee. The on-duty supervisor or the supervisor of the employee involved in the shooting will notify the Patrol Lieutenant and will also respond to the scene and ensure that an officer is designated to interview witnesses, photograph and collect evidence, and document the incident in a police report. The Deputy Police Chief will also be notified, who may request an administrative review, if needed.

- B. All “unintentional” officer-involved shootings that occur within the City of Portage, wherein injuries have occurred, will be investigated by the Michigan State Police and the Internal Affairs unit.
- C. All “unintentional” officer-involved shootings that occur outside the City of Portage, wherein injuries have occurred, will be investigated by the jurisdiction of occurrence or the Michigan State Police and the Internal Affairs unit.
- D. All “unintentional” officer-involved shootings, wherein no injuries have occurred, will be investigated by the jurisdiction of occurrence if outside of the City of Portage, or if within the City of Portage, by the Internal Affairs unit, as directed by the Public Safety Director.

V. NOTIFICATION PROCEDURE

Immediately upon the receipt of information of an officer-involved shooting, as defined by this order, the on-duty sergeant will make the following notifications:

- A. Patrol Lieutenant
- B. Patrol Lieutenant will notify Deputy Police Chief.
- C. Deputy Police Chief will notify the following:
1. Public Safety Director
 2. Deputy Director
 3. Detective Bureau Lieutenant

4. Professional Standards Lieutenant
5. Police labor associations

VI. ON-SCENE PROCEDURES

A. Involved officer(s), Witness Officers, and First Arriving Officer will:

1. Protect the scene.
2. Immediately notify the Communications Center and the on-duty supervisor of the situation.
3. Direct and coordinate back-up units as necessary.
4. Render first aid to any injured parties if the tactical situation allows it.
5. Request medical assistance, if required.
6. Provide a public safety statement to a supervisor.
7. Leave their vehicle in its original location and condition. No items will be removed, unless authorized by the investigating agency supervisor.
8. Remove involved officer(s) from the scene.

B. On-duty supervisor will:

1. Respond to the location and take command of the scene.
2. Ensure the crime scene is secured by:
 - a. Proper placement of crime scene tape.
 - b. Ensure a crime scene log is maintained.
 - c. If possible, assign available personnel to video record an overview of scene and any bystanders.
3. Not interview the involved officer(s), other than to gather the public safety statement (see Appendix), which should be limited to the following:
 - a. What was your location when you fired?
 - b. In what direction did you fire if you know?

- c. If you know of anyone who is injured, what is their location?
 - d. What is the location of any other involved parties?
 - e. Are there any outstanding suspects?
 - (1) What is their description?
 - (2) What is their direction of travel?
 - (3) How long have they been gone?
 - (4) For what crime(s) are they wanted?
 - (5) With what weapons are they armed?
 - f. Is there any evidence that needs to be protected? Where is it located?
 - g. Are any other personnel involved?
4. Once the public safety statement is obtained, the officer will be directed to refrain from discussing the incident with anyone other than their legal representative and the assigned investigator(s).
5. A detailed interview should only be conducted by the investigating agency (Michigan State Police) or the Internal Affairs investigator.
6. The supervisor on scene should ensure the involved officer(s) secures their weapon until surrendered to the investigators handling the incident. There is no need to remove the officer's weapon publicly on scene.
- a. Handguns used by the involved officer(s) should be secured in his/her holster. The "companion officer" should transport the involved officer to the department. (Refer to Section VII, B, 7, for further duties of a companion officer.) The involved officer(s) will remain in whatever clothing they were dressed during the shooting. Once at the department, the officer(s) will be photographed as they were dressed at the time of the shooting. Their clothing may then be examined and collected by the investigators.
 - b. As soon as practical, a replacement firearm will be provided to the involved officer by the on-duty supervisor. The replacement weapon(s) will be obtained from the armory. The issuing supervisor will complete a supplemental police report

documenting the issuance of weapon(s) to document the chain of custody.

- c. Injured, involved officers taken to a hospital should have their uniform, body armor, belt, holster, and weapon secured by the first arriving supervisor for later examination. A supplemental police report will be completed, documenting the collection and securing of these items.
 7. Assign a “companion officer” to the involved officer(s). The companion officer should:
 - a. Drive the involved officer to the station.
 - b. Accompany the involved officer until relieved.
 - c. Ensure the involved officer is isolated from other personnel involved in the incident, as well as from staff in general.
 - d. Ensure the involved officer does not discuss the incident.
 - e. Attend to any need or request of the involved officer.
 8. Ensure the involved officer’s car is not moved and its evidentiary value not compromised.
 9. If necessary, assign personnel to transport witness officers to the station.
 10. Notify the Patrol Lieutenant of the situation as soon as possible.
 11. If the field supervisor is an involved officer, they should maintain command of the scene, and as soon as practical, another supervisor should relieve them.
 12. NOTE: Conversations with anyone, other than legal representation, is not protected and can be used as part of the investigation.
- C. Patrol Lieutenant will ensure that:
1. The involved employee’s personal needs should be attended to, including allowing the use of a telephone with privacy.
 2. Upon arrival at the police department or hospital (if injured), involved officers and witness officers will be kept in separate rooms or separate locations where they cannot have contact with other involved officers, witness officers, or other personnel in general. They will be provided a non-involved companion officer.

3. Involved officers and witness officers should not be interviewed by any personnel other than Michigan State Police investigators or the Internal Affairs investigators.
4. Notification of the involved officer's family should be done as soon as possible and will be arranged by a supervisor. The involved officer should make the notification if possible. Efforts should be made to arrange face-to-face contact with the involved officer's family during this notification.
5. In the event of an officer's death or serious injury, Policy and Procedure Order No. 300-3, Line of Duty Death/Serious Injury, will be followed.

VII. DETECTIVE BUREAU PROCEDURE

A. Responsibility

The Detective Bureau will respond to the scene under the supervision of the Detective Lieutenant. They will be responsible for the preliminary scene management and relieve patrol personnel as much as possible. The Detective Bureau supervisor will make other notifications as necessary (laboratory unit, coroner's office, etc.) until relieved by the Michigan State Police investigators.

B. Involved Officer(s)

1. The Detective Bureau will only request a public safety statement from the involved officer if not already obtain by the on-scene supervisor.
2. The involved officer will be relieved of the duty of making a written report or "Response to Resistance Report."
3. The involved officer will not be compelled to make a statement to the criminal investigator; however, the involved officer is required to provide a public safety statement, as set forth in this policy.

C. Witness Officer(s)

1. Witness officers will complete an incident report or supplemental in accordance with department policy.
2. The report should not be completed until at least one sleep cycle has been allowed.

D. Injury or Death Notification

Notification to the suspect's family of the injury or death of the suspect should be facilitated by the Detective Bureau supervisor, in coordination with the coroner's office.

VIII. KALAMAZOO COUNTY PROSECUTOR REVIEW

The completed criminal investigation of all officer-involved shootings will be taken to the Kalamazoo County Prosecutor's Office for review.

IX. JURISDICTIONAL CONSIDERATIONS

- A. If a police officer(s) from another jurisdiction is involved in a shooting in the city of Portage, the Portage Department of Public Safety will have primary investigative jurisdiction, and the officer's agency will be invited to accompany the Detective Bureau during our investigation.
- B. If a police officer(s) from a multi-jurisdictional task force becomes involved in a shooting in the city of Portage, the Portage Department of Public Safety will have primary investigative jurisdiction, and a representative from the officer's agency and the task force commander will be invited to accompany the Detective Bureau during our investigation.
- C. If a Portage police officer is involved in an on-duty or off-duty shooting in another jurisdiction, that jurisdiction has the investigative responsibility. As soon as any Portage Department of Public Safety employee becomes aware of the shooting, they will notify the on-duty supervisor, who will follow the notification procedure set forth in Section V, Notification. Permission will be sought from that agency to allow Portage Department of Public Safety representatives to accompany that agency during their investigation.

X. ADMINISTRATIVE PROCEDURES

- A. The Portage Department of Public Safety recognizes that the physical and emotional well-being of its employees and their families are of the utmost importance and is a primary concern following any deadly force incident.
- B. Any employee, whose action(s) or use of force in an official capacity result in death or serious physical injury to another, will be referred by the Public Safety Director, or designee, to a psychiatrist or psychologist, who is mutually satisfactory to the City and the Labor Association, for a psychological stress consultation. The purpose of this one-on-one consultation is to allow the officer(s) to express his/her feelings and to deal with the moral, ethical, and/or psychological aftereffects of the incident. Often, officers who appear to be coping well after a critical incident may later experience psychological symptoms. They should be prepared to recognize and deal with these symptoms. The employee(s) who receive consultation will be assured of full confidentiality consistent with law.

- C. Upon completion of the consultation, the psychiatrist or psychologist conducting the consultation will notify the Public Safety Director, or designee, that the consultation occurred before the employee will be allowed to return to duty.
- D. It should be noted that the right to confidentiality will be waived if the psychiatrist or psychologist has reason to believe that an employee poses an immediate danger to self or others. In the event of such an occurrence, the Public Safety Director, or designee, will be notified, and action will be taken to protect those concerned.
- E. Neither the psychological stress consultation nor administrative leave will be interpreted in any manner that would give anyone the impression that some form of discipline is being imposed.

XI. PRESS NOTIFICATION

- A. Press releases will be made pursuant to Policy and Procedural Order 200-33 and Administrative Order 2.04(a).
- B. Copies of any press releases will be maintained in the case file.
- C. The names of Portage personnel who were involved in an incident will only be released when the release of that information will not compromise either the safety of involved personnel or the investigation of the incident, and then only upon the authorization of the Public Safety Director, or designee. Involved personnel will be notified before their names are released.

XII. REPORTS

All original reports will be routed and approved in accordance with existing policy and procedures prior to submission to Records. This does not include any documents generated by the Internal Affairs unit. [CALEA 1.3.6]

It will be the responsibility of the involved officers' immediate supervisor to ensure that all reports and forms are completed and routed in accordance with all policy and procedures. [200-4, 200-53, 300-4]

XIII. DEPARTMENT ADMINISTRATIVE REVIEW AND DISPOSITION

- A. Within 45 days of the completion of the department's criminal and/or administrative investigations, the Public Safety Director, Deputy Director, Deputy Police Chief, the Patrol or Detective Lieutenant, the Lieutenant in charge of Professional Standards/Training, and the Sergeant who has direct supervision of the involved officer(s) will meet and review the case. The Public Safety Director will assign the Deputy Director to write a disposition report, reflecting the findings of the review board.

- B. Disposition categories will be:
 - 1. Within Policy
 - 2. Unintentional
 - 3. Out of Policy
 - 4. Training Review Needed
 - 5. Policy Review Needed
- C. The disposition will be listed in the Internal Affairs case file, and the involved officers will be given a written notification of the disposition.

XIV. TRAINING

The department will periodically train all sworn agency personnel in the procedures outlined in this policy.

**Officer Involved Shooting
Public Safety Statement**

Directions: to the On-Scene Supervisor and/or Detective Lieutenant.

This is a compelled statement. The supervisor obtaining this statement:

- Will not deviate from its content
- Will read the below directive compelling the involved officer to provide a Public Safety statement
- Will write down on this form the answers provided verbatim
- Will disseminate public safety information immediately via radio as appropriate
- Will turn over this form to the first arriving detective

Directive: "Officer _____, I am directing you to provide me with a Public Safety statement. Due to the immediate need to take action, you are hereby ordered and compelled to answer the following questions. If you refuse to answer these questions relating to the performance of your duties, you will be subject to disciplinary action, up to and including terminations. These statements are being compelled pursuant and consistent with Garrity v. NJ, 385 U.S. 493 (1967), its' progeny and MCL 15.391."

"With the understanding that you are still under the stress of this event, please answer the following:"

Question 1: Are you injured?

Question 2: If you know of anyone who is injured, what is their location?

Question 3: During this shift, what weapon(s) did you deploy with and where are they?

Question 4: What was your location when you fired?

Question 5: In what direction did you fire, if you know?

Question 6: What is the location of any other involved parties?

Question 7: Are there any outstanding suspects? _____ If yes, (a) through (e)

(a) What is their description? _____

(b) What is their direction of travel? _____

(c) How long have they been gone? _____

(d) What crime(s) are they wanted for? _____

(e) What are they armed with? _____

Question 8: Is there any evidence that needs to be protected? _____ If yes, (a)

(a) Where is it? _____

Question 9: Are any other personnel involved? _____

Closing: "This concludes the compelled questioning needed for the public safety statement. In order to prevent the contamination of your statement, I am ordering you not to discuss the details of this incident with anyone, with the exception of conversations that would otherwise be considered privileged communications, without the permission of Professional Standards."

Date: _____ Time: _____ Supervisor: _____