

**BAY CITY DEPARTMENT OF PUBLIC SAFETY
BAY CITY, MICHIGAN**

SECTION 1 - ADMINISTRATIVE
GENERAL ORDER

December 2, 2020
INDEX NO. 1.18

INTERNAL INVESTIGATIONS

I. PURPOSE

The purpose of this General Order is to establish a policy that all incidents in which the errant behavior or illegal actions of a public safety employee are investigated by a supervisor. An employee will not be placed in a position to have to investigate the actions of another employee, or superior, or be placed in a position to have to arrest another public safety employee. If this action becomes necessary, it will be carried out by a supervisor.

II. POLICY

It is the policy of the Bay City Department of Public Safety to conduct thorough Internal Investigations when warranted and at the discretion of the Public Safety Director. The agency will accept and investigate all complaints against the agency or its employees, to include anonymous complaints. The investigations shall be fair and protect the rights of the individual(s) being investigated as well as the interests of the Department, the City of Bay City and the community as a whole.

III. DEFINITIONS

- A. *Internal Investigation* – A formal inquiry into whether a violation of department policy and/or rules/regulations were violated by an employee of the department.
- B. *Fact Finding* – The process of discovery and establishment of the facts of an issue.
- C. *Professional Standards Sergeant* – An employee that holds the rank of sergeant but is assigned to Professional Standards and is supervised directly by the Public Safety Director.
- D. *Unfounded* – The allegations are not true.
- E. *Exonerated* – The conduct at issue occurred but was not a violation of agency rules.
- F. *Sustained* – The allegations are true by a preponderance of the evidence and the conduct at issue was a violation of agency rules.

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- G. *Unresolved* – The allegations cannot be proven true or untrue by a preponderance of the evidence.
- H. *Malfesance* – The performance of a public official of an act that is legally unjustified, harmful, or contrary to law; wrongdoing.
- I. *Misfesance* – The wrongful performance of a normally lawful act.
- J. *Nonfesance* – The omission of an act that should have been performed.
- K. *Punitive discipline* – Includes dismissal, demotion, suspension, and written or oral reprimands.
- L. *Counseling* – Instruction given in directing the judgment or conduct of another.
- M. *Training* – Education or instruction on a given topic.

IV. PROCEDURES

POSSIBLE VIOLATION OF POLICY AND/OR RULES AND REGULATIONS

- A. Law enforcement personnel involved in the investigation of a complaint who determines that a member of the Bay City Department of Public Safety may be in violation of department policy and/or rules and regulations will immediately contact the Law Enforcement Station Commander. If information is received by Central Dispatch or the Bay City Department of Public Safety that a law enforcement employee is in violation of department policy and/or rules and regulations, the Law Enforcement Station Commander will be notified and a law enforcement supervisor will be assigned to conduct a fact finding. Every attempt will be made to have a law enforcement employee of higher rank conduct the fact finding. If this is not possible the Deputy Public Safety Director shall be notified through the proper chain of command.
- B. If information is received by Central Dispatch or the Bay City Department of Public Safety that a fire operations employee is in violation of department policy and/or rules and regulations, the Fire Operations Shift Commander will be notified and a fire operations supervisor will be assigned to conduct a fact finding. Every attempt will be made to have a

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fire operations employee of higher rank conduct the fact finding. If this is not possible the Deputy Public Safety Director shall be notified through the proper chain of command.

- C. For any case where the complaint or allegation comes from a source outside of the department, the fact finding shall be forwarded to the Public Safety Director through the proper chain of command. In instances where a fact finding is initiated by a supervisor, that supervisor will consider the results of the fact finding to determine whether they handle the disposition or forward the fact finding through the chain of command for possible further action.
 - 1. The supervisor shall consider the seriousness of the offense and the motive of the involved employee when considering whether or not to forward a fact finding up the chain of command.
 - 2. It is recommended that Sergeants in the Patrol Operations Division discuss their intended actions with their respective Lieutenant before taking action.

- D. The Public Safety Director will determine whether an Internal Investigation is needed based on the information contained in the fact finding.
 - 1. If an Internal Investigation is deemed necessary, a supervisor of a higher rank or the Professional Standards Sergeant will be assigned to conduct the investigation at the direction of the Public Safety Director.

POSSIBLE COMMISSION OF A CRIME

- A. Law enforcement personnel involved in the investigation of a complaint who determines that a member of the Bay City Department of Public Safety may have committed a crime will immediately contact the Law Enforcement Station Commander. If information is received by Central Dispatch or the Bay City Department of Public Safety that a law enforcement employee may have committed a crime, the Law Enforcement Station Commander will be notified and a law enforcement supervisor will be assigned to investigate the complaint. Every attempt will be made to have a law enforcement employee of higher rank investigate the incident. If this is not possible the Deputy Public Safety Director shall be notified through the proper chain of command.

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- B. If information is received by Central Dispatch or the Bay City Department of Public Safety that a fire operations employee may have committed a crime, the Law Enforcement Station Commander will be notified and a law enforcement supervisor will be assigned to investigate the complaint.
- C. In any case where there is the possible commission of a crime by a Bay City Department of Public Safety employee, the Public Safety Director shall be notified immediately through the proper chain of command.

V. INTERNAL INVESTIGATION PROCESS

- A. Internal investigations are ordered and assigned by the Public Safety Director.
 - 1. The supervisor assigned to conduct the internal investigation will have direct access to the Public Safety Director if they feel a need to bypass other command staff for the integrity of the investigation.
 - 2. At the discretion of the Public Safety Director or their designee, an employee may be immediately placed on Administrative Leave with pay pending an investigation and/or disposition in the following instances:
 - An allegation of misconduct that is of a serious nature.
 - After a deadly force or serious response to resistance incident.
 - The employee's continued full duty could result in additional liability for the employee or the department.
 - In cases where the employee is facing possible criminal charges.
 - a. If an employee is placed on administrative leave pending an investigation, they may not return to duty unless expressly permitted by the Public Safety Director.
 - b. The Public Safety Director may consult with the Prosecuting Attorney when determining if an employee should return to duty prior to a disposition from the Prosecuting Attorney involving a criminal complaint.
- B. The employee(s) being investigated is/are notified of the investigation (typically by the supervisor conducting the investigation) as soon as practical after the decision is made to have an internal investigation done.
- C. At the completion of the investigation, the employee(s) investigated will be notified of the findings. Each allegation will have a finding of *Unfounded, Exonerated, Sustained or Unresolved*.

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1. For any allegation that is *Sustained* by the internal investigation, the employee(s) will be given an opportunity to meet with the Public Safety Director or their designee to discuss the allegation.
 2. The Public Safety Director or their designee will determine what and if discipline will result from a *Sustained* allegation.
 3. An employee will only be disciplined upon a *Sustained* allegation.
 4. After the investigation is completed and the employee has had an opportunity to discuss the charges, the Public Safety Director or their designee will provide a final written notice with the disposition of the investigation to the employee within 10 days.
- D. All internal investigation documents will be secured in an area accessible only to personnel authorized by the Public Safety Director in order to maintain confidentiality for the employees involved and the agency.

VI. DISPOSITION

The disposition of a sustained allegation will be determined based on several factors. Punitive discipline, counseling and/or training may be applied. Violations involving malfeasance are more likely to involve punitive discipline while violations involving misfeasance or nonfeasance may be more likely to result in counseling and/or training. The biggest determining factor will typically be the seriousness of the offense. Punitive discipline will be the least desirable option if the behavior can be corrected with training and/or counseling.

- A. Punitive disciplinary action may only be applied at the conclusion of the internal investigation process by the Public Safety Director or their designee.
 1. All punitive discipline will be documented and placed in the involved employee's personnel file.
- B. Counseling may be provided in lieu of punitive discipline at the discretion of the Public Safety Director or their designee for instances in which an internal investigation was completed or the Public Safety Director or their designee reviews a fact finding in which an internal investigation was not warranted.
 1. In instances where a supervisor conducted a fact finding that was not forwarded up the chain of command, that supervisor may provide counseling to the involved employee at their discretion.

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2. Counseling may also occur at the discretion of any supervisor for performance issues that did not involve a fact finding or internal investigation.
 3. The counseling shall be documented on the employee's Monthly Inspection Report by the supervisor that conducted the counseling.
 4. The Public Safety Director or their designee will review all counseling that occurs in lieu of punitive discipline.
- C. Training may be provided in lieu of punitive discipline at the discretion of the Public Safety Director or their designee for instances in which an internal investigation was completed or the Public Safety Director or their designee reviews a fact finding in which an internal investigation was not warranted.
1. In instances where a supervisor conducted a fact finding that was not forwarded up the chain of command, that supervisor may arrange to provide training on the applicable topic to the involved employee at their discretion.
 2. Any supervisor may arrange for training based on a performance issue that did not involve a fact finding or internal investigation.
 3. The supervisor that arranged to provide training shall ensure the training is documented on the employee's Monthly Inspection Report or in their training file.
 4. The Public Safety Director or their designee will review all training that occurs in lieu of punitive discipline.

VII. APPEAL OF DISCIPLINE

This General Order in no way is meant to prohibit or inhibit an employee from exercising their specified Grievance Procedure, regarding any discipline or corrective action, which is in their respective collective bargaining agreement.

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VIII. ANNUAL REPORT

The Public Safety Director or their designee will complete a written annual analysis of all employee misconduct complaints and dispositions. This analysis will be used to identify patterns or trends that could be predictive or could indicate program effectiveness, training needs, equipment upgrade needs, and/or policy modification needs.

By order of:



Michael J. Cecchini
Public Safety Director