

LANSING POLICE DEPARTMENT

Title: **COMPLAINT PROCEDURE**

Effective Date: **JUNE 1, 2005**

Rescinds: **200-7, APR. 2005**

No: **200-7**

ADMINISTRATIVE PROCEDURE

I. PURPOSE

The purpose of this procedure is to establish guidelines for processing and investigating citizen complaints.

II. AUTHORIZATION AND MANDATE FOR CITIZENS' COMPLAINT PROCESS

- A. Lansing City Charter Article 5., Chapter 3., Section 5-301.4, states "The Board, in its rules, shall establish a procedure for receiving and resolving any complaint concerning the operation of the Department."
- B. The Administration Code, Chapter 270.01(a), states "The Board of Police Commissioners, 'Board', shall be provided with such administrative and investigative assistance, employees, equipment and facilities as may be provided in the annual budget of the City from year to year. Administrative and investigative assistance and employees shall be approved by the Board consistent with City Charter, ordinances and personnel policies."

III. STATEMENT OF POLICY

The Board of Police Commissioners is committed to ensure that all persons are treated with dignity and respect. Any citizen complaint(s) alleging police misconduct will be fairly and impartially investigated. All police employee rights shall be protected during the investigation of complaints.

An effective Citizen's Complaint Resolution Process is an important component of local government accountability. The police must, within the limits of the law, be responsible and accountable to the citizens as the ultimate source of police authority.

The Board of Police Commissioners encourages all members of the public to bring forward legitimate complaints of alleged police misconduct.

IV. COMMISSION INVESTIGATOR

The Commission Investigator is authorized by the Board of Police Commissioners to do any of the following:

- A. Receive and investigate citizen complaints when authorized by the Board, consistent with law, procedure, and applicable collective bargaining agreements.
- B. Monitor the progress of any complaint investigation on behalf of a complainant or the Board

of Police Commissioners.

- C. Confer with the Chief of Police/designee, regarding the complaint process or request investigative assistance, if necessary.
- D. Assist the Board of Police Commissioners with any fact-finding pursuant to the Board's authority granted by the City Charter.

V. DEFINITIONS

- A. **Board:** the Board of Police Commissioners.
- B. **LPD:** the Lansing Police Department.
- C. **Chairperson:** the chairperson of the Board of Police Commissioners.
- D. **Member:** members of the Board of Police Commissioners.
- E. **Complaint:** an allegation made regarding the conduct of an employee of the LPD.
- F. **Aggrieved Person:** any person who appears from a complaint to have suffered injury, harm, humiliation, indignity, or any other damage as a result of an action by an employee of the LPD.
- G. **Conciliation:** to reconcile differences through a mutual agreement between the subject employee and the complainant. Conciliation of a complaint shall not preclude disciplinary action or the imposition of sanctions when appropriate.
- H. **Finding(s):** the outcome of an investigation. **Types of findings include:**
 - 1. **Sustained:** the investigation disclosed sufficient evidence to support the allegations made in the complaint.
 - 2. **Not Sustained:** the investigation failed to disclose sufficient evidence to support the allegation(s). This includes those situations where the complainant fails to provide sufficient information to allow an investigation to be conducted or completed. This does not include a complainant's withdrawal of a complaint where the investigation discloses a violation of law, policy, procedure, or rule of conduct.
 - 3. **Exonerated:** those acts which provided the basis for the complaint or allegation occurred, however, the investigation revealed those actions were justified, lawful, and proper.
 - 4. **Unfounded:** the investigation proved that the allegation is false and did not occur.
 - 5. **Policy Failure:** the investigation proved that the act(s) by an employee was/were

justified by LPD policy, procedure, or regulation; however, the policy, procedure, or regulation may not have been sufficient in protecting the public interest.

- I. Compounding: the process to elevate a violation classification from a lower class to the next higher class or to a higher step within the same class.

VI. CODE OF CONDUCT

For purposes of this procedure, the following categories of misconduct pertaining to citizen complaints shall include:

- A. Any violation of federal, state, or local law.

NOTE: In any instance where preliminary investigative data indicates the possibility of a criminal act on the part of an employee, the case shall be referred to the appropriate prosecuting authority. This should be accomplished prior to the formal administrative charging of the employee.

- B. Any violation of any written rule, regulation, procedure, directive, or order of the Department.

VII. COMPLAINT PROCEDURE

The Board of Police Commissioners shall have jurisdiction with respect to all citizen complaints pertaining to any LPD employee.

- A. Filing of Complaints

Complaints may be lodged in person, in writing, or by telephone. A waiver may be granted by the Chief of Police/designee, after consultation with the Complaint Committee of the Board of Police Commissioners, to investigate an external complaint from a third party when the incident involves an adult capable of logging the complaint him/herself.

1. If a complaint is lodged in person, the person filing the complaint may be asked to fill out a *Complaint Form*. Signing is not mandatory and a complaint will be investigated regardless of whether it is signed.
2. If a complaint is lodged by mail, a *Complaint Form* will be filled out based on the information provided. The written communication, however, shall be made a part of the investigative file. Unless the document is anonymous and the complainant cannot be identified, the complainant will be asked to sign the completed *Complaint Form*. Failure to sign shall not preclude further investigation of the complaint.
3. If the complaint is received over the telephone, a *Complaint Form* will be filled out based on the information provided. The complainant will be asked to sign the *Complaint Form*. Failure to sign shall not preclude further investigation of the

complaint.

B. Receiving Complaints

1. All complaints (i.e., internal and external complaints, vehicle accidents involving Department personnel, etc.) will be accepted, recorded, and reviewed by any of the following:
 - a. Commission Investigator,
 - b. Lansing Human Relations and Community Services Department,
 - c. Lansing Mayor's Office,
 - d. LPD Office of Internal Affairs,
 - e. Any LPD Supervisor, and
 - f. Division Captain/Communications Center Director, as applicable.

NOTE: The point of contact for citizens shall be the point of service. Under no circumstances shall a citizen be told to call back or go to another location within the Department to make a complaint.

2. If received by the Commission Investigator, the Commission Investigator may, subject to authorization by the Board or the Board's designee, conduct the investigation but will forward a copy of the complaint to the Office of Internal Affairs within one business day.
3. The Board of Police Commissioners will authorize, or designate a Board Member to authorize, the commencement of an investigation by the Commission Investigator. The Board, or designated member, may withdraw such authorization at any time during the investigation and ask the Chief of Police to assign the investigation to the Office of Internal Affairs or any other investigator/supervisor as may be deemed appropriate by the Chief of Police.
4. If the complaint is received by a police supervisor, the decision to open a charge will be a joint decision between the respective division captain/Communications Center director and Internal Affairs. The Assistant Chief will render a decision if the captain/director and Internal Affairs cannot reach a consensus on the matter. A copy of the complaint shall be forwarded by the Office of Internal Affairs to the Commission Investigator within one business day.
5. Minor, non-repetitive issues will be handled by the involved unit/precinct.
6. Most minor, non-injury, non-repetitive single vehicle accidents will be handled by the involved unit/precinct.
7. For employees working in the Communications Center or the Detention Section, if a decision is made to open a complaint involving one of their employees, the

appropriate division director/captain shall, absent special circumstances, assign a non-involved supervisor to investigate if the immediate supervisor is the complaining witness.

8. Within ten (10) working days of the completion of a *Citizen Complaint Form*, correspondence will be mailed to the complainant by the investigator (i.e., either the Commission Investigator or Office of Internal Affairs), if a mailing address is known, acknowledging receipt of the complaint and briefly explaining the complaint investigative process.

C. Who May File a Complaint

Citizen complaints shall include complaints received from any person, without regard to any characteristic of the complainant.

D. Time Limitation for Filing Complaints

Complaints must be filed within 60 days of the incident. An extension may be granted by the Chief of Police/designee, after consultation with the Complaint Committee of the Board of Police Commissioners for good cause. In appropriate circumstances, a preliminary investigation will be conducted on every citizen complaint regardless of the date of the incident giving rise to the complaint.

E. *Complaint Form*

The Board may furnish to the public the appropriate *Complaint Form* as established by the Board. A *Complaint Form* may be picked up at any City facility or office.

F. Withdrawal of Complaints

A complaint may be withdrawn at any time, however, such a withdrawal will not preclude the continuation of an investigation and will not preclude the imposition of disciplinary sanctions in appropriate situations.

VIII. COMPLAINT INVESTIGATION

The Board may designate the responsibility and authority for the review and investigation of any citizen complaint to the Commission Investigator or Office of Internal Affairs. In those situations where a complaint may involve a violation of law, the Office of the Chief of Police shall be contacted immediately and a criminal investigation may be conducted by criminal investigators. The Commission Investigator shall be directly responsible to the Board Chairperson. The investigation of a complaint will be completed within 30 days for Teamster employees and 90 days for all other employees. A waiver to exceed the 90 day time limit may be granted by the Chief/designee.

A. Screening of Complaints

The Commission Investigator subject to Board approval, may review any citizen complaints to determine the validity in relation to rules and regulations governing LPD employee conduct.

1. If the complaint is valid in terms of jurisdiction, an explanation of the process to be utilized by the Commission Investigator will be communicated in writing to both the complainant and the subject LPD employee, to the extent that such a disclosure will not interfere or otherwise compromise a pending investigation.
2. If a formal investigation is conducted by the Commission Investigator, the investigation will be completed within 30 days for Teamster employees and 90 days for all other employees. A waiver to exceed the 90 day time limit may be granted by the Chief/designee.
3. The Commission Investigator may request the Chief of Police/designee, to provide investigative assistance by the Office of Internal Affairs. All complaints and investigative files completed by the Commission Investigator will be forwarded to the Office of Internal Affairs. Investigative files will be confidential and separate from any personnel file.
4. Efforts may be made by the Commission Investigator when appropriate to reach conciliation between all parties at any time during the complaint process. Conciliation shall not preclude further investigation or imposition of disciplinary sanctions in appropriate situations.

B. Scope of Investigation

The investigation of a citizen's complaint shall include, but not be limited to the following:

1. Interview with the complainant, the aggrieved party, and witnesses or other person(s) likely to have information concerning the complaint and may include an interview with the subject LPD employee(s). Prior to any employee interview, consideration will be given to the necessity of any special advice of rights (i.e., Miranda or Garrity) and the potential need for union representation.
2. It shall be the responsibility of the Commission Investigator to record each step in the investigation and the result thereof in an investigative report which shall be made a part of the complaint file.
3. The Commission Investigator shall attempt to secure a written statement from all participants in, and witnesses to, the alleged incident. Where any witness or participant is unwilling to make a signed, written statement, the Commission Investigator shall prepare a verbatim transcript or written summary of the oral statement, if any, provided by such participant or witness.

4. Interviews and statements may be tape recorded by the Commission Investigator. Whenever possible, the recording, or transcript of the recording, will be retained as part of the investigative file.

C. Employee Rights

The employee may, at his/her request, have a union representative or an attorney attend the pre-determination conference. Investigators shall not knowingly violate an employee's due process rights in conducting the investigation and they shall not make any promises or offer rewards as an inducement to answer questions. Whenever appropriate, the investigator should seek guidance from either the Legal Advisor, City Attorney, or Prosecuting Attorney to determine which interview rights are appropriate (i.e., Garrity or Miranda) and to determine the potential immunity which may attach to the statements as a matter of law. In addition:

1. Personal property shall not be subject to search and seizure without probable cause or without a search warrant. Department property may be searched at any time even if assigned to or used exclusively by a single person.
2. Employees of the LPD will comply with all lawful orders for information, materials, or assistance when such orders are made by the investigator of a complaint.
3. Communications using departmental facilities and/or equipment may be monitored and recorded under conditions permitted by law.
4. The Chief of Police/designee can order any employee of the LPD to submit to any acceptable technique to secure non-testimonial evidence including, but not limited to, ballistics, photographs, and lineups.

D. Temporary Suspension

A supervisor conducting a preliminary investigation may temporarily suspend an employee in accordance with Department policy or procedure and applicable collective bargaining agreements.

E. Investigative Report

At the conclusion of the investigation, the Commission Investigator shall complete an appropriate written report setting forth the name of the complainant, the aggrieved party, the subject LPD employee and summarizing the investigation that was conducted and the information disclosed by the investigation. The report shall also contain a recommendation as to whether the case is appropriate for summary dismissal or any other appropriate action or disposition based on the findings.

F. Disposition of Case

1. The Board may, in its sole discretion, assume responsibility for determining the disposition of any case. To achieve this objective, the Board may conduct sessions to review any case or investigation to determine the disposition of any complaint consistent with the following categories:
 - a. Sustained.
 - b. Not Sustained.
 - c. Exonerated.
 - d. Unfounded.
 - e. Policy Failure.
2. The investigative report will be submitted to the Chief of Police/designee for review and implementation of any discipline.

G. Notification

Upon completion of an investigation and any review process, the Board will ensure the complainant is notified of the disposition of the investigation.

H. Board Review of Investigative Files

The Board may review any investigative file relating to a citizen complaint. Following that review, the Board may elect to take any of the following actions:

1. Conduct additional fact-finding pursuant to the authority granted by the City Charter.
2. Confer with the Chief of Police/designee regarding the outcome of any investigation.
3. Consider the implementation or amendment of any rule, regulation, or procedure the Board is authorized to implement pursuant to the terms of the City Charter.
4. Any other action permitted by Charter or ordinance subject to limitations imposed by bargaining unit contracts or law.

Adopted by the Board of Police Commissioners on May 17, 2005.