

Complaint Reception & Investigation

Index Code: 302.2

Effective Date: 08/01/08 (Revised 8/25/2020)

I. Purpose

The purpose of this directive is to establish a process for receiving complaints against persons employed by the Office of the Sheriff and establish procedures for the investigation of those complaints.

II. Policy

It is the policy of the Office of the Sheriff to invite individuals to bring forth their concerns and complaints whenever they feel an employee acted improperly, and for the Office to provide a thorough, fair and expeditious disposition of complaints about the conduct of its employees.

Complaints will be received courteously, and the Office of the Sheriff will make every effort to ensure that no adverse consequences occur to any person as a result of having brought what they perceived was a legitimate complaint to our attention.

All complaints will be investigated according to the procedures described in this directive. The complaint disposition will be consistent with the obligation of providing an equitable process for all parties involved.

This directive applies to all allegations of misconduct against employees, regardless of duty status.

III. Complaint Reception

The Office of the Sheriff will investigate all complaints against the Office and/or any of its employees, including anonymous complaints. However, a complaint of excessive force must satisfy the requirements of the Law Enforcement Officers Bill of Rights (LEOBR).

A. Citizen Complaints

A citizen wishing to file a complaint against an employee will be encouraged to submit the complaint via the mobile on-line app via: www.queenannessheriff.org or in person, by telephone, email or U.S. Postal Service in writing by utilizing our Complaint against Personnel Form. If the citizen declines to submit the complaint in writing, they will be referred to:

1. The currently available on-duty senior ranking deputy or supervisor, or
2. If no sworn officer is available to accept the complaint, the employee speaking with the complainant shall offer to accept the complaint.

Regardless of which employee accepts the complaint, the employee shall not attempt to influence the complainant in any manner.

The supervisor or employee will take the complaint and document it on a Complaint against Personnel Form. If a complaint is received via email, or other written correspondence, the receiving supervisor or employee will document it on a Complaint against Personnel Form and attach the letter and forward all information to the Chief Deputy or his/her designee. The date and time received shall be noted on the original complaint letter handwritten or time stamped.

B. Notification Procedures

Upon receipt of a complaint, the receiving supervisor will notify the Chief Deputy within twenty-four (24) hours or by 1600 hours on the next business day, brief the Chief Deputy on the complaint and obtain a complaint control number (IA#). The Chief Deputy will assign responsibility for the investigation of the complaint to a supervisor or member of the Command Staff. In the event the Chief Deputy is not available within the twenty-four (24) hour time period, the responsibility will lie with the Commander of Administrative Services to assign the complaint for investigation.

C. Frivolous or Malicious Complaints Deputies the rank of Lieutenant or above are authorized to rule as unfounded any complaint that, after suitable inquiry, is determined to be malicious, deliberately false, frivolous or baseless. However, the accusations must still be investigated and documented to protect the integrity of the Office of the Sheriff and its employees. In such cases, the extent of the investigation may be limited to substantiating the falsity of the accusation(s). Once the investigation has been investigated, it will be documented on a Complaint against Personnel Form, closed as unfounded and forwarded to the Chief Deputy or his/her designee for filing. No further action will be taken against the employee, and the employee may have the complaint expunged according to the provisions of the LEOBR if applicable. A photocopy of the completed report should be forwarded to the employee.

D. Verification of Complaint

Except for anonymous complaints, the Chief Deputy, or his/her designee, will, within 72 hours, provide verification to complainants that the complaint has been received for processing. Anyone making a complaint shall be required to provide their name and contact information if they wish to receive notifications.

E. Status of Investigation

The investigator in charge of an internal investigation is responsible for immediately informing the complainant of the investigator's name and contact information, followed by informing the complainant of the status of the investigation, periodically and at the conclusion of the investigation. At a minimum, the complainant will be updated every thirty (30) days regarding the status of the investigation. The complainant will be informed, within 72 hours, of the final disposition of the complaint and any discipline imposed as a result.

F. Employee Complainants

Any employee desiring to file a complaint of misconduct against another employee will complete a Complaint against Personnel Form and forward it to the Chief Deputy or his designee. The report need not be forwarded through the chain of command. Other than that exception, all of the above instructions will be followed. (If the complaint is against the Chief Deputy or his/her designee, the complaint shall be provided directly to the Sheriff.)

IV. Complaints Alleging Brutality

A. Sworn Signature Required

Complaints alleging brutality must be properly sworn to prior to any investigation. The complaint must be signed and sworn to under penalty of perjury by the aggrieved person, a member of the aggrieved person's immediate family, or by any person with firsthand knowledge obtained as a result of their presence at and observation of the alleged incident, someone who has a video recording of the incident, that, to the individual's knowledge, is unaltered, or by the parent or guardian in the case of a minor child.

B. Time Limit

Generally, an investigation which could lead to disciplinary action for brutality may not be initiated, and action may not be taken, unless the complaint is filed within 366 days of the alleged brutality. The Maryland Court of Appeals ruled police agencies may still choose to investigate complaints after the 366 day deadline. The Chief Deputy or his/her designee shall make this determination after consultation with legal counsel.

C. Supervisor's Responsibilities

1. A supervisor receiving a complaint or notified by an employee who received a complaint alleging brutality will determine the extent of injuries, if any, and take necessary action to ensure medical attention for injuries, and preserve evidence related to the brutality complaint. Color photographs will be taken of all visible injuries, areas of all alleged injuries even if no injury is apparent, torn clothing, scuff marks indicating a struggle, or any other evidence.

The supervisor will instruct the complainant that the complaint must be signed and sworn to under penalty of perjury. Alternatively, the complainant may type/write the complaint on his/her own paper, sign and date the allegation. Once signed and sworn to under penalty of perjury, the complaint must be forwarded to the Chief Deputy or his/her designee.

V. Complaint Investigation

All investigations will include interviews of the complainant, any known witnesses, the deputies involved, and any other party that may lend support to the investigation by verifying or disqualifying information. Deviation from this may only be made with the approval of the Sheriff or Chief Deputy.

In addition, the investigator will obtain all available physical and documentary evidence. Investigations must be conducted in accordance with the requirements of the LEOBR.

A. Interviews of the Complainant & Witnesses

Whenever possible, complainant and witness statements should be electronically recorded, with their knowledge and permission. If the complaint is sustained, the recordings may be transcribed into hard copy form with pre-approval by the Chief Deputy or his/her designee. When obtaining complainant and/or witness statements from juveniles, a parent/guardian or attorney shall be present.

B. Notification to and Interrogation of Deputies

Employees under investigation need not be informed of the investigation until it becomes necessary to interview or interrogate the employee. However, they can be notified

immediately if deemed appropriate.

When employees are notified that they have become the subject of an internal investigation, the investigator will issue the employee a written statement, via interoffice correspondence, of the nature of the complaint prior to any interview/interrogation. The notification will include a statement of the employee's rights and responsibilities relative to the investigation. In addition, deputies under investigation will be provided with a copy of the "Law Enforcement Officers Bill of Rights." (See related forms in the PowerDMS.)

Allegations of misconduct against employees can diminish their effectiveness in the performance of their duties. Maintaining the confidence of the public also demands that allegations of misconduct be resolved as quickly as possible. Therefore, absent extraordinary circumstances, internal affairs investigations will be completed within thirty (30) days from time of receipt.

The investigating authority may request in writing an extension of that time frame. The request will be directed to the Chief Deputy or his designee and must give a reason for the extension request without including details of the investigation. Extensions shall be for 30 day periods.

C. Special Investigative Procedures

1. Polygraph examinations of employees under investigation will not be done unless specifically requested in writing by the employee under investigation, with the consent of the Chief Deputy or his/her designee.

2. Employees may be ordered to submit to a medical or laboratory examination for the purpose of detecting the presence of controlled dangerous substances in the employee's body.

3. Deputies may be ordered to submit to a chemical test of their blood, breath or urine, pursuant to the provisions of the LEOBR. Such tests will be at the expense of the County and/or the Office of the Sheriff and be specifically directed and narrowly related to the subject matter of an internal investigation.

4. Employees may be required to allow themselves to be photographed upon order of the Sheriff or Chief Deputy. Photographs of all employees are maintained on file and updated as necessary.

5. Employees may be required to participate in lineup identification sessions upon order of the Sheriff or Chief Deputy.

6. A deputy may not be required or requested to disclose any item of his/her property, income, assets, source of income, debts, or personal or domestic expenses (including those of any member of his/her family or household) unless that information is necessary in investigating a possible conflict of interest with respect to the performance of his/her official duties, or unless such disclosure is required by State or Federal law.

D. Liaison with the State's Attorney

In cases involving alleged criminal misconduct by an employee, the investigator will seek legal advice and assistance in case preparation from the State's Attorney and, generally,

an internal investigation shall not occur until a criminal investigation has concluded.

VI. Conclusion and Report

After completing the investigation, the investigator will submit an internal report for review to the Chief Deputy, or his/her designee, who will then prepare an official findings report with recommendations to the Sheriff. The report will include, at a minimum, the following:

- The allegation(s)
- A statement of facts in chronological order
- The findings and conclusions of the investigation

The following are classifications of findings for each allegation of employee misconduct:

A. Exonerated

The alleged act occurred but was justified, legal and proper. The action of the agency or the employee was consistent with agency policy and the complainant suffered no harm.

B. Policy Failure

Although the action of the agency or the employee was consistent with agency policy, the complainant suffered harm. The investigator will refer the deficient policy to the Chief Deputy or his/her designee for review and revision.

C. Sustained

The accused employee committed all or part of the alleged acts of improper conduct.

D. Not Sustained

The investigation produced insufficient information to prove or to disprove the allegation.

E. Unfounded

The alleged act(s) did not occur

F. Unreported Misconduct

This classification is used to indicate the discovery of sustained acts of misconduct that were not alleged in the original complaint.

VII. Final Disposition

Personnel under investigation will be informed in writing of the final conclusion and disposition of any internal investigation. The Chief Deputy or his/her designee is responsible for this notification. Cases resulting in sustained complaints will be presented to a hearing board according to the requirements of the LEOBR and MD House Bill 1016, unless the deputy waives this right in writing.

- VIII. CALEA Reference:** 26.1.6
IX. Proponent Unit: Sheriff
X. Cancellation: This directive cancels Index Code 302.2 dated 2/24/2020.

Sheriff Gary Hofmann