

Complaint Reception & Investigation

Index Code: 302.2
Effective Date: 08/01/08 (Revised 7/1/2022)

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.

A. Complaints

A complainant 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. A complaint on personnel may also be submitted directly to the Queen Anne's County Administrator/Commissioners' Office or the Police Accountability Board (PAB) as described in section IV. If the complainant 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. The Chief Deputy or their designee shall immediately forward a copy of the complaint to the PAB. If a complaint is received by the Administrator/Commissioners or the PAB, a copy shall be forwarded immediately upon receipt to the Sheriff or Chief Deputy for investigation.

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 the internal affairs investigator, 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 or their designee to assign the complaint for investigation.

C. Frivolous or Malicious Complaints Deputies the rank of Lieutenant or above are authorized to recommend 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 complaint has been investigated, it will be documented on a Complaint against Personnel Form and forwarded to the Chief Deputy or his/her designee for forwarding to the Administrative Charging Committee (ACC). The employee who was the object of the complaint shall be afforded the opportunity to review the case once it is closed.

D. Verification of Complaint

Except for anonymous complaints, the Victims' Rights Advocate or the Chief Deputy, or 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 and will be instructed by the Victims' Rights Advocate on how to access the complaint portal for status updates on the investigation, possible charges, offers of remediation, possible trial board, its results and possible appeals.

E. Status of Investigation

- 1) Investigator: The internal affairs investigator must immediately notify the complainant of their name and contact information.
- 2) Victims' Rights Advocate (VRA) for matters related to police misconduct: The VRA shall be appointed by the Sheriff or designee. The VRA may be the investigator assigned to investigate any allegations of misconduct or may be another agency employee. The VRA shall:
 - a) Explain the complaint process to the complainant including the investigation, Administrative Charging Committee and, if applicable, the trial board.
 - b) Review with the complainant any decision to terminate the investigation.

- c) Review with the complainant any decisions made by the Administrative Charging Committee and, if applicable, the trial board.
- d) Prior to the completion of any investigation, provide the complainant with the opportunity to review the object of the complaint's statement on the matter.
- e) Notify the complainant of the status of their case at least every 30 days.
- f) Provide a case summary to the complainant including final disposition and possibility of appeal within 72 hours of its conclusion.

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.) Complaints originating from within the agency need not be forwarded to the PAB or the ACC.

IV. Police Accountability Board (PAB), Administrative Charging Committee (ACC) and Trial Board.

A) Queen Anne's County shall create and maintain a PAB in accordance with the 2021 Maryland Police Accountability Act and County Resolution #22-02. The PAB shall:

- 1) Hold quarterly meetings with the heads of law enforcement agencies and otherwise work with the agencies to help improve policing matters,
- 2) Appoint civilian members to the ACC and Trial Boards,
- 3) Receive complaints of police misconduct filed by members of the public,
- 4) On a quarterly basis, review all disciplinary matters considered by the ACC,
- 5) On or before the end of every calendar year, submit a report to the County Commissioners on any perceived disciplinary trends that might improve police accountability.

B) The PAB shall appoint two civilian members to the ACC plus a chairperson who can also hold a seat on the PAB all per the above-mentioned Act and Resolution. In addition, the County Commissioners will also appoint two civilian members following the same guidelines. The ACC is responsible for reviewing all internal investigations and their findings to determine whether involved deputy should be administratively charged or not. If the officer is charged, the ACC shall recommend discipline following the MD Statewide Police Disciplinary Matrix.

C) Trial Board Process

- 1) The Chief Deputy and/or the Administrative Services Commander shall oversee this process in accordance with House Bill 670 and County Resolution 22-02 Section IV. The purpose of this process is to adjudicate matters in which a sworn officer/deputy who is *not on probation* is subject to discipline from a sustained complaint of misconduct *and* that the sworn officer/deputy was determined to be ineligible for a penalty in lieu of a trial board *or* the sworn officer/deputy elected to be tried in lieu of accepting an offered penalty.
- 2) The Sheriff may elect to use the trial board process of another law enforcement agency by mutual agreement.
- 3) A trial board shall be composed of:
 - a) An actively serving or retired administrative law judge or a retired judge of the District Court or Circuit Court as appointed by the County Executive

- of the county in which the trial board is composed.
- b) A civilian who is not a member of an ACC of the county in which the trial board is composed.
 - c) A sworn officer (of equal rank to the sworn officer who is accused of misconduct) as appointed by the Sheriff or designee.
- 4) Prior to service on the trial board, members shall receive training from the Maryland Police and Correctional Training Commission on matters related to police procedures.
 - 5) Trial boards shall be open to the public with certain exceptions.
 - 6) The agency has the burden of proof by the preponderance of evidence.
 - 7) The trial board report may be appealed by the accused employee to the County Circuit Court within 30 days of its issuance.

V. 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 in which case the PAB shall be immediately notified and provided with a copy of the complaint.

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.

VI. 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, Chief Deputy or their designee.

In addition, the investigator will obtain all available physical and documentary evidence.

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 designee. When obtaining complainant and/or witness statements from juveniles, a parent/guardian or attorney should be present if possible.

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.

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 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 designee.

2. Employees may be ordered to submit to a medical or laboratory examination for the purpose of detecting the presence of alcohol, drugs or 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. 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. Legal counsel may be consulted by the investigator.

4. Employees may be required to allow themselves to be photographed upon order of the Sheriff, Chief Deputy or their designee. 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, Chief Deputy or their designee.

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.

VII. Conclusion and Report

After completing the investigation, the investigator will submit an internal report for review to the Chief Deputy, or designee, who, if the complainant was a member of the public, will then forward the investigation with recommendations to the ACC for their review and disposition. 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 that will be determined by the ACC for complaints from members of the public or by the Chief Deputy or designee for internally generated complaints:

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.

B. Policy Failure

Although the action of the agency or the employee was consistent with agency policy, the complainant suffered harm. The investigator and/or the ACC 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.

VIII. Final Disposition

Personnel under investigation will be informed in writing of the final conclusion and disposition of any internal investigation. The Chief Deputy or designee is responsible for this notification. If an internal investigation is deemed sustained by the ACC, they shall use the MD Statewide Police Disciplinary Matrix to determine the penalty(ies) to be assessed for each sustained violation. For internally generated complaints that are sustained, the Sheriff and Chief Deputy shall use the MD Statewide Disciplinary Matrix to be assessed. The findings and recommended charges/penalties shall then be forwarded to the Sheriff/Chief Deputy for presentation to the involved employee. The case shall be closed upon acceptance of the penalty(ies) by the employee. If the employee is not in agreement, a trial board shall be convened according to County guidelines.

IX. CALEA Reference: 26.1.6

X. Proponent Unit: Sheriff

XI. Cancellation: This directive cancels Index Code 302.2 dated 8/25/2020.

Sheriff Gary Hofmann