



52.0 Complaints and Administrative Investigations

This General Order consists of the following sections:

52.1.1 Types of Complaints

52.1.2 External Administrative Investigation Procedures

52.1.3 Preliminary Actions

52.1.4 Interviews

52.1.5 Interrogation of Sworn Members

52.1.6 Transcription/ Recording of Interviews

52.1.7 Summary and Findings of the Investigation

52.1.8 Administrative Investigation Report Organization

52.1.9 Notification and File Submission of the Administrative Investigation to the Proper Authority

52.2.1 Internal Administrative Investigation Procedures

52.2.2 Notification and File Submission of the Administrative Investigation Report to the Sheriff

52.3.1 Corrections Internal Investigation Procedures

Purpose:

To establish the procedures for receipt, review, and investigations of complaints against departmental personnel. To establish acceptable practices and procedures for conducting both External and Internal investigations.

Policy:

The Sheriff's Office is governed by Maryland Code, PS Article § 3-101, *et seq.* concerning citizen complaints alleging Police Misconduct. The Sheriff's Office has established procedures to fairly and effectively investigate External citizen complaints that have been registered with the Police Accountability Board and Internal complaints that come from within the agency.

Definitions:

POLICE ACCOUNTABILITY BOARD- A group of individuals appointed by the Washington County Government to accept complaints by individual members of the public of alleged Police Misconduct. The board is required to forward Police Misconduct complaints to the appropriate law enforcement agency for investigation. The Police Accountability Board may be referred to as the PAB.

LAW ENFORCEMENT AGENCY- Has the meaning stated in Maryland Public Safety Article 3-201. The Washington County Sheriff's Office for the purpose of this order will be denoted as a Law Enforcement Agency, or simply the Agency.

POLICE OFFICER- Has the meaning stated in Maryland Public Safety Article 3-201, Police Officer for the purpose of this order will be denoted as a Sworn Member.

COMPLAINT- A document filed by an individual member of the public alleging Police Misconduct. The complaint will identify the Sworn Member accused of Misconduct and a description of the facts. The complaint will also contain the information of the complainant or a person filing on behalf of the complainant for Investigative Follow-up.

MISCONDUCT- Means a pattern, a practice, or a [single act of] conduct by a Sworn Member that includes:

- (1) Depriving persons of rights protected by the constitution or laws of the State or United States;
- (2) A violation of a criminal statute; and
- (3) A violation of Agency standards and policies.

General:

52.1.1 Types of Complaints.

- A. Internal Complaints against Sworn Personnel - A complaint against a Sworn Member, not involving a member of the public that was initiated solely by a member of the Agency. Complaints that are considered Internal will be investigated as outlined in 52.1.2 Administrative Investigation Procedures and will be subjected when warranted to the Internal disciplinary procedures established by the Sheriff and outlined in General Order 26.0 Disciplinary Procedures.
- B. External Complaints against Sworn Personnel- A complaint against a Sworn Member that was filed with the Agency by an individual member of the public or was forwarded to this Agency by the Police Accountability Board. External Complaints also include Internal Complaints, once the Agency becomes aware that it involved a member of the public.

1. Receipt of Complaints:

A person wishing to file a complaint alleging Police Misconduct may file it in writing, with any member of the Sheriff's Office or with the Police Accountability Board. Any member of the Agency who receives and records an external complaint from a citizen will forward the Complaint to the Captain of Investigative Services on the day the Complaint was received and shall confirm said transmission VIA email. The Captain of Investigative Services will communicate with the designated member of the Police Accountability Board to report that an External complaint from a citizen was filed, alleging Police Misconduct.

2. Confidentiality of Investigations:

Departmental personnel who have knowledge regarding an active Administrative investigation are prohibited from discussing the specific facts unless they are acting at the direction of the Captain of Investigative Services or the Police Accountability Board.

3. Authority of Investigators assigned to Internal and External complaints:

The Sheriff has designated the Captain of Investigative Services to primarily investigate Internal and External complaints. At the direction of the Sheriff, additional agency members can be assigned to investigate Internal and External complaints.

4. Time Limitations and notification to the complainants:

- A. The Police Accountability Board will forward the External complaint of Police Misconduct on Sworn Members to the Captain of Investigative Services within 3 days after receipt by the board.
- B. External Complaints of Police Misconduct taken by agency personnel will be reported to the Accountability Board no later than 2 business days following the receipt of the External complaint of Police Misconduct.

5. Retention of Administrative Investigations/Complaints:

All Administrative Investigation complaints, all investigator records, and associated documentation will be retained and preserved according to applicable State and Federal law.

6. Administrative Investigation records management and maintenance:

The Chief Deputy will log all Administrative Investigations of alleged Police Misconduct on an approved ledger when notified by the Captain of Investigative Services. The Chief Deputy will assign a unique sequential number to each Complaint that will be used as reference point for the complainant, the investigative authority and any governmental board that oversees and adjudicates Police Misconduct.

7. Statistical Summary of Complaints:

The Chief Deputy shall compile statistical reports based upon the record of complaints received, along with other mandated information. The statistical reports can be released based on State and Federal Law.

52.1.2 External Administrative Investigation Procedures.

The Sheriff's Office will take a systematic approach on conducting Administrative Investigations. The procedures listed below are not all inclusive and can be subject to change as necessary to effectively investigate either an External or Internal complaint of Sworn Members alleged Misconduct.

52.1.3 Preliminary Actions.

1. Communication with the complainant and affiliated government agencies:

The Captain of Investigative Services, or designee upon receipt of a complaint of Sworn Member Misconduct will contact the complainant named in the matter within 72 hours. The Captain of Investigative Services will identify himself or herself to the complainant as the lead investigator and provide the complainant with the Administrative investigation sequential number and the ability to call and or check by electronic means, on the status of the investigation as it proceeds.

2. The Captain of Investigative Services will notify the Command staff that he/she has received a Complaint of Misconduct on a Sworn Member.

52.1.4 Interviews.

1. All interviews will be conducted in a private, quiet location free from interference from outside sources.
2. A Complainant who submits a written complaint of Police Misconduct in his or her own words but refuses to be interviewed, will be contacted by the Lead Investigator. The Lead Investigator will explain to the complainant that follow-up questions may arise from the investigation that will require discussion and/or clarification. If the complainant refuses, the investigator will conduct the investigation based on the written statement as fact, however the complainant will be notified the investigation could be hampered by not actively participating in the investigation. The Lead Investigator will notify the complainant they may be called to testify before the Administrative Charging Committee at a Trial Board.
3. The interviewer will be respectful and courteous at all times, maintaining a professional composure. Persons interviewed will not be threatened, intimidated, or coerced.
4. Standard investigatory techniques during interviews will be used to arrive at the truth.
5. The lead Investigator will relate to the complainant that a fair and impartial investigation will be conducted, and they will have the ability to check on the stages of the Administrative investigation or request personal contact by the Investigator for updates.
6. Every person named or described in the interview should be identified as completely as possible:
 - i. Full name, date of birth, address, and contact phone number.
 - ii. Physical descriptions of persons should be obtained if they cannot be identified as outlined in section i.
 - iii. Parent full information of juveniles.
 - iv. Relationship to the complainant
 - v. Relationship to the alleged incident.
7. The sequence of interviews/Interrogations to be followed, unless otherwise warranted, will be as follows:
 1. Complainant(s)
 2. Civilian Witnesses
 3. Sworn Members / Police Officers
 4. Agency Personnel if applicable
 5. Accused Police Officer

52.1.5 Interrogation of Sworn Members.

1. External Complaints of Misconduct, the accused Sworn Member is required to submit to an interrogation, Maryland Code, Public Safety Article § 3-107 (2). If the Sworn Member refuses to be interrogated, the Captain of Investigative Services may commence an action that may lead to a punitive measure as a result of the refusal. The results of the interrogation of the Sworn Member are not admissible or discoverable in Criminal Proceedings against the Sworn Member, Maryland Code, Public Safety Article 3-107 (d), see also, Garrity v. New Jersey, 385 U.S. 493 (1967)
2. The Sworn Member will be interrogated while on-duty. If the allegation/incident is such that immediate interrogation is imperative, the Sworn Member may be interrogated outside of working hours but will be compensated for said time.
3. Interrogations should take place at the Sheriff's Office.
4. The Sworn Member being interrogated will be provided the following information:
 - A. The identity of the Lead Investigator.
 - B. The nature of the Misconduct Complaint
 - C. The rights to which they are entitled.
5. The sworn member may have an attorney or other representative present during the interrogation. The interrogation will occur within five business days from the date of notification, extensions of time may be granted due to scheduling conflicts.
6. The attorney or representative may object to questions asked or make procedural objections on the record before or during the interview. In such cases, the Lead Investigator will note the objection and proceed with the interrogation.
7. If the Sworn Member refuses to answer questions, the Lead Investigator will order the Sworn Member to answer the question. If the Sworn Member still refuses, the Lead Investigator will advise the Sworn Member the refusal may subject themselves to further punitive actions.
8. If a Sworn Member is under arrest, or likely to be placed under arrest the Lead Investigator will advise the Sworn Member regarding Miranda Rights. The Miranda Warning form will be initialed and signed by the Sworn Member and the Lead Investigator.

52.1.6 Transcription / Recording of Interviews.

1. Interviews / interrogations conducted will be audio and video recorded. Transcription of interviews will be reviewed and verified for accuracy of the transcript. The Lead Investigator will add his or her name and date when proofing the transcription.
2. Evidence Collection:

The Lead investigator will collect and examine all records related to the Administrative Investigation. These include but are not limited to: CIR and Arrest Reports, CAD sheets, All Recordings and BWC footage, Logs showing involved persons time and location, Filed Investigative Reports, Medical Records, Personnel Records, Physician Reports, Detention Center Records, Court Transcripts, and other Public Records.

Physical Evidence will be collected and safeguarded in accordance with accepted investigatory techniques for collection of evidence. The physical evidence will be entered in the evidence storage room in accordance with departmental policy.

3. Investigative Tools:

- A. Testing for the purpose of disciplinary proceedings, under this section include but are not limited to. Blood Alcohol Testing, Blood Tests, Breath Tests, Urinalysis testing for Controlled Dangerous Substances and Polygraph Examinations.
- B. Requirements of Sworn Members to submit to testing, Maryland Code, Public Safety 3-107 (D). At the discretion of the Lead Investigator, and with the approval of the Sheriff, an employee may be ordered to undergo testing in conjunction with an Administrative investigation. Costs for ordered testing, excluding any independent testing by the employee, will be paid by the Agency. If the Sworn Member refuses, the Lead Investigator will advise the Sworn Member that refusal may subject the Sworn Member to further punitive actions.
- C. The results of the testing listed in this section is not admissible or discoverable in a criminal proceedings. Maryland Code, Public Safety 3-107 (D), and Garrity v. New Jersey, 385 U.S. 493 (1967)
- D. This order does not restrict Sworn Member Supervision from taking action when subordinates are subject to Reasonable Suspicion Testing, which is defined in General Order 37.0 Drug Testing.

E. Administrative Searches:

Administrative searches of the Sworn Member's work areas and or equipment owned by the Agency, or the County Government may be conducted if:

- 1. There is reasonable suspicion that the search will reveal evidence related to the External or Internal Investigation.
- 2. Searches of Sworn Member owned-property will not be performed without the existence of a search warrant or warrant exception.
- 3. Sworn Member's work areas will include, but not limited to, desks, file cabinets, lockers, telephones, police vehicles and computers.

52.1.7 Summary and Findings of the Investigation.

1. The summary of the Administrative investigation is a logical, objective presentation of steps taken during the investigation. The investigation will contain the allegation of Misconduct that constituted the complaint. A summary of substantive relevant portions of the statements taken from complainant(s), witnesses and the Sworn Member being investigated.
2. The summary will include pertinent evidence to the allegation.
3. The summary of facts that were identified by the Administrative investigation.
4. Internal investigations that are considered Internal Complaints, will contain a conclusion of fact for each allegation and the specific conduct/evidence that supports the Findings.

52.1.8 Administrative Investigation Report Organization.

5. The Administrative Investigation will be arranged in a logical sequence of order to facilitate review of the investigation.
 - A. The initial Complaint of Misconduct
 - B. The Lead Investigator Report
 - C. Complainant Statements.
 - D. Witnesses Statements.
 - E. Sworn Member Statements.
 - F. Department Reports
 - G. Related Documents.

52.1.9 Notification and File Submission of the Administrative Investigation Report to the Proper Authority.

1. External Complaints- The Captain of Investigative Services will forward the completed investigation to the Washington County Administrative Charging Committee on External Complaints of Misconduct. The Captain of Investigative Services will notify the Sheriff the Administrative investigation will imminently be forwarded to the Administrative Charging Committee.
2. The Sheriff may include a written recommendation for the ACC to consider regarding the matter under investigation.
 - A. The written recommendation may include the Sheriff's opinion regarding: (a) Whether or not the police officer should be disciplined; (b) Aggravating or mitigating factors or circumstances; and (c) If applicable, a recommended alternative to formal discipline.
 - B. If the Sheriff believes that discipline is warranted, based on the facts presented in the investigation, the Sheriff may make a specific recommendation for discipline in accordance with the Statewide Disciplinary Matrix, as approved by the Police Training

and Standards Commission under Public Safety Article, §3-105, Annotated Code of Maryland.”

52.2.1 Internal Administrative Investigation Procedures.

Policy:

To establish Agency procedures that will be utilized for Internal Administrative Investigations that do not emanate from an External Complaint involving a member of the public or the Police Accountability Board.

This section does not limit the authority of the Sheriff to regulate the competent and efficient management of the Washington County Sheriff’s Office by any reasonable means. This includes transfer and reassignment of Sworn Members if the action is not punitive in nature, and the action is in the best interest of the internal management of the Agency.

Purpose:

To List the procedural steps that will be used in an Internal Administrative Investigation that differ from the Maryland Statutory requirements defined in MD. Code Ann., PS § 3-101 *et seq.*

1. The Internal Administrative Investigation will be conducted using the same criteria defined in the External Administrative Investigation Procedures whether it is listed as a Statutory Requirement or is a procedure. The exception is the reporting requirements to the Police Accountability Board or the Charging Committee.

52.2.2 Notification and File Submission of the Administrative Investigation Report to Sheriff.

1. The Captain of Investigative Services will forward the completed Internal Administrative Investigation with a conclusion of fact to the Sheriff for Review.

52.3.1 Corrections Internal Investigation Procedures.

Policy:

To establish Agency procedures that will be utilized for Internal Investigations of the Correctional Division of the Sheriff's Office.

This section does not limit the authority of the Sheriff to regulate the competent and efficient management of the Washington County Sheriff's Office by any reasonable means. This includes transfer and reassignment of Correctional Deputy Staff if the action is not punitive in nature, and the action is in the best interest of the internal management of the Agency.

Definitions:

CORRECTIONAL OFFICER- Has the meaning stated in Maryland Code, Correctional Services, Article, 8-201. Correction Officer for the purpose of this order, will be denoted as Corrections Deputy or collectively as Corrections Staff.

CORRECTIONAL SUPERVISOR- Means a correctional officer who has been promoted to first-line supervisory duties. Correctional supervisor for the purpose of this order, will be denoted collectively as Correction Supervision.

CORRECTIONAL ADMINISTRATOR- Means a correctional officer who has been promoted from the supervisory rank to first line administrative duties. Correctional Administrator for the purpose of this order, will be denoted as Warden, Division Commander, Assistant Warden and Chief of Security.

LEAD INVESTIGATOR- Means an individual(s) directed by the Sheriff to conduct an internal investigation of correctional staff of the Washington County Detention Center.

COMPLAINT- A allegation of Correctional Staff Misconduct or an agency rule violation.

MISCONDUCT- Means a pattern, a practice, or a [single act of] conduct by a Corrections Deputy that includes:

- (4) Depriving persons of rights protected by the constitution or laws of the State or United States;
- (5) A violation of a criminal statute; and
- (6) A violation of Agency standards and policies.

General:

A. Complaint Process:

1. A complaint filed against a member of the correctional staff will be forwarded to the Warden or the Sheriff for review and assignment for investigation if warranted.
2. Confidentially of Investigations:

Departmental personnel who have knowledge regarding an active administrative investigation are prohibited from discussing the specific facts unless they are acting at the direction of the Command staff or Lead Investigator.

3. Authority of Investigators assigned to internal investigations of Correction Staff:

The Sheriff will designate individual(s) to investigate allegations contained in the complaint involving Correctional Deputies. The Individuals assigned the investigation will have the authority to carry out the procedures that are contained in this order.

4. Time Limitations and notification:

The internal investigation will be completed within a suitable timeline.

5. Retention of Administrative Investigations/Complaints:

All Administrative Investigation complaints, all investigator records, and associated documentation will be retained and preserved according to applicable State and Federal law.

6. Administrative Investigation records management and maintenance:

The Chief Deputy will log all Administrative Investigations of alleged Correctional Staff Misconduct on an approved ledger when notified by the Lead Investigator. The Chief Deputy will assign a unique sequential number to each Complaint that will be used as reference point for the internal investigation.

B. Preliminary Actions:

1. The assigned investigator will communicate with the Sheriff and Division Commander during the internal investigation to provide status updates and the potential timeline when the investigation will be completed.

C. Interview:

1. All interviews will be conducted in a private, quiet location free from interference from outside sources.
2. The interviewer will be respectful and courteous at all times, maintaining a professional composure. Persons interviewed will not be threatened, intimidated, or coerced.
3. Standard investigatory techniques during interviews will be used to arrive at the truth.
4. Every person named or described in the interview should be identified as completely as possible:
 - i. Full name, date of birth, address, and contact phone number.
 - ii. Physical descriptions of persons should be obtained if they cannot be identified as outlined in section A.
 - iii. Parent full information of juveniles.
 - iv. Relationship to the complainant
 - v. Relationship to the alleged incident.

D. Interrogation of Correctional Staff.

1. Complaints of Misconduct, the Correctional Deputy is required to submit to an interrogation. If the Correctional Deputy refuses to be interrogated, the Lead Investigator may commence an action that may lead to a punitive measure as a result of the refusal. The results of the interrogation of the Correctional Deputy are not admissible or discoverable in Criminal Proceedings against the Correctional Deputy. *Garrity v. New Jersey*, 385 U.S. 493 (1967)
2. The Correctional Deputy will be interrogated while on-duty. If the allegation/incident is such that immediate interrogation is imperative, the Correctional Deputy may be interrogated outside of working hours but will be compensated for said time.
3. Interrogations should take place at the Sheriff's Office.
4. The Correctional Deputy being interrogated will be provided the following information:
 - D. The identity of the Lead Investigator.
 - E. The nature of the Misconduct Complaint
 - F. The rights to which they are entitled.
5. The Correctional Deputy may have an attorney or other representative present during the interrogation. The interrogation will occur within five business days from the date of notification, extensions of time may be granted due to scheduling conflicts.
6. The attorney or representative may object to questions asked or make procedural objections on the record before or during the interview. In such cases, the Lead Investigator will note the objection and proceed with the interrogation.
7. If the Correctional Deputy refuses to answer questions, the Lead Investigator will order the Correctional Deputy to answer the question. If the Correctional Deputy still refuses, the Lead Investigator will advise the Correctional Deputy the refusal may subject themselves to further punitive actions.
8. If a Correctional Deputy is under arrest, or likely to be placed under arrest the Lead Investigator will advise the Correctional Deputy regarding Miranda Rights. The Miranda Warning form will be initialed and signed by the Correctional Deputy and the Lead Investigator.

E. Transcription / Recording of Interviews.

1. Interviews / interrogations conducted will be audio and video recorded. Transcription of interviews will be reviewed and verified for accuracy of the transcript. The Lead Investigator will add his or her name and date when proofing the transcription.

F. Evidence Collection:

The Lead investigator will collect and examine all records related to the Internal Investigation. These include but are not limited to: CIR and Arrest Reports, CAD sheets, All Recordings and BWC footage, Logs showing involved persons time and location, Filed Investigative Reports, Medical Records, Personnel Records, Physician Reports, Detention Center Records, Court Transcripts, and other Public Records.

Physical Evidence will be collected and safeguarded in accordance with accepted investigatory techniques for collection of evidence. The physical evidence will be entered in the evidence storage room in accordance with departmental policy.

G. Investigative Tools:

1. Testing for the purpose of this section include but are not limited to, Blood Alcohol Testing, Blood Tests, Breath Tests, Urinalysis testing for Controlled Dangerous Substances and Polygraph Examinations.
2. At the discretion of the Lead Investigator, and with the approval of the Sheriff, Correctional Staff may be ordered to undergo testing in conjunction with an administrative investigation. Costs for ordered testing, excluding any independent testing by the employee, will be paid by the Agency. If the Correctional Deputy refuses, the Lead Investigator will advise the Correctional Deputy that refusal may subject the Correctional Deputy to further punitive actions.
3. The results of the testing listed in this section is not admissible or discoverable in a criminal proceeding. *Garrity v. New Jersey*, 385 U.S. 493 (1967)
4. This order does not restrict Correctional Supervision from acting when subordinates are subject to Reasonable Suspicion Testing, which is defined in General Order 37.0 Drug Testing.
5. Administrative searches of the Correctional Deputies work areas and or equipment owned by the Agency, or the County Government may be conducted if:
 - i. There is reasonable suspicion that the search will reveal evidence related to the Internal Investigation.
 - ii. Searches of Correctional Staff owned property will not be performed without the existence of a search warrant or warrant exception.
 - iii. Correctional Staff work areas will include, but not limited to, desks, file cabinets, lockers, telephones, departmental vehicles and computers.

H. Summary and Findings of the Investigation.

1. The summary of the administrative investigation is a logical, objective presentation of steps taken during the investigation. The investigation will contain the allegation of Misconduct that constituted the complaint. A summary of substantive relevant portions of the statements taken from complainant(s), witnesses and the Correctional Deputy being investigated.
2. The summary will include pertinent evidence to the allegation.
3. The summary of facts that were identified by the administrative investigation.
4. A conclusion of fact for each allegation and the specific conduct/evidence that supports the Findings.

I Administrative Investigation Report Organization.

1. The Administrative Investigation will be arranged in a logical sequence of order to facilitate review of the investigation.
 - H. The initial Complaint of Misconduct
 - I. The Lead Investigator Report
 - J. Complainant Statements.
 - K. Witnesses Statements.
 - L. Correctional Deputy Statements.
 - M. Department Reports
 - N. Related Documents.

J. Notification and File Submission of the Administrative Investigation Report to the Proper Authority.

1. The Lead Investigator will forward the completed investigation to the Sheriff.