

22. INTERNAL INVESTIGATIVE PROCEDURES

(November 2007)

I. POLICY

It is the policy of the Prince George's County Police Department to ensure that all investigations arising from a complaint are conducted fairly and openly, in accordance with the provisions of the Law Enforcement Officers' Bill of Rights (LEOBR), and that the rights of the public are preserved.

An investigator's primary responsibility is to conduct investigations and, when necessary, recommend disciplinary action.

Pursuant to the authority delegated by the Chief of Police, any sworn member of the Office of Professional Responsibility (OPR) may order any employee to provide a statement in conjunction with an internal investigation. Refusal to obey such an order is insubordination.

Internal investigations shall be handled confidentially. Investigative information and evidence shall not be disclosed unless authorized by law or by the Chief of Police. Notwithstanding other provisions of the General Order Manual (GOM), this does not preclude the established chain of command from reviewing such material.

II. CHECKLIST (N/A) III. DEFINITIONS

Investigation: A detailed and systematic examination of the facts

Investigative Findings: All investigative conclusions shall be reported in one of the following classifications:

- ⑨ **Exonerated:** The investigation found the alleged acts did occur, but they were justified, lawful, and proper
- ⑨ **Non-sustained:** The investigation did not discover sufficient evidence to prove or disprove the allegations
- ⑨ **Sustained:** The investigation found sufficient evidence to prove the allegations
- ⑨ **Unfounded:** The investigation found the alleged acts did not occur or did not involve Departmental employees

Non-contact assignment: Any assignment in which an officer has minimal contact with the public and where the probability of performing law enforcement duties is remote

Office of Professional Responsibility: Consists of the Internal Affairs Division (IAD), Professional Compliance Division (PCD), and the Special Investigative Response Team (SIRT)

- ⑨ **IAD:** Conducts or monitors internal investigations and has authority and control over all complaints regarding the conduct of employees
- ⑨ **PCD:** Responsible for quality assurance of all Department operations, inspects organizational components, and gathers intelligence as assigned by the Commander, PCD
- ⑨ **SIRT:** Investigates all intentional discharges of firearms by Prince George's County Police Department (PGPD), Prince George's County Fire Department (PGFD), and Prince George's County Department of Corrections (PGDOC) officers;

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accidental discharges of firearms; incustody deaths; serious use of force incidents; and certain criminal cases. SIRT also monitors all canine apprehensions and destruction of animal cases caused by the discharge of a firearm

Offenses: Are classified as either:

- ⑨ **Conduct-Related:** Violation or failure to comply with a duty, obligation, or requirement imposing a standard of behavior on an employee by any law or regulation, provided the violation bears a demonstrable relationship to the nature of the duties and responsibilities of the employee's position and constitutes a willful, indifferent, or grossly negligent act or omission by such employee
- ⑨ **Performance-Related:** Occurs when an employee's performance is less than satisfactory in the execution of his or her duties, tasks, or responsibilities as listed in their job description

Respondent: An employee who is the subject of an internal investigation

Suspension: An administrative status in which any rights afforded an officer by privilege or statute, are removed until restored by the Chief of Police

Unreported Misconduct: Acts of misconduct not alleged in the original complaint

Witness: Anyone who was present, has personal knowledge of, observed, or heard something related to an incident

IV. FORMS

- ⑨ Audio/Video Exception Authorization (PGC Form #4613)
- ⑨ Commander's Information Report (PGC Form #1545)
- ⑨ Incident Report (PGC Form #3529) ⑨ PGPD Recorded Interview ScriptWitness (PGC Form #4614) ⑨ PGPD Recorded Interview Script – Respondent (PGC Form #4616)
- ⑨ Prince George's County Police Department Duress Statement (PGC Form #3021) ⑨ Prince George's County Police Department Report of Investigation (PGC Form #67-M) ⑨ Prince George's County Police Department Statement of Victim/Witness/Suspect (PGC Form #3026)
- ⑨ Request for IAD Case Numbers (PGC Form #5074)
- ⑨ Use of Force Report (PGC Form #5150)

V. PROCEDURES

All Departmental employees shall cooperate with those authorized to conduct administrative investigations by fully and truthfully answering any questions pertaining to the investigation.

The Department explicitly prohibits any officer who used force during an incident, whose conduct led to the injury of a prisoner during an incident, or who authorized conduct that led to the injury of a prisoner during an incident, from investigating the incident.

1. Conducting Investigations

Upon receipt of a complaint, the investigator shall review the allegation(s) and:

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- ⑨ Determine the alleged infraction
- ⑨ Identify the complainant or victim
- ⑨ Identify the respondent
- ⑨ Gather relevant documentation
- ⑨ Submit a Request for Case Numbers Form to IAD
- ⑨ Complete background checks of all involved
- ⑨ Interview all parties

Upon completing all of the above tasks, the investigator shall complete a Report of Investigation and forward it through the chain of command to the Chief of Police.

The complainant shall be kept informed about the status of the investigation. This includes an initial letter confirming receipt of the complaint, periodic status reports, and notification regarding the disposition of the investigation. Notifications of the disposition shall not be sent to the complainant or respondent until authorized by the Chief of Police.

2. Criminal Investigations

The provisions of the LEOBR do not apply during the criminal phase of an investigation. If a criminal charge is contemplated or likely, the investigator will advise the respondent of his or her Miranda Rights and proceed with the criminal investigation.

The investigator shall conduct a separate, independent, internal investigation regarding violations of Departmental written directives after the criminal case has been adjudicated in court or the Office of the State's Attorney declines to prosecute.

3. Administrative Investigations

Interrogation of Sworn Employees

All interrogations shall be conducted under duress and in accordance with LEOBR. The Prince George's County Police Department Duress Statement Form shall be used to order the respondent to provide a statement and answer questions related to the investigation.

Sworn officers and probationary officers alleged to have used excessive force may delay providing a statement for up to 10 days. If following the 10-day period, a respondent refuses to provide a statement and answer questions, the investigator shall charge the respondent with insubordination and notify the Commander, IAD.

Probationary sworn employees are not afforded the opportunity to delay the providing of a statement, unless the incident involves a use of force.

Interview of Sworn Employee Witnesses

An employee identified as a witness shall be interviewed. The interview shall be documented on a Prince George's County Police Department Statement of Victim/Witness/Suspect Form. If necessary, investigators shall order witnesses to provide statements.

If, during an investigation, an employee originally identified as a respondent is determined to be a witness, the investigator shall notify him or her within one working day.

Interrogation of Civilian Employees

When the respondent is a civilian employee, the guidelines enumerated in the PCEA contract, Personnel Law, and Prince George's County Code shall guide the course of the investigation.

4. Interagency Investigations

Employees shall not submit to interviews or interrogations conducted by employees of other agencies, unless authorized by IAD. An exception would be if a timely response is needed to facilitate emergency actions by the other agency; in such cases, responses to general inquiries are authorized. An example would be a supervisor from another agency asking about criminal charges filed against his or her subordinate by our Department.

5. Police-Involved Shootings & In-Custody Deaths

(Courts & Judicial Proceedings Article, Sec. 10-401, et. seq.)

Actions for Any Discharge Scene

Anytime an officer discharges a firearm or becomes aware that any law enforcement, public safety, or corrections officer has discharged a firearm in the County, he or she shall immediately notify PSC.

Investigative Responsibility

The Special Investigative Response Team (SIRT) shall be responsible for the investigation of all contact and non-contact police shootings involving PGPD, PGFD, and PGDOC officers. SIRT shall investigate

both the criminal aspect and the administrative aspect of the officer's actions.

Any criminal act that precipitated the officer discharging his or her firearm, shall be investigated by the appropriate investigative unit that would normally be assigned to investigate that type of the incident. For example: A suspect commits a shooting. While fleeing the scene, he encounters the responding officers and points his weapon at the officers. The officers, fearing for their lives, discharge their weapons at the suspect. The suspect is subsequently apprehended. The District Investigative Section would be responsible for investigating the initial shooting and charging the suspect with that shooting and the assault on the officers. SIRT would be responsible for the criminal and administrative investigation of the officers' actions.

Documenting the Incident

The responding patrol officers shall be responsible for the completion of all initial reports. The patrol supervisor shall be responsible for obtaining a use of force number from PSC and completing a CIR for the incident.

SIRT's Responsibilities

A SIRT investigator shall respond to the scene to ensure proper crime scene preservation and maintain control over witnesses and suspects. SIRT will designate a staging area for all team members and command staff arriving at the scene. If requested, SOD will provide the mobile command post.

The SIRT investigator is responsible for the following:

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- ⑨ All intentional PGPD, PGFD, and PGDOC officer involved shootings at a person, occurring inside or outside the County
- ⑨ All PGPD, PGFD, and PGDOC accidental discharges, regardless of whether or not they result in injury or death, occurring inside the County
- ⑨ All PGPD accidental discharges, regardless of whether or not they result in injury or death, occurring outside the County
- ⑨ In-custody deaths
- ⑨ Incidents where injury is inflicted and death is imminent
- ⑨ Canine apprehensions
- ⑨ Shootings of animals for reasons other than humanely destroying them

The Evidence Section shall be requested to process the scene. Officers shall surrender their firearms to the SIRT investigator or an evidence technician on demand.

Intentional Firearm Discharges - Inside the County

Officers shall cooperate with SIRT investigators. The discharging officer shall complete a Use of Force Report.

Discharging officers will not transport themselves away from the scene; a SIRT investigator shall arrange transportation.

SIRT investigators shall:

- ⑨ Conduct interviews in accordance with the LEOBR
- ⑨ Obtain copies of reports and witness statements
- ⑨ Determine the leave status of involved officers and serve them documents

placing them in that status pending SIRT disposition

- ⑨ Release all officers and witnesses

The involved officer's Bureau Chief shall determine the officer's assignment pending SIRT's disposition of the case.

Intentional Discharges Outside the County or Area of Exclusive Jurisdiction

If an intentional discharge occurs outside the County, or in an area of exclusive jurisdiction, the discharging officer shall notify PSC as well as the primary law enforcement provider for that area.

The discharging officer shall comply with the following:

- ⑨ Secure the scene for processing and identify witnesses
- ⑨ Secure the firearm when the incident is stabilized
- ⑨ Remain on scene until released by the investigating agency
- ⑨ Upon return to the County, complete a Use of Force Report

If requested by the investigating agency, the discharging officer shall surrender his or her weapon. If not seized by the investigating agency, a SIRT investigator or evidence technician shall seize the weapon.

A SIRT investigator shall respond to discharge scenes immediately adjacent to the County. He or she shall ensure the:

- ⑨ Security or transport of vehicles and equipment

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- ⑨ Identification of all officers who discharged firearms
- ⑨ Completion of a Report of Investigation
- ⑨ Discharging officers and other involved officers are provided transportation away from the scene

Other reports will be completed by or at the direction of the SIRT investigator.

The Director, Office of Professional Responsibility, will coordinate with the agency investigating the discharge of a firearm.

Disposition of Firearm

In all intentional police-involved Departmental shootings in the County, the discharging officer shall only surrender his or her firearm to the assigned SIRT investigator or evidence technician.

Post-Shooting Requirements

Any officer who discharges a firearm, accidentally or intentionally shall, within 72 hours of receiving the post-shooting letter from the SIRT investigator, contact the following to schedule an appointment:

- ⑨ Psychological Services
- ⑨ Community Policing Institute to attend the Judgment Enhancement Training Program
- ⑨ Director, Weapons and Survival Skills to qualify with all authorized on-duty and off-duty firearms

Attendance at these appointments is mandatory and shall be completed within ten working days following the incident. Involved officers shall notify their Commander/Director of their completion of

these appointments. Subsequently, their Commander/Director must notify the SIRT Commander of their officer's adherence to this protocol.

Evidence Section

The Evidence Section shall process:

- ⑨ All intentional discharge of firearm scenes in the County (with or without injury or death)
- ⑨ Accidental discharges not resulting in injury or death when requested by a SIRT investigator

6. Discharge of Firearms – Notifications Not Required

Notifications to PSC are not required for:

- ⑨ Lawful firearms discharge unrelated to employment, such as target shooting or hunting
- ⑨ Firearm discharge injuries at the Weapons and Survival Skills range requiring only minor medical attention

In the above case, the discharging officer shall complete an Incident Report and a Commander's Information Report.

7. Police-Involved Incidents with Death, Serious Injury, or Hospital Admission

Supervisor's Duties

Whenever any individual in PGPD custody suffers a critical or fatal injury or illness, or is admitted to a medical care facility, the

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supervisor shall notify PSC and request notification to a SIRT investigator.

Supervisors shall:

- ⑨ Ensure that the appropriate Bureau Chief of the involved officer is immediately and personally notified
- ⑨ Determine the circumstances of the incident and severity of the injuries
- ⑨ Ensure completion of a CIR
- ⑨ Ensure the involved officer schedules an appointment with Psychological Services within 72 hours following the incident

8. Audio & Video Tape Recordings

Audio and videotaped statements shall be obtained from individuals who are involved in or who are witnesses to any intentional police-involved Departmental shooting, in-custody death, or incident where injury is inflicted and death is imminent; this excludes fatal traffic accidents. Handwritten statements may also be taken simultaneously to supplement the taping.

Prior authorization from a SIRT supervisor is required to deviate from these taping procedures. The authorization shall be documented on the Audio/Video Exception Authorization Form. The original shall be maintained in the investigative file.

Exceptions-Criminal Phase

Maryland law does not allow one-party consent to audiotape in non-fatal incidents. Therefore, unless the person is deceased, consent to audiotape must be obtained.

For non-fatal incidents, investigators shall obtain permission from the individual at the time the statement is given. This permission

shall be obtained and documented on the PGPD Recorded Interview Script-Witness Form.

Administrative Phase

Maryland law dictates different criteria for administrative investigations. Therefore, during the administrative portion of the interview, the audio recording shall be in accordance with the Law Enforcement Officers' Bill of Rights (LEOBR) and documented on the PGPD Recorded Interview Script – Respondent Form.

9. Duty Status

For information regarding duty status (i.e., Administrative Leave, Suspension of employees, Discretionary Suspension, Mandatory Suspension, Suspension Procedures, Suspension Hearings, and Restoration to Duty, *See: VOLUME I, CHAPTER 23. LEAVE & DUTY STATUS.*

10. Citizen Complaint Oversight Panel (CCOP) Review

The CCOP reviews Reports of Investigation for completeness and impartiality and submits comments and recommendations to the Chief of Police within 30 working days.

The panel may conduct its own investigation independently of, and concurrently with, any investigation being conducted by OPR.

The panel may also apply to the Prince George's County Council for the issuance of subpoenas upon any person to appear before the panel.

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The Chief of Police shall notify the panel within two working days of the final disposition of all cases where a complaint alleges the use of force, abusive language, or harassment.

11. Human Relations Commission (HRC)

The Human Relations Commission shall investigate every case alleging the use of excessive force, abusive language, or harassment by a law enforcement officer in accordance with the provisions of the Human Relations Code.

The investigation and hearing by the Human Relations Commission shall not be construed to constitute an investigation or hearing that could lead to disciplinary action, demotion, or dismissal of a law enforcement officer.

12. Red Light Camera Violations in a Departmental Vehicle

Officers responding priority to an emergency may disregard traffic laws pursuant to Section 21-106 of the Maryland Transportation Article.

When Commanders/Directors receive a red light camera citation from the Office of Central Services, they shall forward them to the employee's supervisor for investigation.

If a Commander/Director determines that the violation was a result of a failure to obey a traffic control device, the employee shall have the option of paying the fine or contesting the matter in court. The Commander/Director shall impose appropriate disciplinary action. A first offense is treated as a Category 1 violation.

If the Commander/Director determines that the violation occurred during the proper use of police authority, the Commander/Director shall forward a memorandum containing facts that support his or her conclusion, along with a copy of the citation, through the chain of command to the Office of the Chief. The Office of the Chief shall notify the issuing jurisdiction that the citation should be voided.

13. Lost, Damaged, or Stolen Equipment

Notifications & Investigations

This subsection does not apply to Departmental accidents.

When Departmental equipment is lost, damaged, or stolen, the officer shall immediately submit an Incident Report to his or her supervisor.

The supervisor shall transmit the Incident Report to his or her Commander/Director and, as appropriate:

- ⑨ Send a Department-wide e-mail message containing descriptions, identification numbers, and markings of those items
- ⑨ Determine whether to conduct a formal investigation
- ⑨ Conclude whether employee negligence caused the loss, damage, or theft of the equipment

The officer's supervisor shall determine whether the loss, damage, or theft warrants a formal investigation; if so, the supervisor shall conduct the investigation. The investigation shall specify whether employee

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negligence caused the loss, damage, or theft and whether disciplinary action is warranted.

Replacement of Equipment Items

When a Commander/Director accepts the investigating supervisor's conclusion that the employee was negligent for the damage, loss, or theft of an equipment item, the Commander/Director shall determine if the employee should make restitution and submit that recommendation to the Chief of Police. The Chief of Police may order the employee to pay the repair or depreciated replacement cost of the item as appropriate. Restitution does not of itself constitute a disciplinary action.

When a Commander/Director finds an employee not at fault for the damage, loss, or theft of an equipment item or an item of uniform apparel damaged in the line of duty, the Commander/Director shall write a memorandum approving replacement to the Commander/Director of the division or unit that issues the item and give a copy to the employee.

Uniform & Equipment Replacement Pending Investigation

Officers may immediately obtain replacement uniforms and equipment (other than radio equipment and firearms) from the appropriate component. If the Commander/Director subsequently finds the officer negligent, the Commander/Director shall determine if the employee should make restitution and submit that recommendation to the Chief of Police. The Chief may order the employee to pay the repair or depreciated

replacement cost of the affected item as appropriate.

Public Service Aide (PSA) Uniforms

Cases of lost, damaged, or stolen PSA uniforms and equipment are handled in the same manner as cases involving officers.

When available, the destroyed or damaged items shall be returned to the dispersing division or unit at the time of replacement.

14. Investigative Reports

The Report of Investigation (ROI) shall include:

- ⑨ Day, date, time, and location of the incident
- ⑨ Complainant/reporting person, respondent, and any witnesses
- ⑨ Details of the complaint
- ⑨ Details of the respondent's statement
- ⑨ Steps taken to investigate the allegation
- ⑨ Summary of all evidence
- ⑨ A "Recommendations" page addressing each allegation

All recommendations shall be classified as one of the following:

- ⑨ Exonerated
- ⑨ Non-sustained
- ⑨ Sustained ⑨ Unfounded

Investigations shall be completed within 30 days of assignment, although circumstances may justify an extension. Requests for extensions shall be made to the appropriate Bureau Chief through the chain of command. The Bureau Chief may approve requests for extensions.

Transmitting Investigative Reports

All investigative reports must be forwarded to the Chief of Police, except as provided for in the LEOBR. Within 24 hours after the review of a ROI, the Chief of Police shall send a copy to the Citizen Complaint Oversight Panel (CCOP).

If the Chief of Police determines that substantive issues have not been adequately or impartially addressed, the Chief of Police shall instruct OPR, or the appropriate Commander/Director, to continue the investigation.

Upon completion of the investigation and any hearings required by the LEOBR, the complainant shall be notified of the outcome of the investigation, including any disciplinary action taken, to the extent permitted by Maryland Law. Notification letters regarding disposition shall not be sent to the complainant or respondent until authorized by the Chief of Police or his designee.

15. Evaluation of Investigations

Commanders/Directors shall evaluate each investigation within their command to determine if underlying problems and/or training needs exist. Each evaluation shall be documented on an Inter-Office Memorandum and submitted through the chain of command to their Bureau Chief. The Inter-Office Memorandum shall detail the evaluation and make appropriate recommendations for addressing any underlying problems or training needs.

The Bureau Chief will review the evaluation and attach comments either concurring or non-concurring with the District/Division

Commander's/Director's findings. A copy of the evaluation and the Bureau Chief's comments shall be forwarded to the Chief of Police.

The Chief of Police or his or her designee shall review the recommendations, indicating concurrence or non-concurrence, and return them to the Bureau Chief for follow-up action, if necessary. The Bureau Chief shall ensure that underlying problems or training needs are addressed within 60 days of the receipt of the recommendations.

VI. GOVERNING LEGISLATION & REFERENCE

This General Order addresses:

- ⑨ Commission on Accreditation for Law Enforcement Agencies, Standards 52.1.4, 52.1.5, 52.1.9
- ⑨ Memorandum of Agreement Between the United States Department of Justice and Prince George's County, Maryland, January 22, 2004

Governing Legislation:

- ⑨ Law Enforcement Officers Bill of Rights, Maryland Code, Sections 3-101 – 3-113
- ⑨ Prince George's County Code, Subtitle 18

References:

- ⑨ Office of Professional Responsibility, Internal Affairs Division SOP
- ⑨ Office of Professional Responsibility, Internal Investigations Guide