

BERLIN POLICE DEPARTMENT
Berlin, Maryland

SUBJECT: DISCIPLINARY PROCESS - INVESTIGATIVE RESPONSIBILITIES		NO: 500 D-3
APPROVED/EFFECTIVE DATE January 9, 1995	AMENDS	RESCINDS G.O. 47-86
DISTRIBUTION/DATE A	REFERENCES Maryland Public Safety Article Title 3, Section 3-101 through 3-111	

.10 Internal Affairs Unit Responsibilities

- A. The Chief of Police shall appoint personnel as required to execute the duties of the Internal Affairs Unit.
- B. The Internal Affairs Unit shall conduct all investigations where:
 - 1. The member discharges a firearm in the line of duty, except on the practice range or in sanctioned competition.
 - 2. A person is admitted to a medical facility in a "critical" or "serious" condition, when the condition or injuries were caused by a member while engaged in the performance of duties.
 - 3. A complaint has been made against a member alleging brutality, excessive force, gross misconduct, civil rights violations or a violation of criminal law.
 - 4. Any other matter as directed by the Chief of Police.

.20 Command Responsibilities

- A. Discipline is a function of command and while there are certain cases which warrant investigation by a specialized unit, command retains the responsibility for sound and judicious discipline.
- B. This assignment of investigative responsibility to command by type of complaint should not be construed to preclude joint or cooperative efforts between Internal Affairs unit and command. Command should conduct assigned internal investigations consistent with this General Order.
- C. Final determination as to responsibility for any investigation rests with the Officer of Chief of Police which shall maintain administrative control of all internal investigations.

.30 Complaints of a Criminal Nature

Any complaints that may result in criminal charges being placed by the department shall be handled in compliance with criminal law. The member under investigation shall be afforded all of his/her constitutional rights. Any decision not to pursue prosecution in criminal court shall be determined by the Office of the State's Attorney.

.40 Notification of Investigation

If it is established that there are sufficient grounds to conduct an investigation, the member under investigation shall receive and execute a Notification of Accused of Complaint form prior to any interrogation and shall be given ten working days from the date of the notification to acquire legal representation.

.50 Interrogation of Sworn Officers

Any interrogation of the accused shall be conducted in accordance with the provisions of Title 3, Sections 3-103 through 3-113.

.60 Unfounded Complaints

Should it be determined at any time during the investigation that the complaint is clearly unfounded, the investigation shall be terminated, and reports and statements giving evidence of this finding shall be forwarded in accordance with the provisions of this Order.

.70 Under the Influence of Alcohol on Duty

If a member is accused of consuming or being under the influence of alcohol while on duty;

A. The accused member shall submit to a field sobriety test, the results of which, along with the accused member's appearance and demeanor, shall be recorded by the investigating officer on an Alcohol Influence Report.

B. The accused member shall submit to a Breathalyzer test, which shall be administered as soon as possible after initiation of the investigation.

1. The lapse of time, expressed in minutes, between the initial report or allegation of the accused member's

condition and a Breathalyzer test shall be recorded by the investigating officer.

2. The two hour time limit for Breathalyzer tests, as outlined in Maryland Vehicle Law, shall not apply, except to the issuance of a traffic citation.

.80 Under the Influence of Controlled Dangerous Substances

If a member is accused of unlawful use of Controlled Dangerous Substances, as defined in the CDS Act;

- A. The investigating officer shall record the appearance and demeanor of the accused member in an investigative report
- B. The accused member shall accompany the investigating officer to a hospital, where the accused member shall submit to a physical examination by a competent medical authority, including urinalysis and/or blood test, to determine the presence or absence of physical evidence of CDS use.

.90 Confidentiality of the Investigation

Prior to disposition of any complaint, the circumstances shall not be disclosed within or outside the department by any personnel, particularly to complainants, witnesses, investigative team members or supervisors, except as may be required in the course of the investigation.

.100 Classification of Complaint

When the investigation is completed, the investigator will classify the complaint as follows;

- A. Sustained - The allegation is supported by sufficient evidence.
- B. Not Sustained - Insufficient evidence either to prove or disprove the allegation.
- C. Exonerated - Incident complained about occurred but was lawful and proper.
- D. Unfounded - Allegation is false or not factual or did not involve police personnel.

- E. Unreported Misconduct - The investigation indicates discovery of sustained acts of misconduct that were not alleged in the original complaint.
- F. Administrative Closure - The investigation could not be conducted because the complainant could not be contacted, the complainant did not want formal action, or the complaint concerns matters of law or departmental procedures and not the member's actions.

.110 Completed Internal Investigations

A. Unfounded, Exonerated, or Not-Sustained

If, upon review of the investigative file, the involved member's supervisor determines that the incident did not occur as alleged, or that the member's actions were proper, or that it cannot be determined if wrong doing occurred, the case shall be forwarded to the Chief of Police for final decision, along with the supervisor's recommendations to terminate the case without disciplinary action.

- 1. Whenever an individual case is so terminated, the involved member shall be notified, in writing, by his/her supervisor.
- 2. The supervisor shall then return the entire investigative file to the office of the Chief of Police which shall:
 - a. retain the investigative file for such time as the department may be subject to civil suit.
 - b. notify, in writing, the complainants, if known, of the case determination.

B. Sustained Complaints

- 1. If, upon review of the investigative file, the involved member's supervisor elects to offer summary punishment or to place departmental charges against the involved member, the supervisor shall forward his/her recommendations to the office of the Chief of Police for approval prior to offering any punishment to the member.

2. Sustained complaint of a minor nature may be handled in accordance with Section 500 D-2 (.40) without placing departmental charges.