



SYKESVILLE POLICE DEPARTMENT

Internal Affairs Complaint Processing

General Order 2-17 Effective: 07/18/17

Authorized By: *Michael A. Spaulding* Chief of Police

I. PURPOSE

To provide the procedures for the handling of all Internal Affairs complaints.

II. POLICY

The Sykesville Police Department will investigate allegations of misconduct against its employees in accordance with existing statutes, town personnel policies, and recognized objective investigative procedures.

III. DEFINITIONS

- A. "Employee" means any individual employed by the Sykesville Police Department, whether permanent, temporary, contractual or part time.
- B. "Officer" means any sworn employee of the Sykesville Police Department who, in official capacity, is authorized to make arrests. This includes sworn command personnel.
- C. "Probationary employee" is an employee of the Sykesville Police Department, who is in the initial probationary stage of employment. Normally this period of time is for 12 months for officers.
- D. "Hearing Board" means a board authorized by the Chief of Police to hear evidence of a complaint against an employee. Hearing Boards for Officers will be in accordance with the Law Enforcement Officer's Bill of Rights.
- E. "Sustained" means there is sufficient evidence to show that the alleged violation did occur and there is sufficient evidence for disciplinary action.
- F. "Non-Sustained" means there is insufficient evidence to make a determination as to whether or not the alleged violation did occur.
- G. "Unfounded" means that there is no evidence that the alleged offense occurred or that the employee was involved.
- H. "Misconduct" is any violation of Department policy and procedures, rules, or laws.
- I. "Complaint" is any allegation of misconduct on the part of any Police Department employee.

- J. "Complainant" is anyone who makes an allegation of misconduct on any Police Department employee.

IV. PROCEDURES

A. Investigation of Complaints

- 1. The Sykesville Police Department will investigate all complaints, alleged or suspected, either signed or anonymous, that are made against the Police Department or its employees.
- 2. Complaints and disciplinary action which are to be handled in accordance with the provisions of this order include alleged or suspected violations of statutes, ordinances, Police Department rules and regulations and orders, by sworn or civilian members, including temporary employees, of the Police Department.
- 3. Complaints can be made by:
 - a. Members of the Police Department who report them to supervisors or commanding officers, either written or orally, by telephone or by correspondence, either signed or anonymous
 - b. Citizens who report them to any member of the Police Department, either orally or in writing, by telephone or correspondence, either signed or anonymous
 - c. Supervisory or commanding officer.
 - d. County, State or municipal officials or employees

B. Recording and Controlling Complaints

- 1. All complaints against employees will be recorded and reported to the Chief of Police in a timely manner on a Complaint Against Personnel Report (SPD Form #176). Incidents which require immediate investigations, such as officer involved shootings, will be reported to the Chief immediately.
- 2. Complaint Against Personnel Form (SPD Form #176)
 - a. The shift supervisor, when complaints are received at that level, will complete the Complaint Against Personnel Form, seal it in an envelope and see that it is given to the Chief as soon as possible.

- b. Complaints received from citizens by other personnel will immediately report them to the shift supervisor who will proceed as detailed in the previous paragraph.
- c. The Chief of Police will assign a case number, if the complaint is being classified as a formal internal affairs investigation.
- d. In those instances where complaints are received by the Chief, he will assign the complaint for investigation. A Complaint Against Personnel form will be completed by the investigator and a case number assigned. A copy of the complaint form will be forwarded to the file.
- e. Depending upon the nature of the allegation, the case may be investigated by the alleged violator's supervisor, or by someone other than the supervisor, or by an agency other than the Sykesville Police Department.
- f. The assignment of the case will be at the discretion of the Chief. However, in no instance will an individual investigate allegations of misconduct against someone of the same rank or higher, except when authorized by the Chief.
- g. Under certain circumstances the allegation may be of the nature where an immediate investigation is necessitated. In those instances, the shift supervisor may initiate an immediate investigation. In such instances, the Chief will be notified immediately of the nature of the allegation.
- h. All allegations of criminal activity, misconduct, or of violations of Police Department policy and procedures will be investigated. The results of the investigation will be acted upon, consistent with the Chief's prerogative to disregard trivial or chronic complaints which are deemed unsubstantiated. However, documentation of such complaints will be maintained until such time as the Chief can review them for final disposition.
- i. Nothing precludes the Police Department from investigating allegations against employees from whatever source received when it is determined that the investigation will be in the best interest of the department.
- j. Anonymous complaints will not, generally, be excluded from investigation. The nature of the allegation and circumstances shall be documented and a preliminary inquiry made. The results of the

preliminary inquiry should determine what further action needs to be taken.

- k. An employee wishing to make a complaint against another member of the Police Department of the same rank or higher may complete the Complaint Against Personnel form and forward it directly to the Chief. In such cases, the complainant may remain anonymous until such time, if the allegation is sustained, that the investigation requires a formal interview or testimony is needed to be given.
- l. Any Police Department employee who subjects a complainant or witness to harassment shall be subject to appropriate disciplinary action.

3. Dissemination of Complaint Against Personnel form

- a. Copy to Chief of Police for filing.
- b. Original to case investigator to be included in investigative report.

4. The Chief of Police will maintain a ledger to be known as the Internal Affairs Investigation Control Log (SPD Form #184). Spaces will be provided in the ledger for the case number (Control number), name of the alleged violator; complainant, date of receipt of the complaint; nature of the alleged violation; finding and disposition of the case.

5. The Chief of Police will safeguard the Internal Affairs Investigation Control Log and case files and permit no unauthorized access except on an as needed basis by investigators with permission of the Chief.

C. Acknowledging Receipt of Complaints

The Chief of Police will upon receipt, prepare and send a letter of receipt to the complainant under the Chief's signature. Included in the letter will be an explanation of how the complaint will be investigated and that contact will be made by the case investigator in the near future. A copy of the letter will be made part of the investigative file.

D. Information to the Public on Filing Complaints

Upon request, Police Department personnel will inform members of public regarding procedures for registering complaints.

This information will include advising the individual that:

1. A complaint may be taken by any Supervisor, or made directly to the Office of Chief.
2. An investigator will be assigned to the case.
3. The complainant will be contacted by the investigator and,
4. The complainant will be informed in writing of the findings of the investigation.

E. Notifying Complainants Concerning Status of Complaints

1. The assigned case investigator will keep the complainant periodically informed of the investigation. This communication may be verbal or in writing at the discretion of the investigator.
2. The assigned case investigator will prepare and submit a letter for the Chief's approval and signature to be mailed to the reporting party/complainant advising him/her of the results of the investigation.

F. Notification of the Chief

Upon receipt of a complaint of misconduct, a Complaint Against Personnel form will be completed and forwarded to the Chief of Police. The Chief will be made aware in person or in writing by the supervisor responsible for completing the investigation. No immediate disciplinary action shall be taken without concurrence of the Chief.

G. Records Security

The Chief's Office maintains a record of all complaints against members of the Police Department. These records will be maintained in locked file cabinets.

H. Statistical Summaries

The Chief will compile an annual statistical summary report based on the records of the Internal Affairs investigations, which will be made available to the public upon written request.

I. Administrative Investigations

1. The individual assigned as the investigator will be one of the following:
 - a. The supervisor of the alleged violator
 - b. The Chief of Police.

- c. Allied agency investigator assigned by the Chief
2. The investigating officer will commence the investigation on the basis of the allegations contained on the Complaint Against Personnel Report (SPD Form #176).
- a. If, during the investigation of the initial allegation(s), it is disclosed that other misconduct may have taken place, this misconduct will also be investigated, reported upon, and adjudicated.
 - b. The investigator will investigate and report all aspects of the allegations in a manner which is fair and impartial to all persons involved.
 - c. The investigator will be responsible for informing the Chief of the continuing developments in the investigation to determine whether to:
 - (1) Retain the alleged violator in current assignment.
 - (2) Assign the alleged violator to some other duty where there is close supervision and limited contact with the public or other police officers.
 - (3) Suspend the alleged violator from duty with or without pay in accordance with the Law Enforcement Officers Bill of Rights.
 - d. The investigator will complete the investigation and submit the report to the Chief of Police, within the time designated.
 - e. The investigator's final report will be completed in the following format.
 - (1) Allegation Summary: A concise but complete synopsis of the allegation(s) with the findings of fact, i.e. sustained, non-sustained, or unfounded.
 - (2) Complaint Against Personnel Form (SPD Form #176) containing all pertinent information. All spaces will be completed.
 - (3) Investigative report: A chronological summary of the investigation.

- (4) Statements: Transcribed taped interviews in sustained cases, detailed reports, documents, citizens, and witnesses.
- (5) Correspondence: Copies of any memos or other correspondence related to the investigation.
- (6) Photographs, sketches and other supporting documents.

3. Investigating Officer's Responsibilities

- a. Contact the complainant and obtain a detailed statement of the allegation. Allegations of serious misconduct should be tape recorded whenever possible.
- b. Gather all facts and evidence regarding the allegations. This is to include statements from witnesses, evidence, photographs, sketches, documents, etc.
- c. After all evidence and statements are obtained from witnesses, the employee will be interviewed.
- d. Sworn employees will be presented with a Notification of Complaint (SPD Form #175) and interviewed in accordance with the Law Enforcement Officers Bill of Rights.
 - (1) The interrogation shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty unless the seriousness of the investigation necessitates an immediate interrogation.
 - (2) The interrogation shall take place at the office of the investigating officer, at a location designated by the investigating officer, or at any other reasonable place.
 - (3) The officer under investigation shall be informed of the name, and rank, of the officer in charge of the investigation, the name of the interrogating officer, and all persons present during the interrogation.
 - (4) All questions shall be asked by and through only one person.
- e. In cases where a detailed report is requested from officers under investigation, a Notification of Complaint (SPD Form #175) will also be presented to the employee. Officers will be given ten days to submit the report.

- f. The interview will be dependent upon the evidence, i.e., if the evidence clearly shows the allegation to be unfounded or the officer to be exonerated, normally there would be no need to interview the officer. These circumstances are rare and need to be discussed with the Chief.
- g. Interrogations shall be for reasonable periods and time shall be allowed for any personal necessities and rest periods as are reasonably necessary.
- h. Officers under interrogation may not be threatened with transfer, dismissal, or disciplinary action.
- i. Officers under investigation may be ordered to submit to blood alcohol tests, blood, breath or urine tests for controlled dangerous substances, polygraph examinations, and interrogations which specifically relate to the subject matter of the investigation.
 - (1) Failure to comply with orders to submit to blood alcohol tests, blood, breath or urine tests for controlled dangerous substances, polygraph examinations, or interrogations may result in being charged with failure to obey orders and subject the officer to dismissal.
 - (2) The results of blood alcohol tests, blood, breath or urine tests for controlled dangerous substances, polygraph examinations, or interrogations which have been ordered are not admissible or discoverable in any criminal proceeding against the officer.
- j. A complete record either written, taped, or transcribed, shall be kept of the complete interrogation, including all recess periods. Upon completion of the investigation, and upon request of the officer or his/her counsel, a copy of the interrogation shall be made available not less than ten days prior to any hearing.
- k. If an officer under interrogation is under arrest, or likely to be placed under arrest as a result of the interrogation, he shall be informed of all of his rights prior to the interrogation.
- l. An officer shall have the right to be represented by counsel or any other available representative of his choice to be present and available for consultation at all times during an interrogation, unless waived by the officer under investigation. An interrogation shall be suspended for a period of five (5) business days until

representation is obtained. The Chief, for good cause, may extend that time period.

- m. After reviewing all the evidence and statements, the investigating officer will have a report prepared and submitted with recommended findings.

4. Chief's Responsibilities

- a. Upon completion of the investigation, the investigator will submit the report to the Chief for review. Areas which need clarification need to be discussed with the investigating officer.
- b. A final decision will be made by the Chief.
- c. If the finding of the allegation is sustained, the investigator/supervisor, if disciplinary action is deemed necessary, will prepare the necessary forms and submit the entire package to the Chief for final disposition.
- d. The imposition of summary punishment upon sworn employees will be the responsibility of the Chief. This will be completed on the Summary Punishment Form (SPD Form #185).
 - (1) The imposition of punishment on non-sworn employees will be in accordance with guidelines established by the Town of Sykesville Department of Personnel. The Chief will be notified in cases of suspension of non-sworn personnel.
 - (2) Once the investigation has been disposed of, it will be forwarded to the Chief for review. Upon review by the Chief, the case will be forwarded to the Internal Affairs file.
 - (3) The disposition of documents and arrangements for serious matters which necessitate a hearing board will be handled by the Chief.

J. Relief from Duty

- 1. Emergency suspension by the Chief with pay may be imposed when it appears in the best interest of the public and the Sykesville Police Department.

2. The Chief may suspend the police powers of sworn personnel and reassign officers to restricted duties pending the determination of a court of competent jurisdiction to any criminal violation, or final disposition by an administrative hearing board as to Police Department violations.
3. Emergency suspension of police powers without pay may be imposed by the Chief upon any officer who has been charged with the commission of a felony.
4. All persons suspended with or without pay are entitled to a prompt hearing on the suspension.
5. Non-sworn employees may be suspended in accordance with the Town of Sykesville Personnel Rules and Regulations.

K. Use of Polygraph in Internal Investigations

1. Polygraph examinations are a useful tool in investigations of misconduct; however, they should only be used as a last resort.
2. The results of a polygraph examination may not be used as evidence in any administrative hearing when an officer has been ordered to submit to the polygraph examination, unless the Police Department and the officer agree to the results of the examination at the administrative hearing.
3. All questions asked in a polygraph examination must be narrowly and specifically related to the scope of the internal investigation.

L. Evidence Collection

Evidence collection for investigations involving Sykesville Police Department employees will be in accordance with the following guidelines and the Law Enforcement Officers Bill of Rights, when applicable:

1. When an employee is on duty and there is indication the employee may be under the influence of alcohol, they will be required to submit to visual, field sobriety testing and blood alcohol tests. The tests will be accurately recorded.
2. A blood or urine test may be required of any employee suspected of using any illegal drug or controlled dangerous substance either on or off duty.
3. For the protection of the officer(s) and the Sykesville Police Department, officer(s) who are involved in use of deadly force incidents may be required to submit to a blood and/or urine test to determine the use of alcohol or non-prescribed drugs.

4. Employees may be required to submit to photographs or participate in a line-up if the evidence is material to a particular offense being investigated. The Department will maintain a photograph of all employees which may be used for internal investigations.
5. Employees may be required to submit financial disclosure statements when it is material to a particular internal affairs investigation relating to a conflict of interest.
6. Members of an employee's family will not be required to give any statement to any internal affairs investigator. This does not prohibit any family member from making allegations of misconduct against employees or from making voluntary statements.
7. Employees may be required to submit to any other type of medical or laboratory examination pursuant to criminal rules of procedure.

M. Time Limits

To achieve a speedy resolution of internal affairs incidents, an internal affairs investigation will generally be completed within 30 days. A verbal status report should be given to the Chief every seven days.

In cases where extenuating circumstances exist, the time limit may be extended with approval of the Chief, or his designee. All time limit extensions shall be made in writing and made a part of the case file.

N. Hearing Board Procedures

If the investigation or interrogation of an officer results in the recommendation for demotion, dismissal, loss of pay, reassignment, or similar action which would be considered a punitive matter, then before any such action can be taken, the officer shall be entitled to a hearing of the issues by a hearing board (Article 27, Section 730).

1. An officer is not entitled to a hearing if he has been charged and convicted of a felony.
 - a. Administrative charges must be brought against an officer within one year after the act which gave rise to the charges is brought to the attention of the Police Department.
 - b. The one year limitation does not apply to charges related to criminal activity or excessive force.

2. The hearing shall be conducted by a hearing board at which both the officer and the Police Department will be given ample opportunity to present evidence and argument with respect to the issues involved.
 - a. Both parties may be represented by counsel.
 - b. An official record, including testimony and exhibits, shall be kept of the hearing.
 - c. The hearing board will be conducted in accordance with the provisions of the Administrative Procedure Act (Article 41, Section 244).
 - (1) Evidence with probative value commonly accepted by a reasonable and prudent person shall be admissible and given probative effect.
 - (2) The hearing board shall give effect to rules of privilege recognized by law and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.
 - (3) All records and documents admitted shall be made part of the record.
 - (4) Documentary evidence may be received in the form or copies, or excerpts, or by incorporation by reference.
 - (5) Every party has the right to cross examine any witness who testifies and may submit rebuttal evidence.
 - (6) The hearing board may take notice of judicially cognizable facts and also may take notice of general, technical, or scientific facts.
 - (7) The hearing board may utilize its experience, technical competence, and specialized knowledge in the evaluation of evidence presented.
 - d. The officer in charge of the hearing board shall administer oaths or affirmations and examine any individual under oath.
 - e. Any decision, order, or action taken as a result of the hearing board shall be in writing and shall be accompanied by findings of fact. The findings shall consist of a concise statement upon each issue in the case.

- (1) A finding of "not guilty" terminates the action.
 - (2) If there is a finding of guilt, the board shall consider the officer's past job performance and other relevant information before making its recommendation to the Chief.
- f. The written recommendation as to punishment is not binding upon the Chief.
- (1) Within 30 days of receipt of the hearing board's recommendations, the Chief shall review the findings, conclusions, recommendations, and issue the final order. The final order is binding but may be appealed in accordance with the Law Enforcement Officer's Bill of Rights.
 - (2) Before the Chief can increase the recommended penalty, he shall review the entire record of the proceedings, shall permit the officer to be heard, and shall state the reason for increasing the recommended penalty.
 - (3) A hearing board authorized by the Chief to hold a hearing on a complaint against an officer shall consist of not less than three (3) members, who are appointed by the Chief from this agency or another and have had no part in the investigation or interrogation of the officer. One member shall be the same rank as the accused officer.
 - (4) The Chief may also appoint, as a non-voting member, a citizen who has received training from MPTSC in matters relating to police procedures.
 - (5) The citizen member of the hearing board serves in an advisory capacity and may not vote but may participate in all deliberations of the hearing board.
 - (6) If authorized by local law, the Chief may also appoint two voting or non-voting members who have received training on LEOBR and police procedures administered by the MPTSC, one of which may be an administrative law judge or a retired judge.

(7) Unless the chief determines and provides notice that a hearing board should be closed to protect the identity or safety of a witness or undercover officer, the hearing board must be open to the public.

g. If an officer is offered summary punishment and refuses, a one or three member hearing board shall be convened. The member of the one member hearing board need not be of the same rank of the violator.

h. The one member hearing board has the authority only to recommend the sanctions provided in summary punishment.

O. Adverse Material

Adverse material may not be inserted into any file of an employee, except in the Internal Affairs files, unless the employee has had an opportunity to review, sign, receive a copy of, and comment in writing upon the adverse material.

P. Expungement

An employee, upon written request, may have any record expunged from any file if the complaint has been exonerated, or the charges have been non-sustained, or unfounded, and 3 years have passed since the findings of the complaint has been finalized.

Q. Conclusion of Fact

1. A conclusion of fact will be determined from the final disposition of each investigation into allegations of misconduct. This determination provides identification of any needed changes in policy, procedures, rules, regulations, or training that may prevent future allegations of misconduct.

2. Upon final disposition of the Chief, the Chief will notify the following parties as appropriate of the findings of internal affairs investigations:

a. The employee will be notified in writing of the final classification of allegations made against him/her.

b. The necessary supervisors will be notified in writing of the findings so that any appropriate participants in the process can be informed.

c. The Training Supervisor will be notified when an issue of training needs to be addressed.

- d. The Chief will review revisions, additions or deletions that are needed to general orders to issues of policy, procedure, rules or regulations.

R. Whistleblower Protections

1. No sworn employee may be retaliated against (i.e., discharged, disciplined, demoted, denied promotion, transferred or reassigned; or threatened with these actions; or otherwise discriminated against with these actions) because the sworn employee:
 - a. Lawfully exercised their rights under the Law Enforcement Officers' Bill of Rights; or,
 - b. Lawfully exercised their constitutional rights; or,
 - c. Made a disclosure concerning gross mismanagement, waste of resources, substantial danger to public health/safety, or disclosed a violation of law committed by another law enforcement officer.
2. No sworn employee may undertake an independent investigation based on their personal knowledge of these disclosures being made, in accordance with law.

V. CANCELLATIONS

This General Order cancels and replaces the following policies:

General Order 52.2, entitled Internal Affairs Complaint Processing, dated December 21, 2001.