



**CHEVY CHASE
VILLAGE
POLICE
DEPARTMENT**

[Signature]

Police Chief: John M. Fitzgerald

**GENERAL ORDER: 4-11; HANDLING COMPLAINTS AND
ADMINISTRATIVE INVESTIGATIONS**

DATE: 07/01/2022 Pages: 4 ◇ New ◆ Amended

DISTRIBUTION: All Employees

I. POLICY

The integrity of the Chevy Chase Village Police Department depends on the personal integrity and discipline of all employees individually and collectively. To some degree, the public image of the agency is determined by how we handle complaints of employee misconduct. It is the policy of the Chevy Chase Village Police Department to fully and objectively investigate each complaint or allegation of misconduct against an employee of the Department, regardless of the source or the form of the complaint.

II. PURPOSE

The purpose of this General Order is to establish policies and procedures for the employee complaint and investigation process.

III. DEFINITIONS

A. Administrative Charging Committee (ACC)
A countywide body established by state law (§3-104 of the Public Safety Article) composed of 5 members of the public (the chair of the PAB; 2 members selected by the PAB; 2 members selected by the County Executive), and vested with the authority to:

1. Review the completed administrative investigation, including any body camera footage, of all complaints of police misconduct involving a member of the public regardless of whether the complaint originated from within the Department or from an external source;
2. Issue subpoenas;
3. Determine whether or not a police officer should be administratively charged;
4. If the officer is charged, recommend discipline in accordance with the disciplinary matrix;
5. Issue a written opinion describing the ACC's findings, determinations and recommendations and forward same to the Chief, the accused officer and the complainant;

B. Excessive force
Force used by a police officer which, under the totality of the circumstances, is not necessary or proportional to:

1. Prevent an imminent threat of physical injury to a person, or
2. Effectuate a legitimate law enforcement objective.

C. Disciplinary matrix

A document developed by the Police Training and Standards Commission which establishes uniform ranges of discipline for various types of police misconduct. The law requires that the matrix be adopted by every law enforcement agency in Maryland for all matters that may result in the discipline of a police officer, and the Department has adopted it accordingly.

D. Disqualifying crime :

1. A crime of violence as defined in §5-101 of the Public Safety Article; or
2. A violation classified as a felony in the State; or
3. A violation classified as a misdemeanor in the State that carries a statutory penalty of more than 2 years.

D. Exonerated

The incident did occur, but the actions of the accused were justified, lawful, and proper.

E. External complaint

Complaints made by a member of the public.

F. Internal complaint

Complaints initiated against an employee by another Department employee.

G. Not sustained

The investigation failed to disclose sufficient evidence to prove or disprove the allegation.

H. Serious complaints

Allegations that may result in severe discipline to include the possibility of dismissal. Serious allegations include, but are not limited to, excessive force, complaints which allege racial, ethnic, sexual or other types of prejudice, misappropriation of monies, abuse of authority, insubordination, or untruthful statements.

I. Sustained

The investigation disclosed sufficient evidence to prove the allegations of misconduct.

J. Technical Infraction

A minor rule violation by an officer solely related to the enforcement of administrative rules that:

1. Does not involve an interaction between a member of the public and the officer; and
2. Does not relate to the officer's investigative.

enforcement, training, supervision, or reporting responsibilities; and

3. Is not otherwise a matter of public concern.

K. Unfounded

The investigation of the complaint indicates that the acts complained of did not occur.

IV. GENERAL

- A. The Chief of Police is responsible for overseeing all administrative investigations. The Chief may delegate specific duties and responsibilities to the Lieutenant.
- B. The goal of the administrative investigation process is to preserve the integrity of the agency through fair and impartial investigations and reviews.
- C. All complaints made against the Department or its members shall be investigated, including anonymous complaints.
- D. All forms (verbal, written, hard copy, electronic, first-hand or second-hand) of complaints will be accepted.
- E. Every employee has the authority to accept a complaint. Citizen complaints will be received courteously and handled efficiently.
- F. If a complainant wishes to speak to a police officer about the complaint, the senior-ranking officer who is currently available will speak to the complainant. If no officer is available, the employee who is speaking with the complainant shall offer to accept the complaint.
- G. If the complainant does not wish to speak with a police officer, the complaint shall be accepted by any agency employee.
- H. Regardless of which agency employee accepts the complaint, the employee shall not attempt to influence the complainant in any manner.
- I. Employees shall refer complainants directly to the Chief of Police or the Lieutenant in the Chief's absence. If neither the Chief nor Lieutenant is available, the employee will document the complaint and forward it immediately by email to the Chief. The receiving employee shall inform the complainant that the complaint will be forwarded to the Chief.
- J. An employee receiving a citizen complaint through the U.S. mail or other mail service will place the correspondence in a sealed envelope and forward it to the Chief of Police.
- K. Copies of the Compliment/Complaint Form will be kept on hand at the Communications Center and offered to a citizen with an explanation of its use,

whenever any citizen asks for information on how to make a complaint against the Department or an employee of the Department.

- L. Every employee will cooperate fully with persons conducting administrative investigations. Employees shall answer any question fully and truthfully. The failure to answer, or the failure to respond fully and truthfully is grounds for disciplinary action up to and including dismissal.
- M. A written record will be made and maintained by the Chief of Police or his designee of all complaints against the Chevy Chase Village Police Department and its employees. The written record will consist of a permanent log that will include:
 - 1. The date of the complaint;
 - 2. Employee's name;
 - 3. Complainant's name;
 - 4. Type of complaint;
 - 5. Source of the complaint (external or internal); and
 - 6. Final disposition.
- N. Within 72 hours of receiving a complaint, the Chief of Police will acknowledge receipt of each complaint by letter or by otherwise making contact with the complainant as appropriate.
- O. All investigations shall be documented properly by the investigator.
- P. Complainants will be given the name and email address of the investigating officer as a point of contact.
- Q. Until the investigation is resolved, the investigator shall attempt to contact the complainant at least monthly to provide an update to the complainant. The investigator shall document each attempt to contact the complainant.

VI. INVESTIGATIVE PROCESS

- A. A police officer who is the subject of a complaint of police misconduct as well as a complainant may have the assistance of a representative in connection with the proceedings throughout the investigative and disciplinary process. (PS §3-109).
- B. Prior to interviewing the accused employee, the investigating officer will provide the employee with a written notice of allegations.
- C. The investigator will conduct a thorough investigation and obtain statements from all relevant individuals (complainant, witnesses and accused employees);

these statements should be audio recorded whenever practical. The accused employee's interview shall be audio- or video-recorded.

- D. The Chief of Police will be advised by the investigating officer of any new information in an investigation which may require reassigning the accused employee, or placing the employee on administrative leave, and/or in the case of a sworn officer, suspending the officer's police powers.
- E. The investigator shall summarize the investigation in a memorandum to the Chief. The memo shall include the circumstances surrounding the complaint, the names, addresses, and phone numbers of the persons involved, findings of fact and the recommended disposition for each allegation as follows:
 - Unfounded;
 - Exonerated;
 - Not Sustained; or
 - Sustained.

VII. DISCIPLINARY PROCESS FOR ALLEGATIONS OF POLICE MISCONDUCT INVOLVING A MEMBER OF THE PUBLIC

- A. When the investigation is complete, the Chief shall review the investigative file and the investigator's summary memorandum.
- B. If the Chief determines that the investigation is complete and needs no additional investigative work, the Chief shall write a recommendation memo to be sent to the ACC along with the completed file.
- C. If the ACC determines that the officer should not be charged, the disciplinary matter is ended.
- D. If the ACC issues a charge against an officer, the ACC shall issue its findings and recommend discipline in writing and forward that document to the accused officer, the Chief, and the complainant. The recommended discipline shall be in accordance with the disciplinary matrix established pursuant to §3-105 of the Public Safety Article.
- E. Within 15 days after the ACC issues a charge against an officer, the Chief shall offer the same or higher degree of discipline than that recommended by the ACC within the range of the matrix, but the Chief may not offer a lower discipline than the ACC's recommendation.
- F. If the police officer accepts the Chief's offer of discipline, then the offered discipline shall be imposed.
- G. If the police officer does not accept the Chief's offer

of discipline the matter shall be referred to a trial board.

- H. If the matter is referred to a trial board, the proceeding will be conducted pursuant to §3-106 of the Public Safety Article and any related COMAR regulations. Appeals from a decision of a trial board must be filed with the Circuit Court within 30 days after the trial board's decision.

VII. DISCIPLINARY PROCESS FOR NON-SWORN EMPLOYEES AND FOR ALLEGATIONS OF POLICE MISCONDUCT NOT INVOLVING A MEMBER OF THE PUBLIC

Such allegations will be investigated fully, however, the disciplinary decision will be made by the Village Manager after considering the Chief's recommendation; such allegations will not be reviewed or decided by the ACC. Police officers are entitled to a trial board

- A. The Chief of Police shall review the complaint/allegation and determine whether the matter will be investigated as a potential disciplinary matter, or if the matter would best be resolved in an alternative manner (counseling, remedial action, training, etc.).
- B. In addition, the Chief is responsible for:
 - 1. Assigning the person who will conduct the investigation.
 - 2. Maintaining the appropriate confidentiality of the investigation.
 - 3. Providing the investigating officer with the reporting requirements for the case. Normally, an investigation must be completed within 30 days with status reports provided every 7 days to the Chief of Police. An extension may be granted by the Chief of Police in cases in which extenuating circumstances exist.
 - 4. Determining whether an accused employee will be reassigned, relieved from duty, or suspended pending disposition of the case.
 - 5. Submitting a written recommendation to the Village Manager to include:
 - Whether the allegation(s) against the employee should be sustained, unfounded, not sustained, or if the employee should be exonerated; and
 - The recommended discipline, if any.
- C. If a police officer refuses to accept the Village Manager's offer of discipline, the matter shall be referred to a trial board. Appeals from a decision of a trial board must be filed with the Circuit Court within 30 days after the trial board's decision.

D. A non-sworn employee may appeal the finding of the Village Manager to the Personnel Commission, and then to the Board of Managers per the Personnel Code.

VIII. EMERGENCY SUSPENSION PENDING DISCIPLINARY PROCESS

A. Pending an investigatory, Administrative Charging Committee, and trial board process, the Chief (or the Chief's designee) may impose an emergency suspension upon a police officer—with or without pay—if the Chief determines that such suspension is in the best interest of the public. (PS §3-107)

B. An emergency suspension without pay may under this section may not exceed 30 days.

C. Officers who are suspended without pay shall be placed in a no-work and non-pay status, and shall be prohibited from being in the workplace.

D. A police officer who is suspended without pay under this section is entitled to receive back pay if the ACC does not charge the officer in connection with the matter related to the suspension.

IX. EMERGENCY SUSPENSION FOLLOWING CRIMINAL CHARGES

A. The Chief (of the Chief's designee) may suspend an officer without pay if the officer is charged with:

1. A disqualifying crime, as defined in §5-101 of the Public Safety Article;
2. A misdemeanor committed in the performance of duties as a police officer; or
3. A misdemeanor involving dishonesty, fraud, theft, or misrepresentation.

B. Officers who are suspended without pay shall be placed in a no-work and non-pay status, and shall be prohibited from being in the workplace.

C. An officer suspended without pay under this section is entitled to receive back pay if the criminal charge or charges against the officer result in:

1. A finding of not guilty; or
2. An acquittal; or
3. A dismissal; or
4. A nolle prosequi.

X. DISMISSAL/TERMINATION OF A POLICE OFFICER (per §3-107 of the Public Safety Article)

A. The Chief shall terminate the employment of a police officer who is convicted of a felony.

B. The Chief may terminate the employment of a police officer who:

1. Receives a probation before judgment for a felony; or

2. Is convicted of:

- A misdemeanor committed in the performance of duties as a police officer; or
- Misdemeanor second degree assault; or
- A misdemeanor involving dishonesty, fraud, theft, or misrepresentation.

XI. PROCEDURES FOR SUSPENDING POLICE POWERS

A. The officer will be notified of the suspension by written memorandum. The memo shall include:

1. A brief description of the reason for the suspension;
2. Start date of suspension;
3. If the officer is placed on administrative leave (suspended police powers with pay), the officer's administrative leave 'schedule.' These are the days and hours when the employee must be immediately available to the Department, and he/she may be directed by a supervisor to respond to the Village Hall or other location for work purposes.
4. Projected duration of the suspension if known;
5. An order directing the officer to relinquish her/his issued firearms, credentials, badge(s), portable radio and other items (locker key, flashlight, body armor, expandable baton, pepper spray, handcuffs);

B. If an officer's police powers are restored at the conclusion of the period of suspension, the officer shall be notified of the restoration by written memorandum.

C. The restoration memo will state the date and time when the officer's powers are restored, and it will include the date, time and assignment for the officer's next tour of duty.

XII. DISPOSITION OF RECORDS/FINDINGS

A. The Chief of Police will notify the complainant in writing as to the disposition of each allegation (sustained, exonerated, etc.), and of the nature of any discipline that is given.

B. Completed investigations will be maintained in confidential files; hard copies will be in a locked cabinet, and electronic records shall be kept in a location that prevents access by all unauthorized persons.

C. Except for a record of a technical infraction, a record relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, is not a personnel record under the Public Information Act. (GP §4-311)

D. Nothing in this order will prevent the Chief of Police from issuing incident summary information (without names or other information that would identify an employee) as may be required to comply with law or to inform the community when transparency is important.

E. Annually, by January 31 of each year, the Chief of Police will publish a statistical summary of the types and numbers of complaints and their dispositions.

F. Copies of the statistical summary will be posted on the Department's website.

G. A record relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, may not be expunged or destroyed by a law enforcement agency.

This directive voids the previous version dated 12/22/2016.