



**CHEVY CHASE  
VILLAGE  
POLICE  
DEPARTMENT**

*Police Chief: John M. Fitzgerald*

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

DATE: 03/11/2019 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. **Brutality**  
Brutality is considered the use of excessive or unjustified physical force by an officer in the exercise of official duties.
- B. **Exonerated**  
The incident did occur, but the actions of the accused were justified, lawful, and proper.
- C. **External complaint**  
Complaints made by anyone other than a Department employee.
- D. **Formal investigations**  
These are investigations of misconduct allegations which may result in disciplinary action. All interviews of members will be audio recorded, and the investigator will write a memo summarizing the investigation. If a sworn officer is the accused employee, the investigator will adhere to the LEOBR.
- E. **Informal investigations**  
These are investigations of minor allegations that, even if sustained, are not expected to result in disciplinary action. If the accused employee is a police officer, the LEOBR need not be followed as these rights are not implicated. For other employees, interviews will not be audio recorded.

**F. Internal complaint**

Complaints initiated against an employee by another Department employee.

**G. Minor complaints**

Those allegations, which if sustained, would be appropriately resolved through the imposition of summary punishment or use of the Supervisors Remedial Action Form.

**H. Not sustained**

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

**I. Serious complaints**

Allegations that may result in severe discipline to include the possibility of dismissal. Serious complaints include, among other acts, brutality, complaints which allege racial, ethnic, sexual or other types of prejudice, misappropriation of monies, or untruthful statements.

**J. Sustained**

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

**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 the overseeing administrative investigations and the disciplinary process. The Chief may delegate specific duties and responsibilities to the Lieutenant.
- B. The goal of 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 receive 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 a written summary of 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. 'Informal' or 'Formal' investigation designation;
  6. Final disposition.

- N. Within 72 hours of receiving a complaint, the Chief of Police will acknowledge receipt of each complaint by letter or otherwise making contact with the complainant as appropriate.
- O. Based on the type and nature of the complaint, the Chief shall make an initial determination whether the investigation will proceed formally or informally.
- P. All investigations shall be documented properly by the investigator.
  1. Informal investigative summaries may be brief and may take the form of an email or a memorandum.
  2. Formal investigations shall be summarized in a written report in accord with Section VI below.
- Q. Complainants will be given the name and email address of the investigating officer as a point of contact.
- R. 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.

#### V. INFORMAL INVESTIGATIONS

- A. Complaints where it is probable that no formal disciplinary punitive action will be taken will usually be assigned to the employee's immediate supervisor.
- B. The investigator will make reasonable efforts to obtain statements from complainants, witnesses and the accused employee(s) in order to determine the facts. The investigator may either make notes or electronically record the interviews/statements at their discretion.
- C. The investigator shall brief the Chief on the outcome of the investigation and shall make a written recommendation (memo or email) as to any non-disciplinary action that may follow (no action; verbal counseling; Remedial Action Form, training, etc.). The Chief of Police will make the final decision regarding action to be taken.

#### VI. FORMAL INVESTIGATIONS

- A. Prior to interviewing the accused employee, the investigating officer will provide the employee with a written notice of allegations and of the employee's rights and responsibilities.
- B. 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.

- C. 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.
- D. 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.
- E. After reviewing the summary memorandum, the Chief may:
  1. Agree with the recommendations and implement them;
  2. Direct the investigator to continue the investigation;
  3. Require all or portions of the report to be rewritten because of non-supportive statements;
  4. Issue his own comments or modifications to a the memo.

**VII. CHIEF'S RESPONSIBILITIES**

The Chief of Police is responsible for:

- A. Reviewing complaints and determining whether the matter will be investigated formally or informally.
- B. Assigning the person who will conduct the investigation.
- C. Ensuring that the investigator complies with the LEOBR when a sworn officer is the subject of a formal investigation.
- D. Maintaining the appropriate confidentiality of the investigation.
- E. 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.

- F. Determining whether an accused employee will be reassigned, relieved from duty, or suspended pending disposition of the case.
- G. Determining the final disciplinary action based on the investigation or after considering the recommendations of an LEOBR hearing board, as appropriate.

**VIII. EMERGENCY SUSPENSION OF POLICE POWERS—WITH PAY**

- A. The emergency suspension of an officer's police powers with pay is authorized by the LEOBR when it appears to be in the best interest of the public and the Department. Officers may be reassigned to administrative duties, or they may be placed in a no-duty status on administrative leave. The officer's hours may be changed in order to make the officer available to the Department during normal business hours.
- B. Emergency suspension may be imposed for administrative (employee's physical or psychological condition) purposes, or pending a disciplinary or criminal investigation of the officer.
- C. The suspended officer is entitled to a prompt hearing before a one-person hearing panel.

**IX. EMERGENCY SUSPENSION OF POLICE POWERS—WITHOUT PAY**

- A. An officer who has been charged with the commission of a felony may have their police powers suspended without pay in accord with the LEOBR.
- 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. The suspended officer is entitled to a prompt hearing before a one-person hearing panel.
- D. If the employee requests a hearing, the Chief will ensure that a hearing is scheduled as soon as practical and that the employee is notified in writing of the date and time of that hearing.

**X. 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);
  6. A statement informing the officer of her/his right to a prompt hearing if they wish to challenge the action.
- 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 officers next tour of duty.

#### **XIV. DISPOSITION OF RECORDS/FINDINGS**

- A. The Chief of Police will notify the complainant in writing as to the disposition of the case; the Lieutenant will draft the letter for the Chief's signature. In accord with the LEOBR, the complainant will be informed of 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. All personnel files—including completed administrative investigation files—are confidential files subject to examination only with the express permission of the Chief of Police. Such files/portions of such files will be surrendered for examination by persons or authorities outside the Police Department only in response to appropriate orders of a court with jurisdiction.
- 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.

#### **XV. EXPUNGEMENT OF RECORDS/FINDINGS**

- A. Title 3, Section 3-110, of the Annotated Code of Maryland states: "A law enforcement officer, upon written request, may have any record of a formal complaint made against him expunged from any file if:
1. The law enforcement agency investigating the complaint has exonerated the officer of all charges in the complaint, or determined that the charges were un-sustained or unfounded; and
  2. 3 years have passed since the findings by the law enforcement agency."
- B. The file of a case resulting in a "not guilty" finding at a hearing board will also be expunged at the officer's request.
- C. If an officer wishes to have his record(s) expunged, he must forward a memorandum directly to the Chief of Police.
- D. If the statutory requirements for expungement are met, the Chief of Police will:
1. Expunge the file;
  2. Notify the officer within thirty (30) days by returning directly to him a copy of his memorandum marked with the date the expungement was completed.
- E. If the expungement requirements are not met, the Chief of Police will:
1. Notify the officer by returning a copy of his memorandum within thirty (30) days and indicating the expungement request will not be granted.
  2. The reasons for the expungement request denial will be outlined in the memorandum.
- F. In both situations, the original of the expungement request (with the action taken indicated on it) will be placed in the case file.
- G. The method of expungement will be destruction (shredding) except when the file contains names of two or more accused officers and charges against one or more of the officers were sustained. In that case, any reference to those officers who were exonerated, or whose charges were unfounded or not sustained will be deleted or obliterated (marked over).

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