	SALISBURY POLICE DEPARTMENT
	Written Directive: Internal Investigations
	Publication Date: February 16, 2018
	Approved: Barbara Duncan, Chief of Police
Related CALEA Standards: 26.2.1, 26.2.2, 26.2.3, 26.2.4, 26.2.5, 26.3.2, 26.3.3, 26.3.4, 26.3.5, 26.3.6, 26.3.7, 26.3.8	**Internal Investigations** Section #603

Internal Affairs/Internal Investigations

1. **Policy:**

The integrity of the Salisbury Police Department depends on the personal integrity and discipline of each employee. It is the policy of the department to investigate all complaints against the agency and its employees, to include anonymous complaints.

2. **Purpose:**

The purpose of this policy is to establish an internal affairs function. The department considers this a priority for the maintenance of professional police conduct, overall integrity of the agency and to continue to maintain the trust of our community. The department will respond expediently and responsibly to allegations of misfeasance, malfeasance, and nonfeasance by employees, and to complaints about the department's response to community and individual needs.

3. **Administration and Operations:**

This policy directly relates to maintaining professional conduct by all employees of the Salisbury Police Department. A complaint is an allegation of an improper or unlawful act, or omission, which relates to the business of the Salisbury Police Department or to any member of it. If a complaint has no bearing on this department, the complaint will be referred to the correct agency.

4. **Complaint Investigation/Internal Affairs Function:**

A. An essential balance must be maintained to insure fair and impartial treatment of the issues and parties concerned. The primary objective of the internal affairs function is to protect the public and to maintain the integrity of the department and the individual employee.
B. To ensure all employees of an effective administrative disciplinary system, it is necessary to establish an effective review of complaints, operate an internal unit

responsible for an impartial investigation when merited by the nature of the complaint and impanel a hearing board to hear evidence, question witnesses, and recommend action to the police chief. Throughout these procedures the rights of the individual employee and citizen must be acknowledged and not compromised.

C. All administrative disciplinary procedures shall, where applicable, be consistent with the Law Enforcement Officers Bill of Rights. All certified officers regardless of rank or position shall be afforded all rights and due process in accordance with the Law Enforcement Officer's Bill of Rights as specified in the Annotated Code of Maryland.

5. Required Action:

A. Each employee of the department shall assume the obligations of their rank and perform their duties accordingly in the investigation of complaints or allegations of misconduct. Members of the department shall cooperate fully with the personnel conducting an internal investigation.

B. Command and supervisory personnel shall themselves initiate investigations when the alleged violation reported or observed is within the scope of their authority. Violations outside of their authority shall be reported promptly to higher authority consistent with procedures herein prescribed.

C. Persons wishing to make complaints shall be advised that the procedure is to make a written statement, on the approved complaint forms. Complaints that are received by members of the Salisbury Police Department working in the field, shall be directed to the Salisbury Police Department or the Salisbury Police Department website to formalize the complaint.

D. Citizens making complaints in person shall be given a receipt of complaint form (SPD 110) at the time of the complaint. If the complaint is made by telephone, mail, electronically, or any other means, the form shall be mailed to the complainant. The report shall be placed in a confidential file and forwarded to the chief of police for review and assignment. A complaint form is available at the department, on the department's website or within the government office building.

6. Exceptions:

A. Complaints relative to difference of opinion between police officers and citizens over the issuance of traffic citations do not come under the purview of this policy. These issues are fully vetted through the appropriate trial judge and not members of this department. However, where a traffic case also involves an allegation that a police

officer was in violation of the law or a serious transgression of departmental rules, an investigation restricted to the allegation of misconduct shall be conducted in conformity with the procedures established in this directive.

B. When an alleged or observed infraction does not involve persons outside the department and is of a minor nature, supervisors need not look to higher authority to initiate action. Such cases are the responsibility of the supervisor to resolve without delay. Examples of such cases include, but are not limited to:
   a) Lateness;
   b) Uniforms and equipment violations;
   c) Personal appearance infractions;
   d) Minor omissions in assigned duties; and
   e) Minor infractions of departmental regulations concerned with efficiency or safety.

7. **Internal Investigation Procedures:**

A. Complaints will be investigated by the internal affairs commander or by supervisors, as designated by the chief of police or his/her designee. Complaints will be classified into two separate categories, internal affairs complaints or civilian complaints. Internal Affairs complaints may be identified as, but not limited to:
   a) Unnecessary or excessive use of force/brutality;
   b) Abuse of authority;
   c) Discourteous or abusive behavior;
   d) Corruption;
   e) Gratuities;
   f) Criminal Misconduct;
   g) Breach of civil rights.

B. Civilian complaints are often of a minor nature. Civilian complaints may be investigated by supervisors at the discretion of the chief of police or his/her designee. These complaints may be identified as, but not limited to:
   a) Alleged rudeness on the part of the employee
   b) Personal appearance infractions
   c) Minor omissions in assigned duties;
   d) Minor infractions of departmental regulations or policy
   e) Complaints of inefficiency or safety concerns

C. Supervisors receiving alleged complaints shall record same on the "Complaint Against Salisbury Police Department personnel" form and forward it to the chief of police.

D. The chief of police shall review those complaints and forward those complaints requiring an investigation to the IA commander for proper tracking. The complaint will then be assigned to the appropriate supervisor for investigation or retained by the IA commander for investigation.

E. Excessive Force:
   a) The term "excessive force" is considered to include any situation wherein an officer, while acting in his/her official capacity, resorts to the use of physical force which was not reasonably necessary in its origin and application.
   b) Complaints alleging excessive force are required to be made under the penalty of perjury and within 366 days of the incident by:
      i. The aggrieved individual;
      ii. A member of the aggrieved individual's immediate family;
      iii. Or by any individual with firsthand knowledge obtained because the individual
         1) Was present at or observed the alleged incident;
         2) Has a video recording of the incident that, to the best of the individual's knowledge, is unaltered; or
         3) The parent or guardian in the case of a minor child, if the alleged incident involves a minor child.

   c) Complaints alleging brutality or excessive force must be documented on the SPD complaint form. If complainants present with a form or documentation other than SPD-115b, the complainant shall be encouraged to use SPD-115b and attach their document to SPD-115b. The complaint will be encouraged to sign SPD-115b indicating that their complaint is being made under the penalty of perjury.

F. Conduct of Investigations:
   a) Whenever a complaint is lodged against a sworn member of this department, the investigation and interrogation of the accused shall be conducted in accordance with the Law Enforcement Officers' Bill of Rights. Complaints against civilian personnel shall be investigated in a similar manner, excluding the application of the Law Enforcement Officers' Bill of Rights.

8. Maintenance Of Records:

The Salisbury Police Department maintains a record of all complaints and upon completion of investigations; the closed files are maintained in a secure area to ensure the confidentiality and security of the records and investigation.

9. **Chief of Police Direct Accessibility:**

The administrative commander is the IA commander and is responsible for the department's IA function and may designate personnel (supervisors and or squad commanders) to investigate internal affairs complaints. The administrative commander (IA commander) has the authority to report directly to the chief of police.

10. **Complaint and Commendation Registering Procedures:**

Procedures for registering complaints or to commend agency employees are made available to the community through the department's community relations program, through the department website, social media, and through the distribution of the applicable pamphlet.

11. **Publishing Annual Statistical Summaries:**

The department compiles annual statistical summaries based upon records of complaints and internal affairs investigations, which are made available to the public via the department's website, and to the department employees via the Salisbury Police Department internal computer network.

12. **Notifying the Chief of Police of Complaints:**

A. All alleged or suspected actions of departmental personnel involving misconduct, neglect of duty, or other violations of departmental rules or orders must be reported immediately to the chief of police. This report shall be made by the IA commander or the respective supervisor through the chain of command. Anonymous reports shall be forwarded in the same manner as those in which the complaint is identified.

B. Criminal Investigations:
   a) If a complaint is received alleging criminal misconduct:
      i. The IA commander shall be contacted immediately;
      ii. The IA commander shall confer with the chief of police and the employee's commanding officer to determine what course of action to follow;
      iii. All cases of alleged criminal misconduct shall be reviewed by the State's Attorney for Wicomico County to determine if criminal charges are to be pursued. If the state's attorney declines prosecution, the case shall be pursued administratively. A letter from the state's attorney shall be placed in the case file, noting the decision not to prosecute criminally.

iv. If criminal prosecution will be pursued, the IA commander will confer with the department's legal advisor to determine the best course of action concerning the administrative investigation.

13. Investigation Time Limits:

It is the responsibility of the IA commander or the supervisor conducting the investigation to complete the investigation within 90 days after the receipt of the complaint. Extensions to the 90 day limit may be granted under extenuating circumstances by the administrative commander.

14. Notification to the Complainant:

A. Citizens making complaints shall be given receipt of complaint form (SPD 110) at the time of complaint. If the complaint is received by the Salisbury Police Department, via U.S. mail, electronically, or by other means; a receipt of complaint form (SPD 110) shall be mailed to the complainant.

B. It is the responsibility of the investigating supervisor to report the status of the investigation to the IA commander within 15 days of receipt and as new developments occur. It is the responsibility of the IA commander to report the status of the investigation to the administrative commander every 15 days.

C. It is the responsibility of the assigned investigator to notify the complainant upon receipt of the assigned complaint, and subsequently within 30 days during the investigation, or as developments in the investigation unfold regarding the status of the complaint.

D. Prior to the complainant being notified of the results of the investigation, the chief of police will be advised of the findings and conclusion of the investigation and be in concurrence. Upon conclusion of the investigation, the complainant shall be notified of the results by the IA commander or the investigating supervisor. That notification shall be in writing and addressed to the complainant's last known address.

15. Statement of Allegations and Rights:

A. Notification to a sworn employee that he or she is the subject of an internal investigation shall be in compliance with the Maryland Law Enforcement Officer's Bill of Rights. The employee is entitled to a notice of the nature of the investigation and this will be provided at least 5 business days before he/she is subjected to an interrogation.

16. Submission to Tests:

A. During an IA investigation, Maryland Law Enforcement Officer's Bill of Rights, permits a law enforcement agency to require a law enforcement officer under investigation to submit to the following:
   a) Medical or laboratory tests, (blood alcohol tests, blood test, breath test, or urine tests for controlled dangerous substances);
   b) Polygraph examinations; and
   c) Any other relevant test deemed appropriate by the department.

B. A law enforcement officer may not be required or requested to disclose any item of his property, income, assets, source of income, debts, or personal or domestic expenditures (including those of any member of his family or household) unless that information is necessary in investigating a possible conflict of interest with respect to the performance of his official duties, or unless such disclosure is required by state or federal law, per Maryland Law Enforcement Officer's Bill of Rights.

17. Procedures for the Suspension From Duty:

A. Superior officers and supervisors are authorized, consistent with existing policy, to suspend from duty and or suspend the police powers of any employee of this department when acts alleged or committed by such employees are of such a nature that, in the judgment of the superior officer, the interests and welfare of the public, the department, or the individual is best served by such action. The command or supervisory officer shall immediately prepare a written report which specifies that the employee is being relieved from duty pending the outcome of the internal investigation and stating the reason(s) for the suspension. That report shall be immediately forwarded to the division commander.

B. Suspension Hearing:
   a) An officer who is suspended from duty is entitled to a prompt hearing. The suspension hearing shall be held on the first working day following the suspension from duty exclusive of weekends and holidays. The suspension hearing is not a judicial proceeding nor is it directed to findings of fact or law. The suspension hearing is limited to the presentation of the circumstances surrounding the suspension of the employee in order to determine whether such circumstances warrant continued suspension, and whether the continued suspension should be with or without pay. When the acts alleged to have been committed by a suspended employee are of such a serious nature that in the judgment of the suspension hearing officer, the interests and welfare of the public, the department, or the individual is best served by continued suspension, then the

suspension hearing officer shall so order. When the acts are of such gravity and nature that criminal and/or departmental charges seem likely, then the employee may be suspended from duty without pay by the suspension hearing officer.

b) Suspension hearings shall be recorded by the suspension hearing officer. The recordings shall be submitted to the IA commander with the written report of the suspension hearing officer reflecting the outcome of the hearing.
c) The suspension hearing officer, commanding officer of the suspended employee, and suspended employee shall attend the hearing. The suspended employee shall have the right to present testimony on his own behalf as to the germane issue(s). The suspension hearing officer shall be the final authority as to what testimony shall be heard relative to the purpose of the hearing. The suspending officer or the suspension hearing officer may, at his discretion, request the assistance of the legal advisor of this department at any hearing.

d) Suspension hearings are not public in nature. Neither member of the general public or of the news media shall be admitted to such hearings unless called upon to testify in matters relating to the purpose of the hearing. Further, evidence presented at such suspension hearings shall be confidential in nature.

e) A division commander, as designated by the chief of police, shall be the suspension hearing officer.

18. <u>Conclusion of Fact and Recommendations:</u>

A. When the internal investigation is completed the investigating supervisor or the investigating IA commander shall issue a written report and recommendation. The recommendation shall classify the complaint as follows:
   a) <u>Sustained:</u> The allegation is supported by sufficient evidence.
   b) <u>Not Sustained</u>: Insufficient evidence whether to prove or disprove the allegation.
   c) <u>Exonerated</u>: Incident complained about occurred, but was lawful and proper.
   d) <u>Unfounded</u>: Allegation is false or not factual.
   e) <u>Policy Failure</u>: The allegation is true; the action of the agency or the officer was consistent with agency policy.

B. Action on Investigation (civilian complaints):
   a) The report and recommendation of an investigating supervisor shall be submitted to the IA commander for review. The IA commander shall review the internal investigation report and recommendations of the investigating supervisor and shall make, in writing, any comments and recommendations deemed appropriate. Upon completion, all reports and recommendations of the investigating supervisor

and of the IA commander shall be submitted to the division commander of the affected employee.

b) The division commander shall review the internal investigation report and recommendations of the investigating supervisor and IA commander, and shall make, in writing, any comments and recommendations deemed appropriate. The division commander shall include a statement as to whether or not he/she concurs in the recommendation of the investigating supervisor and IA commander. The division commander will notify the chief of police of these findings and of recommended actions to be taken.

c) Thereafter, the division commander shall notify the commander/supervisor of the affected employee and take appropriate action in regards to the findings of the investigation with approval of the chief of police.

d) The IA commander will then finalize the report conclusions for proper tracking of the complaint.

C. Action on Investigation (internal affairs complaints):

a) The report and recommendation of the investigating IA commander shall be submitted to the administrative commander for review. The administrative commander shall review the internal investigation report and recommendations of the IA commander and shall make any comments and recommendations deemed appropriate.

b) The administrative commander will notify the chief of police of these findings and of recommended actions to be taken.

c) Thereafter, the administrative commander shall notify the division commander /supervisor of the affected employee and take appropriate action in regards to the findings of the investigation with approval of the chief of police.

d) The IA commander will then finalize the report conclusions for proper tracking of the complaint.

19. <u>Administrative Hearing Boards (Trial Boards):</u>

A. If the investigation or interrogation of the officer results in the recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive the law enforcement officer is entitled to a hearing on the issues by a hearing board before the law enforcement agency takes that action.

B. A hearing board or as often referred to a "trial board" is a board of law enforcement officers authorized by the chief of police to conduct such a hearing. The right to a hearing board is a right provided to and to be exercised by the accused officer, which can also be waived by the officer at his/her discretion.

C. The hearing board's jurisdiction and authority to hear contested cases is defined by the Law Enforcement Officers Bill of Rights. The hearing board may accept evidence, hear arguments, decide factual issues and make conclusions of law. The hearing board should not entertain certain motions or arguments, either pre-trial, during trial, or post trial. Such motions to dismiss on legal grounds, for a new trial, for a mistrial, for judgment not withstanding a verdict, and so on, without consulting legal counsel before proceeding.

D. All pending hearing boards will be posted for public notification on the department website. Posted information will include the date & time of the hearing, internal affairs case number, and the location where the departmental hearing can be viewed live by the public.

E. All Administrative hearing boards will be conducted in compliance with the Law Enforcement Officers Bill of Rights as referenced in the Guidelines and Procedures for Conducting Hearings, chapter 100 through chapter 700.

F. Administrative Hearing Rules of Conduct / Order:
   a) All electronic devices inside the administrative hearing room shall remain off and no electronic device may be used to receive, transmit, or record sound, visual images, data, or other information.
   b) Firearms are not permitted in the hearing room.
   c) Food and drink are not permitted in the hearing room.
   d) Broadcasting of the hearing is not permitted.
   e) Talking while the hearing is in session is not permitted.
   f) Interacting with those involved in the hearing is not permitted.
   g) Smoking is not permitted in the hearing room.
   h) Conduct that interferes with the proceedings is not permitted.

20. <u>Summary Punishment Hearing Board:</u>

A. Summary punishment is a punishment of 3 days (24 hours or less).

B. If an officer disputes only the offered punishment within the summary punishment parameters, he/she is entitled to a one person hearing board for a review of the proposed punishment. The one person hearing board is not empowered to hear or decide issues of fact, only to make an alternative recommendation of punishment or affirm the original punishment offered. The facts of the investigation are not subject to review during this process. The decision of the one person hearing board is a recommendation only; it is not binding on the chief of police who retains the final authority to impose punishment.

C. The procedures of the summary punishment board will follow those of the administrative hearing board as outlined in LEOBR with the following exceptions:
   a) The summary punishment board does not bring forth to the chief a finding of fact, but merely examines the evidence to the point of determining the suitable degree of summary punishment to be imposed;
   b) Since the board does not determine guilt or innocence, the "preponderance of the evidence" rule applies only to that amount of evidence necessary to determine the degree of summary punishment to be imposed; and
      i. Preponderance of evidence is evidence that establishes it was more likely than not that an event occurred.
   c) The board consists of one member selected by the chief; there is no provision or requirement that the board member is of equal rank as the appellant officer.