

## Salisbury University Police Department

### CHAPTER 52 – INTERNAL AFFAIRS

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## Salisbury University Police Department

### CHAPTER 52 – INTERNAL AFFAIRS

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*This chapter relates to the importance for the maintenance of professional conduct by all employees of the department.*

#### **52.1 Organizational Integrity**

##### **52.1.1 Internal Affairs Function**

The integrity of the University Police Department depends on the personal integrity and discipline of each employee. The image the department projects is determined by the quality of the internal affairs function in responding to allegations of misconduct by the agency or its employees. The objective is to protect the public served and to maintain the integrity of the agency.

It is the policy of the department to accept and investigate all complaints against its employees of alleged misconduct and based upon its findings to exonerate the innocent, establish the guilt employees who violate departmental policy or law and justly determine disciplinary action with promptness.

To ensure all employees of an effective administrative disciplinary system, it is necessary to establish an effective review of complaints, operate an internal affairs function which will be responsible for an impartial investigation when merited by the nature of the complaint and impanel a board to hear evidence, question witnesses and recommend action to the Chief of Police, when necessary.

All administrative disciplinary procedures shall, where applicable, be consistent with the Maryland Public Safety Article, Title 3, Subtitle 1 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 Officers' Bill of Rights.

#### **A. Required Action**

1. Each employee of the department shall assume the responsibilities and obligations of their rank and position accordingly in the investigation of complaints or allegations of misconduct. All employees of the department shall cooperate fully with personnel conducting an internal investigation.
2. Command and supervisory personnel shall initiate investigations when the alleged violation reported or observed is within the scope of their authority. Violations outside of their authority shall be reported to a higher authority consistent with the procedures prescribed herein.
3. A complaint is defined as an allegation that, if proven factual, would constitute misconduct. A complaint can be made by a citizen, student, faculty, staff or department member. A complaint can be filed in the following ways:
  - In person;
  - In writing;
  - By telephone;
  - Online via the University Police webpage;
  - Anonymously using any of the previously stated means.

4. With the exception of complaints against personnel lodged internally, any person (ie. student, faculty/staff member, citizen, etc) making a complaint in person shall meet with a supervisor, if available, or senior officer on duty to discuss the complaint. The supervisor will give the complainant a Complaint Against Personnel form #050 to be filled out by the person lodging the complaint. At such time the person completes the form, whether immediately or in the future, the complainant will be given a Receipt of Complaint form #051 once the complaint has been received by a supervisor/commander. If the complaint is lodged via telephone, the supervisor will complete the complaint against personnel form, outlining as much information as possible concerning the allegation.
5. All complaints that are required to be handled by Internal Affairs in accordance with 52.2.1 (B) will be forwarded accordingly.
6. Complaints relative to a difference of opinion between officers and citizens over traffic issues (citations, parking) will not be investigated unless a serious transgression on the part of the officer occurs during the enforcement action.
7. Anonymous complaints will be reviewed by a Division Commander to determine the validity of the complaint and assess whether enough credible information has been given to properly investigate whether by a Squad Supervisor or Internal Affairs.

#### **52.1.2 Maintenance of Records**

The University Police Department *shall* maintain a record of all complaints filed against police personnel. The records are filed in a separate, locked filing cabinet accessible by the Administrative Commander and the Chief of Police. The records of internal investigations shall be maintained separately, at all times, from other personnel records. All internal investigative records shall be maintained as long as the individual is employed by the department unless purged in accordance with the Law Enforcement Officers Bill of Rights.

#### **52.1.3 Position Responsible for Internal Affairs Function**

The Administrative Commander is responsible for the department's Internal Affairs function to include the investigation of complaints against personnel, the maintenance of confidential investigations and records. The Administrative Commander reports directly to the Chief of Police on all related matters.

#### **52.1.4 Public Awareness**

The University Police Department's webpage <http://www.salisbury.edu/police> displays a link which provides instructions on the manner in which citizens can file complaints. In addition to the web page, the department has developed a brochure which describes the manner in which citizens can file complaints against personnel. The brochure is available at the police headquarters lobby, the Office of Human Resources and the Office of Student Affairs. The brochure is also available for dissemination during public safety meetings or events. Officers will acknowledge receipt of this policy once during their tenure.

#### **52.1.5 Publishing Annual Statistical Summaries**

Each year, in January, the Administrative Commander shall compile a statistical summary, based upon records of internal affairs investigations for the previous calendar year. This information will be available on the department's webpage and forwarded to the Office of Human Resources.

*(Revised 06/09/2016)*

## 52.2 Complaint Procedures

### 52.2.1 Complaints Investigated by Supervisors and by Internal Affairs Function

#### A. Types of Complaints Investigated by Squad Supervisors

In situations where an alleged or observed infraction does not involve persons outside the department and is minor in nature, supervisors shall not look to a higher authority to initiate action. These cases are the responsibility of the Supervisor by the nature of his/her position and will be resolved without delay. Examples of such complaints/infractions include, but are not limited to:

- 1) Lateness;
- 2) Uniform and Equipment violations;
- 3) Personal appearance infractions;
- 4) Insubordination;
- 5) Minor omissions of assigned duties; and
- 6) Minor infractions of departmental regulations.

#### B. Types of Complaints Investigated by Internal Affairs

Complaints generated from outside of the department may be investigated by Internal Affairs. The Administrative Commander shall serve as the Internal Affairs Investigator. Criteria for determining the categories of complaints to be referred to internal affairs shall include serious violations of department policy, allegations of corruption, brutality, excessive force, breach of civil rights and criminal misconduct. The Chief of Police reserves the right to assign complaints for investigation by Internal Affairs on a case-by-case basis in consideration of the circumstances of the allegation and the personnel involved.

Supervisors receiving alleged complaints against any employee of this department shall record same on the "Complaint Against Personnel" form #050 and forward it to the Administrative Commander.

Upon review of each complaint received, the Administrative Commander shall review the complaint to determine whether it will be investigated by Internal Affairs or forwarded to the employee's Supervisor for investigation based upon the allegation and the criteria set forth.

#### 1) Brutality or Excessive Force

In cases alleging brutality and/or excessive force, the complaint shall be placed in a confidential file in the Office of the Administrative Commander until such time the complainant signs a sworn, notarized complaint in accordance with the Law Enforcement Officers' Bill of Rights.

### 52.2.2 Notifying the Chief of Police of Complaints

Upon receipt of a complaint against department personnel involving any allegation or suspected actions involving misconduct, neglect of duty or any other serious violation of departmental written directions, rules, regulations or orders, the Chief of Police will be immediately notified via the on-call Division Commander.

If a complaint is received alleging criminal misconduct under the Annotated Code of Maryland:

- The on-call Division Commander will be notified immediately;
- The Chief of Police will be notified and will confer with the Division Commander to determine the course of action to follow;

- All cases of criminal misconduct shall be reviewed by the Wicomico County State’s Attorney to determine if criminal charges are likely to be pursued. If the State’s Attorney declines prosecution, the case shall be investigated administratively. A declination letter from the State’s Attorney shall be placed in the internal investigation file, noting the decision not to prosecute.

### **52.2.3 Deadlines for Completion of Investigation of Complaints**

The Administrative Commander, or any other supervisor tasked with conducting an internal investigation, will ensure that the investigation is complete within 60 days after receipt of the complaint. Extensions may be granted, upon approval of the Chief of Police, if extenuating circumstances exist which may prohibit the investigation’s conclusion within the 60 day time frame.

### **52.2.4 Verification and Status of Complaints**

The Administrative Commander shall ensure that:

- Upon receipt of a complaint, the complainant is contacted and advised that the written complaint has been received and will be investigated;
- Ensure that the complainant is notified periodically of the status of the complaint and;
- Upon conclusion of the investigation, the complainant is notified in writing of the results of the investigation.

### **52.2.5 Notification of Complaint to the Employee and the Employee’s Rights and Responsibilities Relative to the Investigation**

Employees who become the subject of an internal affairs investigation will be furnished with a copy of the “Complaint Against Personnel” form. Sworn officers who are the subject of an investigation will also be provided with an “Explanation of Police Officers Rights #053;” both of which are in accordance with the Law Enforcement Officer’s Bill of Rights.

### **52.2.6 Employee’s Rights RE: Medical/Laboratory Examinations, Photographs, Line-Ups, Financial Disclosures and Instruments for the Detection of Deception**

- During an internal investigation, the department may order the law enforcement officer under investigation to submit to blood alcohol tests, blood, breath or urine tests for controlled dangerous substances, polygraph examinations or interrogations that specifically relate to the subject matter of the investigation (LEOBR Public Safety Article, Title 3, Subsection 104-l.)
- A law enforcement officer may not be required or requested to disclose an item of the law enforcement officer’s property, income, asset, source of income, debts or other personal or expenditures, including those of a member of the law enforcement officer’s family or household, unless the information is necessary to investigate a possible conflict of interest with respect to the performance of the law enforcement officer’s official duties, or the disclosure is required by federal or state law ((LEOBR Public Safety Article, Title 3, Subsection 103-c.)
- During an internal investigation, the department may require the use of a photograph of an officer or his/her participation in a line-up.

## 52.2.7 Suspension from Duty

### A. Commander and Supervisors Action to Suspend Employees

Commanders and Supervisors are authorized, consistent with existing directives, to suspend any employee of this department when acts alleged and committed by such employees are of such a nature that, in the judgment of the supervisor, the interests and welfare of the public, the university, the department or the individual are best served by such action. The Commander or Supervisor shall prepare a written report stating the reason for the suspension. This report will be immediately forwarded to the Chief of Police. Examples of alleged violations of directives and regulations for which suspension is appropriate include, but is not limited to:

- Reporting for work under the influence of alcohol;
- Reporting for duty unprepared for work;
- Mishandling, abusing or theft of university property;
- Being charged with any misdemeanor or felony crime;
- Being absent without leave and failing to report for duty as scheduled;
- Any immoral and unethical conduct which reflects unfavorably on the department and university; or
- When it is in the best interest of the department, the university and the officer.

When any employee is suspended from duty, the commander/supervisor will immediately take possession of the employee's identification card, MPTC certification card, if applicable, firearms, and badges. These items will be turned into the Chief of Police or his/her designee.

### B. Suspension Hearings

1. The suspension hearing shall be held on the first business day (exclusive of weekends and holidays) following the suspension from duty. The suspension hearing is limited to the presentation of the circumstances surrounding the suspension of the employee to determine whether those circumstances warrant continued suspension and whether the suspension should be with or without pay. When the acts alleged to have been committed by the employee suspended are of such serious nature that in the judgment of the Suspension Hearing Officer - who will be the rank of Lieutenant or higher - that the interests and welfare of the university, the department or the individual would be best served by continued suspension, then the Hearing Officer will so order the suspension to continue pending an internal investigation.

When the acts or circumstances are of such gravity and nature that criminal and/or departmental charges are likely, then the employee may be suspended from duty without pay by the Suspension Hearing Officer in accordance with the Law Enforcement Officer's Bill of Rights, as applicable.

2. Suspension Hearings will be tape-recorded by the Suspension Hearing Officer. The recordings will be forwarded to Internal Affairs with a written report of the Suspension Hearing reflecting the outcome of the hearing.
3. The suspended employee and his/her supervisor shall attend the Suspension Hearing conducted by the designated Suspension Hearing Officer. The suspended employee has the right to present testimony on his/her own behalf relative to the issue of suspension. The Suspension Hearing Officer and the suspended employee have the right to request legal assistance at the suspension hearing.

4. Suspension Hearings are not public in nature. Neither members of the general public, the university or the news media shall be admitted into such hearings unless called upon to testify in matters relating to the purpose of such hearings. All evidence presented at suspension hearings is confidential.
5. At the conclusion of the suspension hearing, the suspended officer will be informed of the Suspension Hearing Officer's decision regarding continued suspension and pay status. A written report will then be forwarded to the Chief of Police.

### **52.2.8 Conclusion of Fact**

At the conclusion of an internal investigation, the investigating officer shall issue a written report and final determination within one of the following categories:

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| 1. Sustained     | The allegation is supported by sufficient evidence to justify a reasonable conclusion of a violation of law or department policy/regulation. |
| 2. Not Sustained | Insufficient evidence exists to either prove or disprove the allegation.   |
| 3. Exonerated    | Incident occurred but was lawful and proper.   |
| 4. Unfounded     | Allegation is false or not factual.  |

Once a final report with a conclusion of fact has been completed, the investigating officer shall submit the report to the Administrative/IA Commander who shall review the internal investigation report and conclusion of fact and shall make comments or recommendations deemed appropriate. The recommendation of the Administrative Commander shall include a statement as to whether or not he/she concurs in the findings of the investigating officer. Thereafter, the Administrative Commander shall submit the internal investigation report to the Commander of the affected employee.

The Division Commander will review the internal investigation file and make written comments and/or recommendations for disciplinary action, where appropriate. The Chief of Police will be notified of the findings and the conclusion of fact. All final disciplinary action taken will be approved by the Chief of Police.

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Edwin L. Lashley  
Chief of Police