Bowie State University Police Department

General Order

Subject: RULES OF CONDUCT

 ARTICLE 7

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Approved: Capt. B. S. Biscoe

CALEA Standards:

This article contains the following sections:

Section I Scope and Authority
Section II Definition of Terms
Section III Complaints Against Personnel
Section IV Investigation Procedures
Section V Disciplinary Procedures
Section VI Administrative Forms
Section VII Crimes and Punishment

SECTION I
SCOPE & AUTHORITY

1-0. Authority

1-1. The Chief of Police shall have the power to make any rules necessary to promote the effective and efficient performance of the duties of the Department and to insure the good government of the Department and its employees.

The authority of the Chief of Police shall also include the power, to suspend, amend, rescind, abrogate, or cancel any rule adopted by the Chief of Police or by any former Chief of Police.

1-2. To the extent that these rules are inconsistent with or in conflict with any provision of the Rules and Regulations of the Department of Human Resources, as they apply to classified non-sworn employees, the Rules and Regulations of the Department of Human Resources shall prevail.

2-0. Policy

2-1. It is the policy of the Bowie State University Police Department that all employees shall comply with the rules of conduct as herein stated, with the additions and amendments to these rules that may be promulgated and with all other orders and directives, either verbal or written, which may be issued by competent authority. The violation of any rule of conduct, procedure, or lawful order, whether written or verbal, subjects the violator to disciplinary action.

2.2. Ignorance of the rules, procedures, and orders of the Department is not justification for any such violation. An employee shall be responsible for his/her own acts and may not transfer to others responsibility for executing or failing to execute any lawful order or police duty.

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3-0. **Unbecoming Conduct**

3-1. Each employee shall behave him/herself at all times, both on and off duty, in a manner, which reflects most favorably on the Department. The phrase "reflects most favorably" pertains to the perceptions of both citizens and other Department employees. Conduct unbecoming an employee shall include that which tends to bring the Department into disrepute, or reflects discredit upon the employee as a representative of the Department, or that which tends to impair the operation or efficiency of the Department or employee.

3-2. A supervisor will not injure or discredit a subordinate through unreasonable, unjust, arbitrary, or tyrannical conduct, or abusive language.

3-3. An employee of the Department shall not maliciously threaten, strike, or assault any other employee of the Department.

4-0. **Insubordination**

4-1. Employees of the Department shall, unless otherwise directed by competent authority, transact all official business with employees senior in rank or classification only through the official chain of command.

4-2. An employee shall promptly obey all lawful orders of a superior, including those from a superior relayed by an employee of equal or lesser rank. A lawful order is any order, either verbal or written, which an employee should reasonably believe to be in keeping with the performance of his/her duties or the responsibilities of his/her post.

4-3. Employees will obey all orders from superiors, whether written or verbal, except when compliance with such orders would require the commission of an illegal act. No employee without adequate justification will intentionally issue an order that is contrary to an order issued by a superior. Employees to whom conflicting orders are issued will call immediate attention to such conflict; however, if the conflict is not resolved, the last order will be obeyed.

Any order may be countermanded in an emergency. An employee countermanding a prior order will immediately report the reason for the action to the employee's superior. Responsibility for all prudent and reasonable action necessary for compliance with orders will remain with the superior issuing the order. Accountability for all action taken in compliance with orders remains that of the person taking such action.

4-4. At the scene of any incident, the assigned police employee shall be in charge until relieved at the direction of another police employee senior in rank.

5-0. **Criticism**. An employee shall not criticize or ridicule the Bowie State University Police Department, any other State agency, any other University department, or the Maryland Judiciary, their policies, or their officers by speech, in writing, or by expression in any other manner, when such speech, writing, or other expression is defamatory, obscene, unlawful, exhibits a reckless disregard for truthfulness, or tends to undermine the operation of the Bowie State University Police Department or other State agency, other University department or the Judiciary by impairing their efficiency or interfering with their operation or maintenance of discipline.
6-0. **Abuse of Position**

6-1. While deprived of police powers, a police employee of the Department will not wear the uniform and will not represent him/herself in an official capacity as an employee of the Department.

6-2. An employee is prohibited from using his/her official position or his/her official identification card or badge for personal or financial benefit or as a means of obtaining privileges not otherwise available to him/her, or for avoiding consequences of illegal acts. An employee may not lend his/her identification card or badge to another person, or permit it to be photographed or reproduced without the approval of the Chief of Police.

6-3. An employee shall not permit or authorize the use of his/her name, photograph, or official title identifying him/her as an employee of the Bowie State University Police Department in connection with testimonials or advertisements of any commodity or commercial enterprise, or for personal reasons without the approval of the Chief of Police.

6-4. An employee shall not sign a petition, without the authority of the Chief of Police when his/her signature identifies them as an employee of the Department; nor shall any employee sign any petition, which has an unlawful purpose. However, any employee may sign a lawful petition as a private citizen.

6-5. An employee shall not address a public gathering, appear on radio or television, prepare any article for publication, act as a correspondent to a newspaper or a periodical, release or divulge investigative information or any other matters of the Department, either in an official or unofficial capacity without first having obtained permission from the Chief of Police.

7-0. **Associations**

7-1. An employee shall avoid associations or dealings with persons whom the officer knows, or should know, are racketeers, gamblers, felons, persons under criminal investigation or indictment, or others who have a reputation in the community for felonious or criminal behavior, except as directed otherwise by a superior.

(The purpose of this rule is to maintain the integrity of the employee and to avoid relationships, which would tend to impair the operation of the Department. In each case the superior will be mindful of the need for such persons to be rehabilitated, of the fact that such persons already may have been rehabilitated at the time that the association occurs, and of the necessity for some associations because of the relationship of the employee to such persons).

7-2. An employee shall not visit or enter a house of prostitution, gambling house, or any other establishment wherein the laws of the United States, the laws of the State of Maryland, or any other law or ordinance of a political subdivision are violated except in the performance of duty and while acting in response to lawful and specific orders of a superior.

7-3. An employee of the Department shall not in any manner affiliate him/herself with any organization, association, movement, group or combination of persons which advocates the overthrow of the Government of the United States or any state, or which has adopted the policy of advocating or approving the commission of acts of force or violence to deny any person their rights under the
Constitution of the United States or any state, or which seeks to alter the form of government of the United States or any state by unconstitutional means.

8-0. **Immoral Conduct.** Every employee shall maintain a level of moral conduct in his/her personal affairs, which is in keeping with the highest standards of the law enforcement profession. No employee shall be a participant in any incident involving moral turpitude which compromises or has the potential to compromise his/her ability to perform as a law enforcement officer or as an employee of the Bowie State University Police Department or cause the Department to be brought into disrepute.

9-0. **Conformance to Law.** An employee shall not violate his/her oath of office and trust or any other condition of his/her employment with the State of Maryland or commit an offense punishable under the laws or statutes of the United States or any sovereign nation, the State of Maryland, or public local laws or ordinances. Any employee who has been charged with a violation of any law, statute, or public local law or ordinance stipulated in this Section must report the facts concerning such violation immediately to his/her supervisor. Parking violations, except when issued to a Departmental vehicle, are exempted from this subsection.

10-0. **Payment of Debts**

10-1. Employees of the Bowie State University Police Department shall make every effort to pay all just debts and legal liabilities. Disciplinary action may be taken when:

   A. Judgments of creditors have been finally adjudicated and the employee, even though able to pay, has refused to comply with such judgment, or

   B. The effects of such indebtedness have adversely affected the ability of the employee to perform his/her job or have negatively reflected on the reputation or effectiveness of the Department.

10-2. Absent extenuating circumstances, disciplinary action shall be inappropriate where:

   A. The employee has made a genuine and sincere effort to pay his/her debts, or

   B. The employee has filed for a voluntary bankruptcy petition.

11-0. **Seeking or Accepting Gifts, Gratuities/Bribes**

11-1. A police employee shall not solicit, seek, or accept any gift or gratuity, including food or drink for him/herself or another from any individual, business establishment, or merchants where such offer of acceptance can be construed to be an effort to influence official conduct as a Bowie State University Police Department employee.

11-2. A police employee shall not receive, seek, solicit, or share in any fee, reward, or other reimbursement for the performance of his/her official duties, or for his/her failure to perform official duties, except as directed by the Chief of Police. The employee shall immediately report any offer, or attempt to offer, of money, gift, or other gratuity made in an effort to influence his/her official conduct.

11-3. Employees of the Bowie State University Police Department shall not solicit or accept any subscription or contribution for any purpose whatsoever except in conformance with Departmental policy.

Updated 7/03
12-0. Political Activity. The political associations and political conduct of employees of the Bowie State University Police Department shall be in conformance with the established policies and procedures of the University.

13-0. Labor Activities

13-1. An employee shall not engage in any strike or job action. Strike or job action includes, but is not limited to, a failure to report for duty, willful absence from duty, unauthorized holidays, sickness unsubstantiated by physician’s statement, stoppage of work, or the abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of employment.

14-0. Secondary Employment. A police employee shall not be employed in any capacity in any other business, trade, occupation, or profession, while employed by the Bowie State University Police Department except as established by Departmental policy and approved by the Chief of Police.

15-0. Departmental Communications

15-1. An employee shall submit all reports, both verbal and written, required by the Department, on time and in accordance with established procedures. All official business transacted by Departmental employees must be processed through official channels.

15-2. The following procedure will govern the submission of reports in administrative investigations:

A. During any administrative investigation an accused employee shall, upon order of competent authority, submit a written report detailing the facts concerning his/her involvement in the incident being investigated where the incident is related specifically, directly, and narrowly to the performance of his/her official duties.

B. Whenever an employee of the Bowie State University Police Department is ordered to submit a detailed report concerning an incident in which the employee is alleged to have been involved and if the authority ordering the report knows or should have known that the report is likely to contain information which may be used as evidence against the employee in a disciplinary hearing, then the authority ordering the report will, at the time of such order, provide the member with a copy of Notification of Complaint-Waiver of Rights Form. The Form should clearly state that the recipient is the subject of an investigation, and clearly include the nature of the investigation. These criteria do not apply to the submission of procedural reports required by Department standard operating procedure, rule or policy. The original Form will be attached to the report of investigation concerning the incident.

15-3. A police employee shall report to his/her superior all information that comes to his/her attention concerning organized crime, racketeering, vice conditions, etc.

15-4. All reports submitted by employees of this Department will be truthful; no employee shall knowingly report or cause to be reported any false information. A clear distinction must be made between reports, which contain false information, and those, which contain inaccurate or improper information. A false report is designedly untrue, deceitful, or made with the intent to deceive the person to whom it was directed.

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15-5. All reports submitted by employees of this Department will be complete and will not contain improper or inaccurate information. Inaccurate or improper information may be characterized by that which is untrue by mistake or accident or made in good faith, after the exercise of reasonable care.

15-6. An employee shall treat the official business of the Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended in accordance with established Department procedures. An employee may remove or copy official records or reports from a police department only in accordance with established Department procedures. An employee shall not divulge the identity of a person giving confidential information, except as authorized by proper authority in the performance of police duties.

15-7. The content of draft promotional and transfer lists or other material labeled "Draft" or "Confidential" must be treated with the utmost sensitivity, as items of this nature may differ significantly when finalized. Only those employees officially directed under competent authority to review discuss or have input into draft and confidential material may divulge the content of said material and then only to employees specifically authorized by official directive.

15-8. The use of University telephones (including calls from car/portable phones) and FAX machines shall be limited to the conduct of official business except for personal or emergency calls made/received in accordance with established policy.

16-0. Interrogations. In all instances where an employee of the Bowie State University Police Department has been accused of an act of misconduct or of any other impropriety, the commission of which is a violation of any Department rule of conduct, procedure or order, the employee shall, after being advised of his/her rights as specified in the departmental disciplinary procedures be subject to the procedures outlined in this Article. To the extent that the allegations of misconduct against an employee may also involve a violation of the criminal law, the procedures outlined in this article must be administered consistent with established constitutional rights guaranteed to all individuals charged with, or suspected of, criminal offenses.

16-1. During any administrative investigation an accused employee shall, at the request of competent authority, submit to an interrogation and polygraph examination. The questions to be asked during the interrogation and the polygraph examination will be related specifically, directly, and narrowly to the performance of the employee's official duties and to the subject matter of the current investigation.

16-2. On the order of competent authority, an employee shall submit to any medical, chemical, or other tests, photographs or lineups. All procedures carried out under this rule shall be specifically, directly, and narrowly related to the nature and scope of the accuse employment and conduct.

17-0. Reporting for Duty.

17-1. An employee of the Department shall not be absent without properly approved leave.

17-2. An employee shall report for duty at the time and place specified by his/her superior and shall be physically and mentally fit to perform his/her duty. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they may immediately assume their duties.

17-3. Every employee shall log or have logged on the appropriate form the time the officer's tour of duty began and ended.

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17-4. If any employee of the Department is unable to report for duty due to sickness or other causes, such employee shall, as soon as possible, notify his/her immediate superior of the reasons for the officer's absence.

17-5. Police employees, while off duty, shall be subject to call at all times.

18-0. **Fictitious Illness or Injury Reports.** An employee shall not feign illness or injury, falsely report being ill or injured, or otherwise deceive or attempt to deceive any official of the Department as to the condition of their health.

19-0. **Interference with Duty**

19-1. An employee shall not attempt to bring influence to bear on the Chief of Police for the purpose of securing promotion or transfer, or to avoid penalties for violations of the Department's policies, rules, procedures or orders.

19-2. An employee shall not interfere with cases assigned to other employees for investigation without consent, except by order of a superior officer; nor shall the officer interfere with the operation of a departmental unit. An employee shall not interfere with any lawful arrest or any prosecution brought by other police employees of the Bowie State University Police Department or by any other agency or person. A police employee shall not undertake any investigation or other police action not a part of the officer's regular police duties without first obtaining permission from his/her superior unless he/she can justify the need for the officer's immediate intervention.

19-3. An employee of the Department shall not be directly or indirectly concerned with making arrangements, agreements, or compromises between a criminal and a person who has suffered from the criminal's actions for the purpose of allowing the criminal to escape any punishment prescribed by law. Any employee having knowledge of such an arrangement, agreement, or compromise shall report such to the officer's immediate superior without delay.

19-4. An employee of this Department shall not reveal the identity of a police employee assigned to plain clothes or covert investigative work. An employee shall not recognize plainclothes officers or officer in covert assignments unless such other member salutes or acknowledges the employee first.

20-0. **Abuse of Process/Withholding Evidence.** An employee shall not intentionally manufacture, tamper with, falsify, destroy, or withhold evidence or information, or make any false accusations of a criminal charge.

21-0. **Evidence/Found and Recovered Property.** Property which has been received as evidence in connection with investigations or which, for any other reason, comes into the custody of this Department will be processed in accordance with established procedures. An employee shall not convert to his/her own use, manufacture, tamper with, or damage through negligence, or destroy, or in any other way misappropriate any evidence or any other material or property found in connection with an investigation or other police action, except in accordance with established Department procedures.

22-0. **Suggestions Pertaining to Services.** Employees shall not recommend or suggest in any manner, except in the transaction of personal business and then representing themselves only as private citizens, the employment or procurement of a particular product, professional service, or commercial service (such as an attorney, ambulance or towing service, bondsman, mortician, etc.). In the case of ambulance or towing service when
such service is necessary and the person needing service is unable or unwilling to procure it, the employee shall proceed as a law enforcement officer in accordance with Department procedure.

23-0. **Requests for Assistance**

23-1. When the public requests assistance or advice, either by telephone or in person, all pertinent information will be taken in an official and courteous manner, and will be acted upon consistent with established Department procedures.

23-2. Police employees of the Department shall not act in an official capacity, without authority, in any civil case, except where such action will prevent a breach of the peace or assist in quelling a disturbance.

24-0. **Citizen Complaints.** An employee shall courteously and promptly accept any allegation or complaint made by a citizen against any employee of the Bowie State University Police Department. The receipt and processing of all complaints shall be in conformance with established Department procedures.

25-0. **Courtesy**

25-1. An employee while on duty or representing his/herself as an employee of the university shall be courteous to the public and to other employees. The officer shall be tactful in the performance of his/her duties, shall control his/her temper and exercise utmost patience and discretion, and shall not engage in argumentative discussions, even in the face of extreme provocation. While on duty or in the performance of his/her duties, the officer shall not use coarse, violent, profane, or insolent language or gestures toward the public or other employees. The officer shall not express any prejudice or use language, which might be insulting or demeaning to the public or fellow employees concerning race, sex, religion, politics, national origin, lifestyle, or similar personal characteristics.

25-2. Police employees will at all times show respect for their fellow employees and will conform to the rules of military courtesy and military discipline as prescribed by the Chief of Police.

26-0. **Identification**

26-1. During the times that a police employee is not readily identified by the uniform of the Bowie State University Police Department the officer shall carry their badge or identification card on his/herself. The officer shall furnish his/her name, identification number and assignment to any person properly entitled to this information, at any time except when authorized not to do so by proper authority and when such refusal may be necessary for the proper performance of the officer's police duties.

26-2. When a police employee makes a traffic stop or makes an arrest while in plainclothes, the officer shall identify him/herself to the violator and display his/her badge and/or identification card.

27-0. **Personal Appearance.** A police employee will maintain a neat, well-groomed appearance and will style his/her hair and wear his/her uniform consistent with established Department policy and procedure.

28-0. **Neglect of Duty**

28-1. Department employees shall be punctual in attendance to all calls, requirements of duty, court appointments, and other assignments.
28-2. An employee will not read, play games, watch television or movies, or engage in any activity or personal business while on duty that would cause the officer to neglect or be inattentive to that duty.

28-3. The failure of a police employee to take appropriate action, either on or off duty, on the occasion of a crime, disorder, or other condition deserving police or Department administrative attention is considered neglect of duty.

28-4. A police employee will not, without proper authorization, be absent from his/her assigned place of work during his/her tour of duty.

28-5. An employee will remain awake and alert while they are on duty. If unable to do so, they will report to his/her superior officer, who will determine the proper course of action.

28-6. A police employee may be authorized to suspend patrol or other assigned activity, subject to immediate recall at all times, for the purpose of having meals during the officer's tour of duty but only for such periods and at such times as are authorized by his/her supervisor. The officer will inform the communications officer of their absence.

29-0. **Use of Alcoholic Beverages**

29-1. An employee will not drink intoxicating beverages while in uniform or while on duty unless it is necessary for the performance of his/her duty. In every case where it is necessary for an employee to use intoxicating beverages while on duty, prior written permission must be obtained from the employee's immediate superior. An employee given written permission to consume intoxicating beverages while on duty may not do so to the extent that the officer's ability to perform his/her duty is impaired.

29-2. An employee will not report to work with any concentration of alcohol in his/her system. An employee recalled to duty must inform the supervisor if the employee has consumed alcoholic beverages.

29-3. No employee of the Department will bring any intoxicating beverage into the police building, nor will he/she permit the same to be brought therein, except as evidence or pursuant to Department property held procedures, and excluding commercial or prescribed medication used for medicinal purposes.

30-0. **Use of Drugs.** An employee will not use any controlled substance, narcotic, or hallucinogen, except when prescribed in the treatment of an employee by a licensed physician or dentist. When controlled substances, narcotics, or hallucinogens are prescribed, an employee will notify his/her immediate supervisor.

31-0. **Gambling.** A police employee will not engage in any form of illegal gambling at any time, except in the performance of duty and while acting under proper and specific orders from a superior.

32-0. **Treatment of Persons in Custody**

32-1. A police employee will not mistreat persons who are in his/her custody. An officer will handle persons in accordance with established Department procedures.

32-2. A police employee of the Department will not, without proper authority, release any prisoner in his/her charge or, through neglect or design, allow any prisoner in his/her charge to escape.

33-0. **Use of Force.** A police employee, acting in an official capacity, will not use unnecessary or excessive force.

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34-0. **Firearms.** An employee shall not use, display, or handle weapons in a careless or imprudent fashion or contrary to Bowie State University Police Department.

35-0. **Department Equipment.**

35-1. An employee shall use and maintain department equipment in accordance with established department procedures and equipment will not be abused, damaged, altered, or lost through negligence. An employee of the department will not cause or contribute to the damage, abuse, alteration, or loss of any department equipment through negligence or carelessness.

35-2. Any employee of the department deprived of his/her police powers will turn in all department issued equipment designated in the order suspending the officer's police powers.

35-3. Each employee will operate an official vehicle in a careful and prudent manner, and will not through negligent or careless operation incur or cause damage to be incurred to Department property or to the property of another. The employee will obey all laws of the State of Maryland and all local ordinances, and conform to all Department procedures and regulations pertaining to operation and maintenance of any Department vehicle assigned to the employee. An employee will at all times set a proper example for other persons by the employee's operation of a vehicle.

35-4. Damage to or loss of departmental equipment will be reported in conformance with department procedure.

35-5. An employee will not have any item of department equipment repaired, adjusted, or modified without official authorization.

35-6. Only employees of this department will be permitted to use any department-issued firearm, or use any other item of the property owned by the Department. However, specific exceptions to this rule may be authorized by the Chief of Police or designee.

36-0. **Incompetence.** Employees of this Department shall be held strictly responsible for the proper performance of their duties. Employees shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Employees shall perform their duties in a manner, which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department.

37-0. **Parking Permits.** Each employee will purchase a University parking permit and will display the permit on any personal vehicle used by the employee at all times while such vehicle is parked on University property.

38-0. **Locking Buildings.** Police employees will, lock and unlock buildings in the academic areas of the UMBC campus in accordance with established policy.

**SECTION II**

**DEFINITION OF TERMS**

1-0. **Definitions.** For the purpose of this Article, the following definitions will apply:

**Administrative Investigation.** Any inquiry initiated by supervisory personnel of this Department, into alleged inappropriate or wrongful actions of another employee, which inquiry is intended to lead to an objective finding.
Adverse Material. Written negative materials concerning the performance/non performance of an officer, which may be inserted into an officer's personnel file only in accordance with applicable provisions of the Law Enforcement Officer's Bill of Rights.

Brutality. Any situation wherein a law enforcement officer, while acting in his/her official capacity, resorts to the use of force which is unnecessary in its origin and application; or if force is deemed necessary, is excessive in its application.

Charges. The formal action of filing disciplinary action against an employee for violation of rules of conduct or policies and procedures.

Complaint. An allegation of misconduct or a violation of Department rules of conduct, policy, or procedures against an employee of the Department.

Complainant. The aggrieved person, a member of the aggrieved person's immediate family, or a parent or guardian in the case of a minor child, or any person with firsthand knowledge obtained through his/her presence at and observation of the alleged incident.

Counseling. Supervisory counseling of subordinates is non-disciplinary action that is designed to correct perceived improper action or conduct.

Department. The Bowie State University Police Department (BSUPD).

Emergency Suspension. A temporary suspension of police powers imposed against a law enforcement officer, with or without loss of compensation on authority of the Chief of Police by a supervisory officer superior in rank when it appears that such action is in the best interest of the public or the Department.

Formal Hearing. Any proceeding conducted by a Hearing Board for the purpose of taking or adducing testimony or receiving other evidence in connection with charges filed against a Department employee.

Hearing Board. A board authorized by the Chief of Police to conduct a hearing on a charge. Members of a board will be selected from the total commissioned complement of this Department or from another department with the approval of the chief of that other department. Board members may not have participated in the investigation or interrogation of the accused law enforcement officer.

Incompetence. Unacceptable or inefficient performance by an officer of his or her duties; example of incompetence may include, but need not be limited to, a history of poor performance appraisals and promotional potential ratings, an aggregate of infractions of the BSUPD or Department rules, regulations, policies, procedures, directives or orders, a demonstrated lack of knowledge of the application of laws potentially to be enforced, an unwillingness or inability to perform assigned tasks, failure to conform to work standards established for the officer's rank or position, negligence or intentional action resulting in duties not performed in an acceptable manner, failure to take appropriate action concerning a crime, disorder, or other condition deserving police attention, absence without leave, or unauthorized absence from the assigned patrol or place of work during a tour of duty.
**Law Enforcement Officer.** An employee of the Department, who is authorized by law to make arrests.

**Loss of Police Powers.** The act by which a police employee of this department is temporarily deprived of the powers and immunities granted him/her as a law enforcement officer.

**Non-Enforcement Duty Status.** The status during which a police employee of the Department is temporarily deprived of the powers and immunities granted as a law enforcement officer. For purposes of compensation, the employee shall remain as an employee of the Department but shall be assigned administrative, clerical or other non-enforcement duties.

**Non-Sustained Complaint.** A complaint where the investigation fails to disclose sufficient evidence to clearly prove the allegations made in the complaint includes unfounded, exonerated, and not-involved.

**Party.** The accused, the representative of the accused or the prosecutor.

**Penalties.** Except for summary punishment, the Department's final disciplinary authority rests with the Chief of Police. Any supervisor or Hearing Board may recommend disciplinary action. Recommended penalties may include but are not limited to:

A. Written Reprimand.
B. Transfer.
C. Fine.
D. Suspension.
E. Other action, which would be considered a punitive measure
F. Loss of police powers.
G. Demotion
H. Dismissal

**Summary Punishment.** Formal disciplinary action which may be taken for minor violations of Departmental rules, policy, or procedure when:

A. The officer accepts the punishment recommended by the Sergeant and approved by the Special Assistant to the Chief of Police.
B. The facts, which constitute the minor violation, are not disputed.
C. The employee waives the formal hearing provided for in this Article by completing the Notification of Charges/Waiver of Law Enforcement Bill of Rights and Acceptance of Punishment Form.

**Supervisor.** A commissioned officer or civilian, designated by the Chief of Police as the supervisor of a squad or unit. (A commissioned officer is a police officer certified by the Maryland Police and Correctional Training Commission).

**Suspension.** The penalty by which a police employee of the department is, for the purposes of compensation, deprived of his/her status as an employee of the department for one or more consecutive calendar days. Consecutive days may be interrupted as required, by mandatory appearances before courts, regulatory agencies or administrative bodies.
Sustained. A finding that an investigation disclosed sufficient evidence to substantiate the allegations made in the complaint.

Transfer. The reassignment of an employee to another position within the Department.

SECTION III

COMPLAINTS AGAINST PERSONNEL

1-0. Citizen Complaint Processing. All citizen complaints (originating outside of the Department) against employees of the Department shall be processed as directed in this Section.

1-1. The employee first acquiring knowledge of the complaint will immediately notify the shift Sergeant on duty or the Special Assistant to the Chief of Police (SACP).

1-2. The Sergeant shall initiate the Complaint Against Personnel Report Form and enter all available, pertinent information thereon. Complaints registered against an employee of the Department by a civilian (or Department employees not authorized to exercise supervisory or administrative control over the employee involved) shall be recorded on a Complaint Against Personnel Report. The Sergeant, after consultation with the Special Assistant to the Chief of Police or the Internal Affairs Investigator, may assign personnel to initiate an immediate investigation if such is warranted.

1-3. The Complaint Against Personnel Report will then be placed in an envelope, sealed, and given to the Special Assistant to the Chief of Police designee. The Special Assistant to the Chief of Police will review the Complaint Against Personnel Report and any additional related reports. The SACP or designee will investigate the complaint The SACP will assign a case number.

1-4. Complaints reported against The Special Assistant to the Chief of Police will be investigated as directed by the Chief of Police. A case number will be assigned by the Chief of Police or designee.

1-5. Complaints received about the Chief of Police will be forwarded to the Chief of Staff to the President. A case number will be assigned as directed by the Chief of Staff to the President and will be investigated in accordance with the LEOBR.

1-6. Verbal complaints of misconduct by citizens will be documented by the receiving officer as if such complaints were made in writing. Serious complaints should be supported by a written statement by the complainant. If the complainant refuses to document the complaint, and the allegation, if factual, would constitute misconduct, the receiving officer will document the complaint in writing on the Complaint Against Personnel Report Form.

1-7. All alleged acts of misconduct or violations of any department rule, policy, or procedure must be investigated and the results of such investigation acted upon, consistent with the prerogative of the

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Special Assistant to the Chief of Police to disregard trivial or chronic complaints, which the SACP deems unsubstantiated.

A. Nothing precludes the Department from investigating allegations against employees from whatever source received, consistent with the law, when the Chief of Police determines that such investigation is in the best interest of the Department.

B. Anonymous complaints should not, per se, be excluded from investigation. Anonymous callers may be referred to the SACP. Efforts should be made to gain the cooperation of the complainant. Many anonymous complaints, by their very nature, are difficult to substantiate, yet this should not preclude a preliminary inquiry into the matter. Where possible, a preliminary investigation into the complaint will be made. The investigation will be terminated when no additional evidence can be obtained. The case will be documented and the employee may be informed of the nature of the complaint and the result of the investigation.

C. The Chief of Police, The Special Assistant to the Chief of Police or a Supervisor may place charges against a Police Officer if the Chief of Police, the Special Assistant to the Chief of Police or the Supervisor witnesses a violation of the Departments Rules of Conduct. A preliminary investigation may be conducted at the direction of the Chief of Police or the Special Assistant to the Chief of Police.

1-8. Any Department employee who subjects a complainant or witness to harassment shall be subject to appropriate disciplinary action. This in no way, however, prohibits the right of an officer to bring suit arising out of his/her duties as a police officer.

2-0. Department Employee Complaint Processing (Internal Complaints).

2-1. Any employee desiring to file a complaint against another employee of the Department of the same or superior rank or classification may submit the complaint directly to the SACP. Such complaints must be submitted in writing and signed by the employee initiating the complaint.

2-2. Any employee desiring to file a complaint against another employee of the Department of lower rank or classification, not assigned to the complainant's unit or squad, shall submit the complaint directly to the employee's Sergeant or the SACP. Such complaints must be submitted in writing.

3-0. Brutality Complaint Processing.

3-1. A complaint against a law enforcement officer, alleging brutality in the execution of the officer's duties, may not be investigated unless the complaint be duly sworn to by the aggrieved person, a member of the aggrieved person's immediate family, or by any person with first hand knowledge obtained through presence at and observation of the alleged incident, or by the parent or guardian in the case of a minor child, before an official authorized to administer oaths. An investigation, which could lead to disciplinary action for brutality, may not be initiated and an action may not be taken unless the complaint is filed within ninety days of the alleged brutality. Persons filing complaints concerning brutality will use the Complaint of Brutality Form.

3-2. When a complainant fails to swear to a brutality complaint, the complainant will be advised that pursuant to law, the Department may not investigate an allegation of brutality unless sworn to, and an effort will be made to obtain the cooperation of the complainant. If the complainant still refuses
to swear to the complaint of brutality and the allegation, if factual, would constitute misconduct, the receiving officer will document the complaint on a Complaint Against Personnel Report Form. The report will contain a notation that the complainant refused to swear to the complaint of brutality and will allege a specific act of misconduct other than brutality, e.g. unbecoming conduct, mistreatment of persons in custody, unnecessary use of force, etc. Such complaints will be processed in the same manner as other citizen complaints.

4-0. **Supervisory Disciplinary Action Procedures**

4-1. Before taking disciplinary action against an employee, a supervisor will be certain that:

A. The problem is documented in writing.

B. The employee is provided a completed Notification of Complaint-Waiver of Rights Form, prior to requesting a written report, and the opportunity to consult with counsel or other responsible representative of his/her choice prior to submitting the report. The Form should clearly state that the recipient is the subject of an investigation, and clearly include the nature of the investigation.

C. A detailed report is obtained from the employee, if necessary.

D. A Sergeant has obtained additional information when needed and either prepared a report or an endorsement to the employee's report assessing essential facts and identifying chargeable violations that have been substantiated.

E. The employee's Sergeant will review all related reports and, if charges are to be preferred, will obtain a case control number from the Special Assistant to the Chief of Police before preparing charge sheets.

4-2. Notification of Charges Form will be completed with only one charge on each sheet. Each charge will be supported by a reference to a rule of conduct or a policy or procedure in the Department Manual or to some other official order or directive of the Department. Each charging document must be numbered sequentially and referred to by number in all related documents.

To the extent that specific language in Section I of this Article, "Rules of Conduct," accurately describes the offense allegedly committed by an employee, that language should be used in all documents used to process a disciplinary action and in any subsequent personnel orders. Offenses not specifically cited in Section I should be described in the language of the particular procedure, directive, etc., violated. The charge should describe only the offense committed; portions of the rule, procedure, or directive containing irrelevant or extraneous language should not be cited. For example, employees are prohibited from divulging information or acting as an official spokesman for the Department in matters affecting the official business of the Department without prior approval. For example, an employee had given investigative information to the local newspaper without first obtaining permission, the text of the charge being brought against the employee should appear as follows:

"An employee shall not...divulge investigative information...either in an official or unofficial capacity without first having obtained permission from the supervisor". The charge addresses the specific...
offense committed by the employee and excludes other offenses included within the rule but not relevant to the instant case.

4-3. The facts of the case will be reviewed by the Special Assistant to the Chief of Police and the SACP will determine whether to proceed with summary punishment or to defer the case to the hearing board.

5-0. **Formal Counseling of Department Police Employees**

5-1. Inappropriate behavior or minor infractions of Department policy by an Department police employee which if continued or repeated may result in disciplinary action, will be documented by using a Personnel Counseling Record Form, at a formal counseling session.

5-2. As a general rule, a formal counseling session will be held as soon as possible following such inappropriate behavior or the conclusion of an investigation disclosing a minor infraction of Department policy. The session may be conducted by the person assigned as the employee's supervisor at the time of infraction or may be conducted by the SACP with the employee's supervisor present. The particular incident will be discussed with the employee, pointing out the deficiencies in the employee's actions. The employee will be given the opportunity to state his/her views on the matter and to suggest corrective action to prevent future occurrences. At the completion of the counseling session, the employee's Sergeant or the SACP will recommend a course of action designed to help the employee improve in the specific areas addressed or avoid recurrence.

5-3. At the conclusion of the formal counseling session, the employee's Sergeant will prepare a Personnel Counseling Record Form, in triplicate. The police employee will be given the opportunity to review, sign, receive a copy of, and comment in writing upon the Personnel Counseling Record. If an employee refuses to acknowledge receipt of the form, "Refused to Sign" will be recorded thereon. The personnel counseling record will be placed in the officer's auxiliary personnel file (Department file) and a copy will be given to the employee. The SACP shall remove a Personnel Counseling Record from an employee's auxiliary personnel file one year from its date of issuance.

5-4. The SACP will record each document cumulatively for statistical reference prior to filing the Form in the individual police employee's auxiliary personnel file.

6-0. **Internal Affairs Procedures.**

6-1. The SACP will be notified of complaints during normal duty hours. At all other times, the SACP or the IA investigator will be notified.

6-2. The SACP or the IA investigator in the absence of the SACP will be notified under the following circumstances:

A. Whenever an officer shoots an individual or has been shot.

B. Whenever an employee is charged with a criminal offense.

C. Whenever there is an allegation of criminal activity directed at an employee demanding a police investigation, regardless of jurisdiction of occurrence.

Updated 7/03
D. Whenever an officer's weapon is discharged other than for authorized target practice.

E. Whenever a supervisor feels an immediate administrative investigation is necessary or whenever an investigation is directed by the Chief of Police.

6-3. All alleged or suspected actions of Department personnel involving the possible commission of a criminal offense, serious misconduct, neglect of duty, or other significant violations of Departmental rules and regulations must be reported to the SACP or IA investigator. Pertinent information regarding the alleged or suspected misconduct will be reported by the superior who first received the information of the alleged violation, even when it is initially believed to be unfounded. This information will be reported to the SACP or the IA investigator within not less than four hours after coming to the attention of the supervisor.

6-4. The following considerations will be used by the SACP to determine whether the investigation will be conducted by the IA Investigator, the individual's Sergeant, or an employee assigned by the SACP:

A. Seriousness or complexity of the complaint, i.e. verbal confrontation or excessive or unnecessary force.
B. Source of complaint.
C. Number of individuals involved.
D. Whether or not the officers being complained against are assigned to the same unit.
E. Jurisdictional or geographical limitations.
F. Underlying indications of criminal violations, or other serious misconduct.
G. Any other exceptional circumstance.
H. Generally, Departmental vehicle accidents will not be investigated by the SACP; however, the SACP may be assigned to investigate serious or fatal Departmental collisions.

6-5. All internal investigative reports will include:

A. The allegations.
B. A report of investigation detailing the facts obtained.
C. The findings of the investigation classified as either sustained or non-sustained.

6-7. After the SACP has been notified, the SACP will decide whether to respond immediately or follow up sometime later, and will promptly apprise the notifying officer of the decision.

7-0. Records and Files

7-1. A Complaint Against Personnel Master File, titled for purposes of the Law Enforcement Officers' Bill of Rights, the "Internal Investigation File," will be securely maintained by the SACP in case control number sequence. The file will contain the following:

A. Complaint Against Personnel Master Ledger containing the following:

   (1) Case Control Number.
   (2) Name of employee involved.
(3) Date and time received.
(4) Name of complainant.
(5) Nature of complaint.
(6) Date and time of incident.
(7) Final disposition.

B. Copies of Complaint Against Personnel Reports, and all related investigative reports and forms concerning findings.

C. The "Internal Investigation File" will also contain a cross-reference file system showing data pertaining to the complainant and the employee against whom allegations have been placed.

7-2. In determining whether any portions of a file should be excluded from review, the Chief of Police will consider whether the disclosure of that portion of the investigation would:

A. Interfere with a valid and proper law enforcement proceeding.
B. Deprive another person of a right to a fair trial or to an impartial adjudication.
C. Constitute an unwarranted invasion of personal privacy.
D. Disclose the identity of a confidential source.
E. Disclose investigative techniques and procedures.
F. Prejudice an ongoing investigation.
G. Endanger the life or safety of any person.

7-3. The investigative files maintained by the SACP are available for review, but only to the employee who is the principal in an investigation and those supervisors who supervise that employee's work.

7-4. After completion of every investigation related to a shooting incident, the SACP will ensure that a completed Review of Departmental Shooting Incident Form is reviewed by the SACP and the Chief of Police for retraining considerations of departmental personnel.

7-5. Confidentiality

A. All records, forms, files, correspondence and related materials that are part of an administrative investigation are confidential. Only those personnel concerned with the actual process of the administrative hearing and report review shall have access to information developed during an internal affairs investigation.

B. Inquiries from the news media or other interested persons concerning routine Departmental disciplinary matters will be referred to the Director of Public Relations for the University or designee.

8-0. Expungement of Files

8-1. The Law Enforcement Officers' Bill of Rights provides for expungement of any record of a formal complaint if:

A. The officer has been exonerated of all charges in the complaint or the charges are determined to be unsustained or unfounded; and
B. Three years have passed since the findings were rendered by the law enforcement agency.

8-2. To comply with the expungement requirements of State law, the following procedure will govern expungements from internal affairs files:

A. The SACP will expunge records of formal complaints, which are classified as non-sustained as soon as practical after the termination of the three-year time limits.

B. Employees who do not want their non-sustained records of formal complaints expunged must notify the SACP no later than thirty days (30) after the end of the three-year time limit.

C. One complete copy of each file will be retained by the SACP in a separate secure file for one year from the date the determination was made to expunge the file. Each entire file will then be packaged in accordance with instructions found in the Records Management Article and sent to the Hall of Records, Records Management Division.

8.3. Expunged files sent to the Hall of Records may be retrieved for review or release only by the Chief of Police or the Attorney General's Office.

SECTION IV

INVESTIGATION PROCEDURES

1-0. Investigative Process. An internal investigation is considered to be completed when the complainant and witnesses have been thoroughly interviewed, Department members have been questioned, all the physical evidence has been competently examined, all logical leads have been fully explored and the case has been comprehensively, accurately and clearly reported.

1-1. Complainant. The complainant should be personally interviewed and all possible identifiers recorded, i.e.

John Henry Smith
733 N. Main Street
Westminster, Carroll County, Maryland  21157
W/M, DOB: 7/13/53
694-7381 (Home)  215-423-1871 (Work)
Employed By: Big Corporation,
14 North Broad Street, Philadelphia, PA
Social Security No. 211-11-0137
BI #J-2371
FBI #123456J

A. The primary goal of any interview is to arrive at the truth. Every relevant fact known to the complainant should be determined.

B. Those questions so often mentioned in the investigative process: who, what, when, where, why and how, should be precisely addressed.
C. Formal tape-recorded statements of the complainant’s interview should be taken whenever possible.

D. Determine if the complainant can be satisfied at the initial stage of the investigation. Frequently, the complainant does not wish an investigation, but merely an explanation. When an explanation is sufficient, the SACP will decide whether or not to continue processing the complaint. Otherwise, leave the complainant with the knowledge that a full and fair investigation will be conducted, and that the complainant will be notified of the results.

1-2. Witnesses.

A. Whenever possible, all witnesses involved in the matter under investigation should be personally interviewed, and depending on the type or severity of the complaint, tape-recorded statements should be obtained.

B. Specific and detailed questions should be asked.

C. The motivation of the witness should be sought, such as his relationship with the complainant or Department employee.

D. Personal identifiers should be obtained.

1-3. The Investigation.

A. Gathering Reports.

(1) Department Records-The examination of Department records by the investigator is basic to any investigative effort. Numerous leads may be found in Department records:

   Criminal Investigative Report.
   Criminal Arrest Reports.
   Incident Reports.
   Department Logs-Radio, Telephone, etc.
   Patrol Schedules.
   Personal Records.
   Field Observation Reports.

(2) Non-Department Records-The investigator should examine the records and documents of all agencies and organizations that may furnish investigative information:

   Reports from Other Police Departments.
   Hospital Records.
   Physicians Reports.
   Jail Records.
   Court Transcripts.
(3) All original reports, Department records, and related documents relevant to the investigation will be gathered and preserved by the investigator in an expeditious manner. Written permission or a subpoena may be required to obtain certain records, e.g., physician, hospital. Where written permission is required, the individual whose records are desired will be requested to complete an Authorization for Release of Information Form. A copy of all documents obtained by the investigator under this subsection will remain with the original case file.

1-4. **Physical Evidence.** The investigative effort expended on all internal investigations should at least be equal to the effort expended in the investigation of crimes where a suspect is known. The investigators should employ all available investigative tools that can be reasonably used to determine the facts and secure necessary evidence during the internal investigation.

A. Alcohol-Blood, Breath, Urine—departmental employees may be required to submit to blood alcohol tests, blood, breath or urine tests, for controlled dangerous substances. (Article 27, Section 728).

B. Clothing—Accepted investigative techniques shall be followed; however, when the officer is the victim, damaged uniforms or departmental police equipment should be preserved.

C. Documents and records:
   1. Motor Vehicle Administration.
   2. Telephone Bills.
   3. State Licenses; i.e., real estate, medical, banking, etc.
   4. Search warrants and affidavits.
   5. Department records.

D. Photographs:
   1. Of Complainant-ID photos at the time of the complaint (brutality), etc.
   2. Department Employees—If the employee is the victim, or is injured.
   3. For Identification—A seven photo spread for identification of departmental employees. Retain photo spread as evidence. (Photos used should be recent ones).
   4. Of the scene, if it is considered necessary.

1-5. **Polygraph.**

A. Polygraph examinations of department members will be in accordance with Article 27, Section 728(7)(II).

   1. Employees may voluntarily submit to polygraph examinations. Results of voluntary exams are admissible in administrative hearing.

   2. Employees may be ordered to submit to polygraph examinations. On these occasions, the results of the examinations cannot be used as evidence in any administrative hearing unless the officer and the Department agree.
(3) The results of polygraph examinations are not admissible in criminal proceedings, even by stipulation.

(4) The law enforcement officer’s representative need not be present during the actual administration of a polygraph examination by a certified polygraph examiner, if the questions to be asked are reviewed with the law enforcement officer or his/her representative prior to the administration of the examination, the representative is allowed to observe the administration of the polygraph examination, and if a copy of the final report of the examination by the certified polygraph operator is made available to the law enforcement officer or the officer’s representative within a reasonable time, not to exceed ten days after the completion of the examination. Article 27, Section 728.

1-6. Sketches. May be appropriate to supplement photographs.

1-7. Statements. Statements are evidence and must be preserved as such.

A. Department Employees. Generally the interview of Department employees is accomplished after the complainant and all external witnesses have been interviewed. However, this is determined by the character of the complaint and remains the option of the investigator.

(1) A Department employee subject to interrogation will be notified in writing of the nature of the investigation before any interrogation. The interrogation of Department members will be conducted in compliance with the provisions of the Law Enforcement Officers Bill of Rights, Article 27, Section 728(b).

(2) A Department employee can be required to submit reports detailing the facts concerning involvement in an incident. Failure to do so may result in disciplinary action.

B. When an employee of the Department is required to submit a detailed report concerning an incident in which they are alleged to have been involved and the authority ordering the report knows or should know, the report is likely to contain information that may be used as evidence against the employee in a disciplinary hearing, the report is considered a form of interrogation. For this reason, guarantees provided by the Law Enforcement Officers' Bill of Rights (LEOBR) regarding interrogation is applicable. The authority ordering the report will, at the time of such order, provide the employee with a completed copy of Notification of Complaint-Waiver of Rights Form and allow sufficient time for the employee to consult with counsel or other responsible representative of his/her choice prior to submitting the report. The Form should clearly state that the recipient is the subject of an investigation and clearly include the nature of the investigation. Police procedural reports required by departmental rule or policy are not a form of interrogation. The original Form will be attached to the report of investigation.

C. If the officer ordering the report has reason to believe that criminal charges could be brought against the employee, then the officer shall, at the time of such order, also provide the employee with a copy of the Explanation of Miranda Rights. The original of this form will be attached to the report of investigation concerning the incident.
1-8. **Weapons.** All evidence regarding firearms will be treated in accordance with established procedures. However, if an employee uses a weapon, the following should be determined:

A. Is it an approved weapon?
   (1) Department issue.
   (2) Primary or secondary weapon.

B. Is the ammunition Department approved?

C. Condition of the weapon.
   (1) Complete description of weapon; i.e. make, model, caliber, serial number, etc.
   (2) Whenever a Department employee discharges a firearm, other than on the range, a Review of Departmental Shooting Incidents Form will be completed.

2-0. **Interrogation Procedures.**

2-1. All interrogations must be conducted in accordance with the Law Enforcement Officers Bill of Rights.

A. Prior to any interrogation, the investigator assigned the case or the SACP shall be responsible for completing a Notification of Complaint- Waiver of Rights, Form and Waiver of Rights and Notification of Interrogation Form. The original copy will be signed by the officer being interrogated and placed in the original case file. A copy will be given to the interrogated officer.

B. Every officer under investigation who is to be interrogated for any incident which could lead to disciplinary action will first be allowed to read or will have read to him/her a completed copy of the Notification of Complaint-Waiver Form. The recipient should receive notice that should clearly state that the recipient is the subject of an investigation and clearly include the nature of the investigation. It shall be the responsibility of the investigating officer to complete the form prior to any interrogation. If the employee desires to waive the rights afforded by the Law Enforcement Officers Bill of Rights, the officer shall so indicate by signing his/her name, rank, and ID number in the place provided on the forms. Also, those rights, which the employee chooses to retain, shall be noted in the space provided on the form. The investigating officer must be certain that the employee is given this opportunity to waive or retain his/her rights before any statement can be taken. The original copy of the Notification of Complaint-Waiver of Rights Form and Notification of Interrogation will be signed by the accused and placed in the original case file. A copy will be given to the officer interrogated.

C. Every police employee under investigation for a violation of Department rules, policy or procedure may be required to submit to blood alcohol tests; blood, breath, or urine tests for controlled dangerous substances; polygraph examinations; interrogations; or to submit detailed reports which specifically relate to the subject matter of the investigation. (Some reports may have to be prefaced by a "Notification of Complaint/Waiver of Rights.") The results of such blood alcohol test; blood, breath, or urine test for controlled dangerous substances polygraph examination interrogation or contents of a detailed report, are not admissible in any criminal proceedings against the police employee when such test has been
ordered. The results of a polygraph examination may not be used as evidence in any administrative hearing when the police employee has been ordered to submit to such an examination by the Department unless the Department and the police employee mutually agree to the admission of the results. Such an interrogation, examination, or test must be prefaced by advising the accused of certain rights:

(1) Information supplied through the officer's answers will not be used against the officer in subsequent criminal proceedings.

(2) The officer's refusal to cooperate in the investigation could ultimately lead to dismissal.

The accused must be advised that failure to cooperate in the investigation or to submit to a blood alcohol test, a blood, breath, or urine test for controlled dangerous substances, a polygraph examination, an interrogation, or submit a detailed report which specifically relates to the subject matter of the investigation is itself a violation of the rules of conduct of the Bowie State University Police Department and constitutes grounds for disciplinary action.

D. A law enforcement officer's representative may be present during the administration of a polygraph examination if the physical facilities will allow for it and if the representative's presence will not, in the opinion of the polygraph examiner, disrupt the examination. For the purposes of this subsection, "presence" means that the representative may be constructively present during the examination, viewing it from outside the examination room, e.g. through a one-way mirror, or physically present in the room.

If the facilities are such that the law enforcement officer's representative cannot be present without disrupting the examination, the representative may be excluded, but in these instances:

(1) All substantive questions concerning the offense which will be asked during the examination will be made available, on request, to the accused or the accused's representative.

(2) The polygraph examination shall be tape recorded and the tape, including pre-test and post-test phases, shall be made available on request to either the law enforcement officer or the law enforcement officer's representative, and;

(3) The polygraph examiner will make available to the accused or the accused's representative within a reasonable time, but not more than ten days following the completion of the examination, a copy of all reports written by the examiner concerning the examination.

E. During an internal investigation, any officer, regardless of rank, may be required by the investigator to submit a statement and answer all questions, which specifically relate to the subject matter of the investigation.
F. If the police employee under interrogation is also under arrest, or is likely to be placed under arrest as a result of the interrogation, the employee shall be completely informed of all rights prior to the commencement of the interrogation.

The words "all rights" include constitutional rights, the Miranda Warnings, Explanation of Miranda Rights Form, as well as any other right granted by statute, ordinance, or department regulation. The original copy of the Explanation of Miranda Rights Form will be signed by the accused and placed in the original case file. A copy will also be given to the interrogated officer.

G. At the request of any law enforcement officer under interrogation, the officer shall have the right to be represented by counsel or any other responsible representative of his/her choice who shall be present and available for consultation at all times during the interrogation, unless waived by the law enforcement officer. The interrogation shall be suspended for a period of time not to exceed ten days if necessary for the officer to obtain representation. However, the Chief may extend the ten-day period for good cause.

The officer's representative may be an attorney, employee of this Department, or any other responsible individual or employee organization chosen to represent the accused, excluding members of the hearing board, or the interrogated officer's superior officer.

H. The law enforcement officer under investigation shall be informed of the name, rank, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by and through one interrogator during any one interrogating session.

I. The interrogation shall be conducted at a reasonable hour, preferably at a time when the accused is on duty, unless the seriousness of the investigation is such that and immediate interrogation is required, but these conditions may be waived by the accused.

J. The interrogation shall take place at any reasonable and appropriate place designated by the investigating officer unless otherwise waived by the accused.

K. The date and time that the interrogation is begun, all interruptions, and the time the questioning is terminated shall be recorded. Interrogation sessions shall be for reasonable periods and shall be timed to allow for any personal necessities and rest periods as may be reasonably necessary.

L. The law enforcement officer under interrogation may not be threatened or coerced (e.g., with transfer or dismissal) in any manner whatsoever.

M. A complete record, written, taped, or transcribed, shall be kept of the complete interrogation, including all recess periods. After the investigation has been completed, and upon request of the police employee under investigation or the employee's counsel, a copy of the record of the employee's interrogation shall be made available, not less than ten days prior to any hearing.

3-0. **Report Format.** To ensure uniformity of internal investigation reports, the following format will be used:
A. Internal investigative reports will be prepared using the format illustrated in Article 37, Orders and Correspondence.

3-1. The completed investigation case file will be compiled in the following manner:

A. Complaint Against Personnel Report Form and Complaint of Brutality Form, if applicable.

B. Report of Investigation.

C. Appendices:

(1) Statement of complainant, if different from that of the victim.
(2) Statement of victim, if different from that of the complainant.
(3) Statements of witnesses.
(4) Notification of Complaint Form, if applicable.
(6) Waiver of Rights and Notification of Interrogation, if applicable.
(7) Explanation of "Miranda" Rights, if applicable.
(8) Other statements/detailed reports.
(9) Additional Exhibits - Photographs, diagrams, charts, etc.

3-3. Cases, which are classified as non-sustained, are to be prepared in one copy only.

3-4. Sustained cases, which are disposed of by summary punishment, are to be prepared in one copy only.

3-5. Sustained cases, which are disposed of by a hearing, must be compiled in an original and one copy.

4-0. Report Flow. An investigation should be completed and the initial report prepared within thirty days of assignment. Certain classes of cases will require more prompt attention, while others may justify an extension.

4-1. Investigative Reports.

A. Reports of investigations will be forwarded to the SACP.

B. The SACP will maintain one copy of the investigative case file of sustained complaints to be disposed of by a hearing board. After final disposition by a hearing board, the SACP shall file the case file.

SECTION V

DISCIPLINARY PROCEDURES

1-0. General Provisions.
1-1. A shift Sergeant will be responsible to administer disciplinary action against police employees within the Sergeant’s command as described below.

1-2. An emergency suspension of an employee may be made when it is in the best interest of the public and the Department. Such suspension may be imposed against a law enforcement officer only by a supervisory officer superior in rank. Concurrence of the Chief of Police of such an action will be obtained as soon as possible through channels.

1-3. A suspended employee will be ordered to appear for a suspension review to determine if the suspension will be continued or terminated pending the disposition of the charge(s). The suspension review is in addition to the hearing on the merits of the charge(s) as provided in Article 27, Section 730 (a).

Any employee suspended with pay is required to notify the SACP or designee on a daily basis of the telephone number and location where the officer can be contacted. The suspended employee will notify the SACP of the required information at the times when the SACP is on duty and at the times ordered by the SACP. The commissioned officer conducting the suspension review will apprise the suspended employee of this requirement and it will be documented in a written directive given to the employee.

A. The Chief of Police shall conduct a suspension review on the first working day following the suspension exclusive of weekends and holidays.

B. The Chief of Police may delegate authority to conduct the suspension review to the SACP or a commissioned officer of another Department when requested by the Chief of Police.

C. The subject of the review shall be limited to determining if the suspension is necessary to protect the interests of the public, the Department or the employee pending final disposition of the charge(s), and whether other employment or leave status alternatives should be considered. At this review, the employee may:

1. Be accompanied by counsel; however, only matters dealing directly with the suspension pending disposition of charges will be heard.
2. Rebut the reason(s) given for the suspension
3. Present mitigating testimony.
4. Suggest alternatives to the suspension.

D. The suspension review will be recorded. The tape recording will be forwarded in a sealed envelope to the SACP for retention and inclusion in the investigative report of the case.

E. After the suspension review is completed, the Chief of Police or designee shall immediately render a decision whether the suspension should be continued and whether such suspension will be with or without pay. Within five days of suspension review, the Department shall provide a written copy of this decision to the employee. This decision shall be conclusive as to the issue of suspension only. A copy of the written decision will be forwarded to SACP for inclusion within the case file.

1-4. In any case of disciplinary action arising out of supervisory responsibilities, the SACP will be contacted for a case control number before charges are placed.

Updated 7/03
1-5. Charges may be preferred by the Sergeant for employees under their command. Notification of Charges Form will be completed with only one charge on each sheet. Each charge will be supported by a reference to a rule of conduct or a policy or procedure in the Department manuals or to some other official order or directive of the Department. Each charging document will be numbered and charges referred to by its corresponding number in all related documents. To the extent that specific language in Section I of this Article "Rules of Conduct" accurately describes the offense allegedly committed by an employee, that language should be used in all documents used to process a summary action and in any subsequent Personnel Orders. Offenses not specifically cited in Section I should be described in the language of the particular procedure, directive, etc., violated.

1-6. The facts of the case will be reviewed in depth by the Sergeant and a determination made by the Sergeant whether to proceed with summary punishment or to defer the case to the hearing board. All charges arising out of a single incident shall be disposed of in the same manner.

1-7. A hearing arising from administrative charges must commence promptly after the date of the order assigning the members of the hearing board. After the initial hearing has been set, the date may only be postponed by the chairman of the hearing board upon request of either party for good and substantial reason.

2-0. **Summary Punishment.**

2-1. Procedure.

A. In all cases when a law enforcement officer is charged with a violation of Department rules, policy, or procedure, such charges may be heard by the Hearing Board. If a Sergeant considers the charge placed against a subordinate to be minor, the Sergeant may allow the accused to elect to have these charges disposed of by summary punishment. In no instance, however, may the accused choose summary punishment unless the officer's Sergeant and the SACP approves of such a course of action.

B. The authority to impose summary punishment charges a Sergeant with the responsibility of exercising his/her authority in a fair and judicious manner. The Sergeant must ensure that the case investigator promptly provides the Sergeant with sufficient information to make an appropriate disposition of the incident. The investigation should reveal:

1. Whether an offense was committed.
2. Whether the employee was involved in the offense.
3. The disciplinary record of the employee.
4. Recommendations as to sustained or non-sustained findings.

C. Any decision, order or action taken as a result of summary punishment shall be accompanied by findings of fact. The findings shall consist of a concise statement of each issue in the case.

D. If the accused is given the option of choosing the hearing authority, the officer must make his/her choice within three days after receipt of the Notification of Charges Form, complete
the Waiver Form, and if the officer elects summary punishment, the Sergeant shall of Hearing Board and Acceptance of Summary Punishment Form.

2-2. **Penalty Assessment Guide.**

A. In order to assure uniformity and objectivity in the assessment of penalties for summary punishment offenses, the Summary Punishment Review Committee will establish a Penalty Assessment Guide through consultation with the Chief of Police. Penalty ranges are limited to a maximum of $150 fine and/or suspension for three days. The guide will list all of the various offenses as categorized by the Chief of Police, along with the recommended penalty for each infraction.

B. The Penalty Assessment Guide provides the following categories of offenses and corresponding penalties:

**CATEGORY I**- **WRITTEN REPRIMAND, UP TO A $50 FINE, OR SUSPENSION FOR ONE DAY.**

- **INSUBORDINATION**: Failure to follow chain of command. Failure to obey special order governing weight loss.
- **CONFORMANCE TO**: Violation of Traffic Laws On-Duty. LAWS: Violation of Traffic Laws Off-Duty.
- **DEPARTMENT**: Failure to submit required reports.
- **COMMUNICATIONS**: Late reports. Use of Department telephone, or FAX machine for personal calls.
- **REPORTING FOR DUTY**: Failure to log On/Off and In/Out.
- **PERSONAL**: Failure to maintain acceptable appearance.
- **NEGLECT OF DUTY**: Punctuality (assignments, court, etc.) Inattentiveness to Duty (watching TV, reading, games).
- **DEPARTMENT EQUIPMENT**: Failure to maintain, damage to, loss of Departmental equipment.

**CATEGORY II**- **$50 TO $100 FINE OR SUSPENSION FOR TWO DAYS.**

- **UNBECOMING CONDUCT**: Conduct On-Duty/Conduct Off-Duty.
- **CRITICISM**: Ridicule of UMBCPD/Other Agencies.
- **SECONDARY EMPLOYMENT**: Unapproved Secondary Employment.
- **DEPARTMENT**: Failure to maintain radio contact.
- **COMMUNICATIONS**: Inaccurate reports.

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COURTESY: Rude/Discourteous/Argumentative Obscene Language/Gestures.

IDENTIFICATION: Failure to furnish Name/I.D./Assignment.

DEPARTMENT EQUIPMENT: Misuse of Vehicle.

**CATEGORY III** $100 to $150 FINE, OR SUSPENSION FOR THREE DAYS.

INSUBORDINATION: Failure to obey order.

FICTITIOUS ILLNESS OR INJURY REPORTS: Abuse of sick leave.

EVIDENCE FOUND AND RECOVERED PROPERTY: Failure to secure.

SUGGESTIONS PERTAINING: Recommending product/professional TO SERVICES: service to public

REQUESTS FOR ASSISTANCE: Failure to assist/advise public Intervening in a civil case.

CITIZEN COMPLAINTS: Failure to accept complaint.

NEGLECT OF DUTY: Sleeping On Duty.

USE OF ALCOHOLIC BEVERAGES: Failure to obtain permission to consume on duty.

HEARING BOARD: REFLECTS THOSE OFFENSES RECOMMENDED FOR REVIEW BY A HEARING BOARD.

ASSOCIATIONS: Association with criminal element.

IMMORAL CONDUCT: Moral turpitude.

CONFORMANCE TO LAWS: Violation of criminal laws on-duty Violation of criminal laws off-duty Perjury-Driving while intoxicated?

PAYMENT OF DEBTS: Refusal to pay debts.

ABUSE OF POSITION: Using official position for personal/financial gain.

SEEKING OR ACCEPTING: Seeking or accepting Gifts/Food/Drink/GIFTS/GRATUITIES/Fee/Reward On-Duty.

BRIBES seeking or accepting Gifts/Food/Drink/Fee/Reward Off-Duty. Seeking or Accepting Contributions On-Duty Seeking or Accepting Contributions Off-Duty.
POLITICAL ACTIVITY: Unauthorized political conduct On-Duty. Unauthorized political conduct off-Duty.

LABOR ACTIVITIES: Job Action/Strike

DEPARTMENT COMMUNICATIONS: Failure to report criminal activity. False reports, Providing Department information to unauthorized parties.

INTERROGATIONS: Failure to comply with interrogations polygraph/urine specimens/line-ups/other tests.

REPORTING FOR DUTY: Unfit for duty. A.W.O.L.

INTERFERENCE WITH DUTY: Interfering with criminal/traffic cases. Revealing identity of plainclothes/covert investigator.

ABUSE OF PROCESS/WITHHOLDING EVIDENCE: Withholding evidence or information.

EVIDENCE FOUND AND RECOVERED PROPERTY: Converting to own use Tampering/destruction of.

COURTESY: Expression of prejudice/inflammatory epithets.

NEGLECT OF DUTY: Failure to take force/administrative action

USE OF ALCOHOLIC BEVERAGES: Drinking On-Duty. Authorized alcohol consumption, but consumed to excess. Consuming alcohol in on-call status. Possession of alcohol on Department premises. Consuming alcohol beverages while operating Department vehicle.

USE OF DRUGS: Possession of C.D.S.

GAMBLING: Illegal gambling.

TREATMENT OF PERSONS. Mistreatment of prisoner.

IN CUSTODY: Allowing escape of prisoner.

USE OF FORCE: Unnecessary or excessive brutality

FIREARMS: Discharge of Firearms Indiscriminate/ Careless/Display or use.

INCOMPETENCE: Performance of duties.

C. Sergeants should adhere to the penalties listed for each offense. However, the Penalty Assessment Guide is just as its name implies -- a guide and not an absolute directory. Although occasions to deviate from the guide should be rare, Sergeants may, with adequate justification and with the consent of the SACP, choose a penalty assessment different from that recommended by the guide. If an employee has been charged with two violations of the

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same offense within one year, the officer should be subjected to the penalties of the next higher category or the case should be sent to a hearing board as determined by the SACP.

D. The SACP will examine the case file and the Sergeant’s recommendations to determine if the penalty decision is appropriate. The SACP may concur with the Sergeant’s penalty decision, or may require that the penalty choice remain within the established guidelines. The decision may be appealed to the Chief of Police who will make a final decision known to the Sergeant within two weeks of receipt of the case file.


A. The purpose of the Summary Punishment Review Committee is to establish an annual review of the Penalty Assessment Guide. Additionally, the Committee will conduct a quarterly review of all summary punishment penalty determinations made by Sergeants to ensure that the guidelines established by the Penalty Assessment Guide are being followed.

B. The Summary Punishment Review Committee is a permanent body and will be composed of the following members: the SACP who will serve as chairman and a shift Sergeant not involved in the summary punishment or penalty assessment being reviewed (if applicable).

C. The Summary Punishment Review Committee will meet on an annual basis, at a time and place to be determined by the Chairman, and will review a statistical summary of case files submitted to the SACP for the previous year. Instances of excessive and/or inadequate penalty selections by Sergeants will be brought to the attention of the Chief of Police immediately. The Committee will submit a summary report of its yearly findings to the Chief of Police.

2-4. Penalty Selection.

A. If the offer of summary punishment is considered appropriate, following current investigative and administrative procedures as outlined in this Article of the policy manual, then the accused employee's Sergeant will consult the Penalty Assessment Guide for a determination of penalty. The Sergeant will also consult with the SACP before offering a penalty to the accused. Where there is concurrence between the Sergeant and SACP it is not necessary for the SACP to reply by a written endorsement, although the SACP may retain the option to do so. Instead, the Sergeant needs only to mention the concurrence in the Sergeant's endorsement.

B. Once a decision is made, the accused employee's Sergeant will properly complete the Notification of Charges Form including the specific charge and facts used to support that allegation. A copy of the completed Form will be presented to the accused. At this time, the accused may be offered summary punishment or advised summary punishment is not appropriate and a hearing board will hear the case.

C. The accused is not compelled to accept summary punishment and penalty and may demand the case be heard by a hearing board.

The accused employee's decision will be made according to policy contained in this subsection.
D. In cases where summary punishment is not offered or where it is offered and refused, the case file and completed Notification of Charges/Waiver of Law Enforcement Bill of Rights and Acceptance of Punishment Form will be forwarded directly to the SACP for processing.

2-5. Case Flow.

A. After the Sergeant's disposition, the original case file and the original and one copy of the Notification of Charges /Waiver of Law Enforcement Bill of Rights and Acceptance of Punishment Form will be forwarded directly to the SACP. A copy of the Form will be sent directly to the Human Resources Department to be filed in the law enforcement officer's personnel file.

B. All non-sustained complaints will also be forwarded by the Sergeant directly to the SACP.

C. After a disciplinary action case involving a Department vehicle accident has been processed by the SACP the original case file and related disciplinary action forms will be forwarded to the SACP. The SACP will forward copies of the Notification of Charges/Waiver of Law Enforcement Officers Bill of Rights and Acceptance of Punishment form directly to the Human Resources Department to be filed in the law enforcement officer's personnel file.

D. The SACP shall prepare an appropriate order announcing the disciplinary action. The SACP shall designate dates of suspension in accordance with dates specified.

E. Records of Disciplinary Action of any case disposed of through summary punishment may be filed in the affected employee's personnel file without consent.

F. After final disposition, the employee's Sergeant shall give a completed copy to the accused.

3-0. Hearing Board. The rules and regulations in this subsection define policy for the imposition of discipline within the Department. These rules and regulations are guides for handling disciplinary actions and generally should be followed. In unusual situations not covered by these rules and regulations, or where strict adherence to these rules would work an injustice, deviations from the rules and regulations are permitted.

The Hearing Board chairman and the other members of the board should be flexible and should not apply these rules, regulations and rules of evidence mechanically.

3-1. Jurisdiction.

A. It shall be the function of the Hearing Board to hear all charges against a law enforcement officer not disposed of by summary punishment. Hearings will be conducted pursuant to the Administrative Procedures Act as modified by the Law Enforcement Officers Bill of Rights.

Charges should describe only the offense committed; portions of the rule, procedure, or directive containing irrelevant or extraneous language shall not be cited. Charges should be prepared as described in the example appearing in the subsection relating to summary punishment.
B. The chairman of the Hearing Board shall provide for a hearing in compliance with the Law Enforcement Officers Bill of Rights.

3-2. Organization.
A. The Chief of Police will appoint the chairman of a Hearing Board.
B. The Chief of Police will appoint from the total commissioned complement of the department, or from another police agency with the approval of the chief of that other agency, a not less than three member board which shall consist of the LEOBR Hearing Board chairman and two other members, one of whom shall be of a rank equal to the accused. No member of the Hearing Board may have participated in the investigation or interrogation of the accused law enforcement officer.
C. When an employee has been offered summary punishment but elects to have a hearing, the Chief of Police will convene a one member or more Hearing Board. If a single member Hearing Board is convened, that member need not be of the same rank as the accused. The prosecutor for a single member Hearing Board shall be the SACP, or the Assistant Attorney General with the consent of the Chief of Police.

3-3. Case Preparation.
A. If the accused elects to have the case tried before a Hearing Board, the case file, including the Notification of Charges Form shall be forwarded by the accused's Sergeant to the SACP.
B. The SACP or designee shall prosecute all Hearing Board cases.
C. After reviewing the case file, the SACP may, by endorsement, indicate that the facts contained in the investigation are insufficient to sustain the charge being filed against the accused, and so state the reasons for such insufficiency. The Assistant Attorney General should be consulted in all such cases. The case file and a copy of the SACP endorsement shall be filed. A copy of the SACP endorsement shall be returned to the Sergeant. In any instance when the SACP decides not to proceed with a case, the accused shall be notified by the employee's Sergeant of this decision.
D. The SACP may, after reviewing the case file, find that, although sufficient merit exists for prosecution, additional information is needed to further prepare the case for the Hearing Board. In this instance, the case file with an endorsement by the SACP requesting supplementary information shall be returned to the Sergeant with an indication that it should be resubmitted when the investigation has been completed.
E. When a case is reviewed by the SACP and considered sufficient for prosecution, the SACP will notify the Chief of Police and shall forward the Notification of Charges to the employee's Sergeant for presentation to the employee. After the employee has signed the Notification of Charges, the Sergeant will provide the employee with a copy of each charge and forward the original and remaining copies to the SACP. Notification of Charges will not be presented to the employee until after review by the SACP.
F. Upon receipt of the case from the SACP and the signed Notification of Charges from the employee's Sergeant, the Chief of Police shall, by special order, appoint the prosecutor and
hearing board. The special order accompanied by the case file and copy of the Notification of Charges Form shall be sent to the prosecutor. A copy of the special order shall be sent to the employee's Sergeant and the SACP. The accused shall receive a copy of the special order.

G. Neither the chairman, nor the members of the hearing board, may have access to, be given a copy of, nor in any other way appraised of the contents of the investigative file prior to the commencement of the hearing. Hearing Board members shall be privileged only to information contained in the Notification of Charges Form, which will be forwarded, to them by the Chief of Police. The accused shall be furnished with a copy of the investigatory file, excluding the identity of confidential sources and recommendations as to charges, disposition or punishment, not less than ten days before any hearing if the officer and the officer's representative agree:

(1) To execute a confidentiality agreement with the law enforcement agency to not disclose any of the material contained in the record for any purpose other than to defend the officer; and,

(2) To pay any reasonable charge for the cost of reproducing the material involved.

The following fee schedule has been set for the reproduction of materials for use by the accused:

(a) Transcribe tape recordings $2.50 per page;
(b) Photocopy existing documents $.50 per page;
(c) Duplicate cassette tape recordings. (both sides included) $5.00 per tape.
(d) Duplicate five (5) inch reel-to-reel tape recordings $7.00 per tape.

Fees collected for the aforementioned reproductions must be forwarded to the Administrative Aide for deposit in the Department accounts.

When the hearing is concluded, the prosecutor shall deliver the case file to the SACP.

3-4 Hearing Procedures.

A. When the Chief of Police has received from the SACP a memorandum approving prosecution, the Chief shall act promptly to select a hearing board and shall appoint one member of that board as its chairman.

B. Both prosecution and defense must exchange the names of all witnesses to be called and a copy of all documents and any other evidence to be used at least ten days in advance of the Hearing Board date. To facilitate this exchange, the Chairman of the Hearing Board will complete the Notification of Hearing Form and attach to it a copy of Notification of Evidence and Document Receipt Form. Oral statements or tape recorded interviews of witnesses to be called at the hearing will be listed and made available to the other party, upon request, at least ten days in advance of the hearing.

C. The chairman of the Hearing Board shall forward copies of the Notification of Hearing Form, and Notification of Evidence/Document Receipt Form, to both the prosecutor and to the accused's Sergeant for service to the accused at least fifteen days prior to the hearing date.

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D. Copies of the completed Notification of Evidence and Document Receipt and copies of all
documents and items listed therein will be delivered by the prosecution and defense to each
other and each will certify delivery of the material by signing the Certification Section the
Form. If an item of evidence cannot be duplicated, the other party shall be given the right
to examine it at a time mutually convenient to both parties. The parties, by agreement, may
extend the time for exchanging exhibits. The prosecution and defense shall return a
completed copy to the chairman at least ten days prior to the hearing date. Failure to
exchange the required information, documents and other evidence or to return the required
forms to the chairman within the specified time without good and substantial reason may
result in evidence being excluded.

E. It will be the responsibility of the accused to contact the Chairman of the Hearing Board if
he/she does not completely understand the information contained on the Notification of
Hearing form, or the Notification of Evidence/Document Receipt Form.

F. Postponements may be made by the Hearing Board chairman and all requests shall be
directed to that person.

G. Amending Charges - At any time before the verdict, the Hearing Board Chairman may grant
a motion to amend charges to conform to the evidence or new charges to be filed. In either
case, the accused may request a continuance, if necessary to prepare for the amended or new
charges.

H. The Chairman of the Hearing Board shall administer an oath to witnesses who will testify at
the hearing. The Chairman may also issue summonses to compel the attendance and
testimony of witnesses, and the production of books, paper, records and documents as may
be relevant or material. These summonses may be served in accordance with the Maryland
Rules of Procedure pertaining to service of process issued by a Court, without cost to the
accused. However, whenever possible, Department personnel will serve such summonses.
Either party may request the chairman of the Hearing Board to issue a summons. The
acknowledgment of the summons will be returned to the chairman of the Hearing Board
and be made a part of the case file.

(1) When claimed, witness fees, mileage and actual expenses necessarily incurred in
securing the attendance of witnesses summoned by the prosecution or defense shall
be allowed in the amounts set forth in University policy. Department employees are
not eligible for witness fees. Should it appear to the satisfaction of the Hearing Board
that the defense acted in bad faith or solely for the purpose of delay when
summoning particular witnesses, the Hearing Board may require, as part of the
disposition, the defense to reimburse the State an amount equal to the actual
expenditures made in providing the identified witnesses. When deciding bad faith
and/or delay, the board should consider: availability of the witness; relevancy,
competency and material value of the information; overall impact on the proceeding;
time elements; availability of the information from a more available source; etc.
Such a requirement will be explained in detail as part of the board's written
disposition.
(2) Expenditures will be itemized by the prosecutor on Hearing Board Expenditures Form and submitted to Administrative Aide for payment. A copy will be placed in the case file.

Notation will be made on the form of the date and time in attendance, the mileage and rate claimed, and how payment is to be made.

I. Preliminary Motions - All preliminary motions shall be filed with the chairman at least ten days (excluding weekends and holidays) before the hearing date. The parties must respond to these motions in writing within seven days of the date received excluding weekends and holidays. The chairman, in consultation with other members of the board, shall rule on each motion before or at the hearing. Absent a showing of good and substantial reason, late-filed preliminary motions will not be considered. The chairman has the discretion to decide on a continuance requested as a result of board rulings on preliminary motions.

J. Plea Bargaining - The prosecutor may engage in plea-bargaining at any time prior to or during a hearing. If a plea bargain agreement is reached, approval will be obtained from the SACP and the prosecutor will prepare the Waiver of Hearing Form, acknowledging the waiver of rights and acceptance of punishment as described. The prosecutor will then notify the Hearing Board Chairman so that further proceedings may be canceled and will sign and forward to the SACP. The SACP will then sign and have the form placed in the case file. When claimed by any person, witness fees and expenses shall be paid by the accused as part of any and all plea bargains.

K. If the accused employee expresses a desire to plead guilty and proceed on a statement of facts but desires the Hearing Board to decide the penalty, the prosecutor will notify the Hearing Board Chairman as to that fact. If time permits, the Chairman of the Hearing Board will notify nonessential witnesses that they will no longer be required to testify. The Hearing Board will then convene to hear the statement of facts, receive the guilty plea, and conduct the penalty phase of the proceeding.

L. The hearing will be conducted in accordance with the procedures set forth on Disciplinary Hearing Procedures Form.

M. The chairman conducting the hearing shall administer oaths or affirmations and examine any individual under oath concerning the subject of any hearing conducted pursuant to these procedures.

N. Cases presented to a Hearing Board are administrative proceedings and as such are not subject to the same rules of evidence, which govern the conduct of criminal proceedings. Although testimony must bear only on facts concerning the instant case, the restrictions applicable to hearsay evidence, written statements, and other forms of evidence in criminal actions, do not apply to administrative hearings. Evidence, which possesses probative value, commonly accepted by reasonable and prudent persons in the conduct of their affairs, shall be admissible and shall be given probative effect. The Hearing Board shall give effect to the rules of privilege recognized by law and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. All records and documents, which any party desires to use, shall be offered and be made a part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
0. Every party has the right to cross-examine witnesses who testify, and may submit rebuttal evidence.

P. The Hearing Board may take notice of judicially cognizable facts and of general, technical, and scientific facts within its specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity and reasonable time to contest the facts so noticed. A Hearing Board may use its experience, technical competence, and specialized knowledge in evaluating the evidence presented.

Q. An administrative hearing is not a judicial proceeding and requires, on appeal, only that the Department's findings be supported by competent, material and substantial evidence and that the action of the board is not arbitrary, capricious or illegal. A majority of the board shall decide the verdict on each charge and any order or action taken as a result of the hearing shall be in writing and shall be accompanied by findings of fact. The findings shall consist of a concise statement of each issue in the case. A finding of not guilty terminates the action. If a finding of guilt is made, the Hearing Board shall reconvene the hearing, receive evidence of the employee's past job performance, matters of extenuation and mitigation and other relevant information and recommend a penalty to the Chief of Police. The prosecutor will be responsible for providing the accused's personnel files to the Chairman for board consideration. The findings and conclusion and the written recommendations for action shall be recorded on a Disciplinary Hearing Procedures Form and a copy shall be delivered or mailed promptly to the law enforcement officer. In the case of multiple charges, a separate Form will be completed for each charge.

R. The chairman of the Hearing Board shall keep an official record of each hearing, which shall become a part of the original case file. The record shall include testimony, exhibits, the exact times the hearing was convened and terminated and the exact times of the beginning and termination of each recess taken during the hearing. The chairman of the Hearing Board is also responsible for tape-recording all hearings. The tapes shall become a permanent part of the record.

S. No firearms will be permitted in the hearing boardroom.

3-5. Disposition. In any proceeding before a Hearing Board, the accused may be found not guilty on any specified charge and informed of the decision or may be found guilty on any specified charge and informed of the sentence recommended.

3-6. Disciplinary Recommendations.

A. After a finding of guilt, the Hearing Board may review the accused's personnel file and thereafter recommend penalties as it considers appropriate under the circumstances, including but not limited to demotion, dismissal, transfer, loss of pay, reassignment, or other similar action which would be considered punitive. A Hearing Board convened because the accused refused summary punishment may recommend only those penalties permitted for summary punishment.

B. If the decision of the Hearing Board is not unanimous, in either the verdict or the penalty, the dissenting member may, but is not required to, submit a minority report expressing the
dissenting member's views. If the dissenting member elects to submit a minority report, it will be submitted to the board chairman, who will forward it along with the Hearing Board report.

C. If the Chief of Police is an eyewitness to the incident, which led to the charges being placed, the decision of the Hearing Board, both as to findings of fact and punishment is final. This decision may only be appealed to the court.

3-7. Remedial Training.

A. Remedial in-service training may be included as part of a Hearing Board recommendation for an employee found guilty of violating Department policies and procedures.

B. Remedial training will be administered and conducted within the structure and budget of the training function.


A. After adjudication, and upon completion and signing by the board members of Department administrative board reports, the reports are to be forwarded in the following manner:

(1) Department one-man administrative Hearing Board reports are to be promptly forwarded directly to the Chief of Police without further endorsement.

(2) Department three-man administrative Hearing Board reports are to be forwarded directly to the SACP without further endorsement, where they will be forwarded for review by the Assistant Attorney General for legal sufficiency. Upon completion of this review, the SACP shall promptly forward the reports directly to the Chief of Police.

(3) The Chief of Police will ensure that involved Department personnel and counsel of record are forwarded a copy of the administrative hearing board report.

B. After the Chief of Police has reviewed the board's recommendation, the Chief shall record the final disposition. In cases in which the disposition is "Not Guilty," the Chief of Police shall send the original copy and all exhibits directly to the SACP for filing. In cases in which the disposition is "Guilty," the Chief of Police shall make the following distribution:

(1) The original copy of the record of final disposition and all exhibits to the SACP for filing and preparation of a personnel order.

(2) A copy to the University Human Resources Department.

(3) One copy to the SACP to be sent to the employee's Sergeant who will give them to the convicted employee.


A. The Board's recommendation for penalty is not binding on the Chief of Police. Within thirty days after receiving the Hearing Board's recommendation, the Chief of Police shall review the findings and recommendation, and indicate concurrence or nonconcurrence. Reasons for nonconcurrence must be explained under the caption "Remarks" on the form. The Chief of Police's decision is binding and may be appealed only to the courts. Before the
Chief of Police may increase the recommended penalty of the hearing board, the Chief personally shall review the entire record of the Hearing Board proceedings, shall give the law enforcement officer an opportunity to be heard, and shall enter in writing the reasons for increasing the penalty.

B. Appeal from decisions rendered in accordance with the Law Enforcement Officers' Bill of Rights shall be taken to the Circuit Court pursuant to the Maryland Rules of Procedure, Title 7 Chapter 200, Annotated Code of Maryland. Any party aggrieved by a decision of a court under this Section may appeal to the Appellate Courts of Maryland, in accordance with the Maryland Rules of Procedures. For the purpose of petitions to the Circuit Court the final action shall be the date of the Chief of Police's decision on the hearing board's recommendations.

4-0. **Waiver of Law Enforcement Officers' Bill of Rights.**

4-1. Definition. When a police employee is charged with a violation of Department rules, policy, or procedure, and it is inappropriate to dispose of such case by summary punishment, or a plea agreement has been reached after the appointment of a Hearing Board, the employee may waive all rights afforded by the Law Enforcement Officers' Bill of Rights. By this waiver, the employee accepts both the Department's assessment of culpability and penalty without the right to appeal either.

4-2. **Procedure.**

A. When the facts in the case are not disputed by the employee, and it would be to the mutual benefit of the employee and the Department expeditiously to dispose of the charges, the employee's Sergeant will request from the SACP concurrence for the employee to waive his/her rights afforded by the Law Enforcement Officers' Bill of Rights.

B. The SACP will either concur that the waiver option be offered and establish an appropriate penalty, or propose that the case be adjudicated before the Hearing Board. If the recommended penalty does not exceed a suspension of more than five days, final approval shall rest with the SACP but may be reviewed by the Chief of Police. Recommendations for transfer to another squad, demotion or suspension exceeding five days must be reviewed by the Chief of Police.

C. Only after the waiver recommendation has been approved and penalties set will the Sergeant make contact with the employee. The Sergeant will present to the employee the Waiver of Hearing Form stating the specific charge and the recommended penalty. If the penalty includes suspension, the specific dates must be stated. The Sergeant will then advise the employee that in this case, the waiver process may be an appropriate way of dealing with the charges, advise the employee of the penalty, and ask if the employee chooses to accept this option. The employee is not required to accept this option and may demand a hearing before the Hearing Board.

4-3. **Case Flow.**

A. Any decision, order, or action taken as a result of a waiver of rights will be accompanied by a finding of fact, which will consist of a concise statement of each issue in the case.
B. After the final disposition, the Sergeant shall forward the original case file with the original and one copy of the Notification of Charges/Waiver of Law Enforcement Officers Bill of Rights and Acceptance of Punishment Form and the original and one copy of the Waiver of Hearing through channels to the SACP. A copy of the Notification of Charges/ Waiver of Law Enforcement Officers’ Bill of Rights and Acceptance of Punishment Form and Waiver of Hearing will be sent directly to the University Human Resources Department, to be filed in the law enforcement officer's personnel file.

C. The SACP shall prepare an appropriate order announcing the disciplinary action. The SACP shall designate dates of suspension in accordance with dates specified on the Form.

D. Records of disciplinary action of any case disposed of through a waiver of rights may be filed in the affected employee's personnel file without the employee's consent.

5-0. **Disciplinary Procedures for Probationary Police Officers.**

5-1. Complaint processing, investigations, and disciplinary action involving probationary officers resulting from allegations of brutality shall be administered in accordance with this Section, and the Law Enforcement Officers' Bill of Rights. All other complaint processing, investigations, and disciplinary action involving probationary officers shall be in accordance with this Section without regard for the provisions of the Law Enforcement Officers' Bill of Rights.

5-2. **Procedure.**

A. When a probationary officer is the subject of an internal investigation, the probationary officer's Sergeant shall decide, based on all available evidence, (including, but not limited to investigative reports and endorsements, interviews and interrogations with the probationary officer, detailed written reports by the probationary officer, witness accounts, etc.) whether the probationary officer should or should not be disciplined for the alleged misconduct.

B. If his/her decision is not to discipline the probationary officer, the Sergeant shall consult with the SACP and apprise the SACP of both the facts of the case and the rationale underlying his decision. The SACP will confer with the Chief of Police. If the Chief of Police concurs with the decision, the Sergeant shall contact the accused probationary officer and advise the employee of the decision.

C. If the decision is to discipline the probationary officer, the Sergeant shall consult with the SACP to apprise the SACP of both the facts of the case and a recommended penalty. If the SACP concurs with the decision, the SACP and the Sergeant shall reach an agreement on the penalty.

D. If the SACP and the Sergeant cannot agree on whether or not to discipline or on a penalty, they shall confer with the Chief of Police for resolution.

E. Sergeants may recommend any penalty they consider appropriate under the circumstances, including, but not limited to, dismissal, suspension, transfer, fine, or other similar action.

E. After consultation with the SACP, in cases where the decision is to discipline a probationary officer, the Sergeant will complete a Probationary Officer Record of Disciplinary Action Form specifying the particular charge, as well as the facts used to substantiate the charge. The
Sergeant will then contact the accused, give the employee a copy and advise the employee of the penalty.

5-3. **Disposition.**

A. Any decision, order, or action taken as a result of disciplinary action involving a probationary officer shall be accompanied by a brief resume of the facts. The resume shall consist of a concise statement of each issue in the case.

B. The Sergeant shall forward the case file with the original and one copy through channels to the Chief of Police.

C. If the recommended penalty does not exceed a suspension of more than five days, final approval shall rest with the SACP; but may be reviewed by the Chief of Police; any recommended penalty in excess of a five-day suspension will be subject to the review of the Chief of Police. The Chief's approval shall be recorded on the Probationary Officer Record of Disciplinary Action Form.

5-4. **Case Flow.**

A. After review, the Chief of Police shall forward the case file directly to the SACP. In cases where the probationary officer is not disciplined, the case file will be filed in a separate file by the SACP. In cases where the probationary officer is disciplined, the SACP will send a copy of the Probationary Officer Record of Disciplinary Action Form directly to the University Human Resources Department for filing.

B. The SACP shall prepare an appropriate order announcing the disciplinary action. The SACP shall publish effective dates of suspension only as designated.

C. The SACP will forward a copy of the completed Form to the accused's Sergeant who will give it to the accused.

5-5. **Confidentiality.** The confidentiality guidelines set forth in this article shall be followed with respect to disciplinary procedures for probationary officers.

**SECTION VI**

**ADMINISTRATIVE FORMS**

6-0. **Form Titles.** The following forms, reports, and memos will be used to administer Department disciplinary action.

A. Complaint Against Personnel Report Form.
B. Complaint of Brutality Form.
C. Notification of Complaint/Waiver of Rights Form.
D. Investigative Report (detailed report format) and related endorsements.

   (1) Accused employee.
   (2) Investigator
   (3) Witness Statements
E. Explanation of "Miranda" Rights Form
F. Notification of Charges/Waiver of Law Enforcement Officers Bill of Rights and Acceptance of Punishment Form
G. Memorandum to be disseminated by the SACP approving prosecution and designating a prosecutor.
H. Memorandum to be disseminated by the Chief of Police designating the hearing board members.
I. Notification of Hearing Form
J. Notification of Evidence/Document Receipt Form
K. Disciplinary Hearing Procedures Form
L. Probationary Officer Record of Disciplinary Action Form
M. Witness Summons/Duces Tecum Form
N. Waiver of Rights and Notification of Interrogation Form
O. Waiver of Hearing Form

SECTION VII
ARTICLE 27 - CRIMES AND PUNISHMENTS

SECTIONS 727-734D, LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS

Section 727

(a) As used in this subtitle, the following words have the meanings indicated.

(b) "Law-enforcement officer" means any person who, in his official capacity, is authorized by law to make arrests and who is a member of one of the following law-enforcement agencies:

1. The Maryland State Police;
2. The Baltimore City Police Department;
3. The police department, bureau, or force of any county;
4. The police department, bureau, or force of any incorporated city or town;
5. The office of the sheriff of any county;
6. The police department, bureau, or force of any bi-county agency or the University of Maryland;
7. The State Aviation Administration police force of the Department of Transportation, the Mass Transit Administration police force of the Department of Transportation, the Maryland Toll Facilities police force of the Maryland Transportation Authority, and the Maryland Port Administration police force of the Department of Transportation;
8. The police officers of the Department of Natural Resources; or
9. The Maryland Alcohol and Tobacco Tax Enforcement Unit.

(C) "Law-enforcement officer" does not include an officer serving in a probationary status except when allegations of brutality in the execution of his or her duties are made involving an officer who is in a probationary status. The provisions of this subtitle do not apply to persons serving at the pleasure of the Police Commissioner.
of Baltimore City or the appointing authority of a charter county, or to a police chief of any incorporated city or town. The term "probationary status" includes only an officer who is in that status upon initial entry into the Department.

D) "Hearing Boards" mean:

(1) A Board which is authorized by the chief to hold a hearing on a complaint against a law-enforcement officer and which consists of not less than three members, except as provided in paragraph (2) of this subsection, all to be appointed by the Chief and selected from law-enforcement officers within that agency, or law-enforcement officers of another agency with the approval of the chief of the other agency, and who have had no part in the investigation or interrogation of the law-enforcement officer. At least one member of the Hearing Board shall be of the same rank as the law-enforcement officer against whom the complaint has been filed.

(2) If a law-enforcement officer is offered summary punishment imposed pursuant to section 734A and refuses, the chief may convene a one-member or more Hearing Board and the Hearing Board shall have only the authority to recommend the sanctions as provided in this subtitle for summary punishment. If a single member hearing board is convened, that member need not be of the same rank. However, all other provisions of this subtitle shall apply.

(E) "Hearing" means any meeting in the course of an investigatory proceeding, other than an interrogation, at which no testimony is taken under oath, conducted by a Hearing Board for the purpose of taking or adducing testimony or receiving other evidence.

(F) "Summary punishment" is punishment imposed by the highest-ranking officer of unit or member acting in that capacity, which may be imposed when the facts constituting the offense are not in dispute. Summary punishment may not exceed three days suspension without pay or a fine of $150.

(G) "Chief" means the superintendent, commissioner, chief of police, or sheriff of a law-enforcement agency, or the officer designated by the official. Section 728

(a) A law-enforcement officer has the same rights to engage in political activity as are afforded to any State employee. This right to engage in political activity shall not apply to any law-enforcement officer when he is on duty or when he is acting in his official capacity.

(b) Whenever a law-enforcement officer is under investigation or subjected to interrogation by a law-enforcement agency, for any reason which could lead to disciplinary action, demotion or dismissal, the investigation or interrogation shall be conducted under the following conditions:

(1) The interrogation shall be conducted at a reasonable hour preferably at a time when the law-enforcement officer is on duty, unless the seriousness of the investigation is of such a degree that an immediate interrogation is required.
(2) The interrogation shall take place either at the office of command of the investigating officer or at the office of the local precinct or police unit in which the incident allegedly occurred, as designated by the investigating officer, unless otherwise waived by the law-enforcement officer, or at any other reasonable and appropriate place.

(3) The law-enforcement officer under investigation shall be informed of the name, rank, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by and through one interrogator during any one interrogating session.

(4) A complaint against a law-enforcement officer, alleging brutality in the execution of his duties, may not be investigated unless the complaint be duly sworn to by the aggrieved person, a member of the aggrieved person's immediate family, or by any person with first hand knowledge obtained as a result of the presence at and observation of the alleged incident, or by the parent or guardian in the case of a minor child before an official authorized to administer oaths. An investigation which could lead to disciplinary action under this subtitle for brutality may not be initiated and an action may not be taken unless the complaint is filed within 90 days of the alleged brutality.

(5) (I) The law-enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any interrogation.

(II) Upon completion of the investigation, the law-enforcement officer shall be notified of the name of any witness and all charges and specifications against the officer not less than ten days prior to any hearing.

(III) In addition, the law-enforcement officer under investigation shall be furnished with a copy of the investigatory file and any exculpatory information, but excluding:

1. the identity of confidential sources;
2. any nonexculpatory information; and
3. recommendations as to charges, disposition, or punishment.

(IV) The law-enforcement officer under investigation shall be furnished with a copy of the investigatory file and the exculpatory information described under subparagraph (III) of this paragraph not less than ten days before any hearing if the officer and the officer's representative agree:

1. To execute a confidentiality agreement with the law-enforcement agency to not disclose any of the material contained in the record for any purpose other than to defend the officer; and
2. To pay any reasonable charge for the cost of reproducing the material involved.

(6) Interrogating sessions shall be for reasonable periods and shall be timed to allow for any personal necessities and rest periods as are reasonably necessary.

Updated 7/03
(7)(I) The law-enforcement officer under interrogation may not be threatened with transfer, dismissal, or disciplinary action.

(II) This subtitle does not prevent any law-enforcement agency from requiring a law-enforcement officer under investigation to submit to blood alcohol tests, blood, breath, or urine tests for controlled dangerous substances, polygraph examinations, or interrogations which specifically relate to the subject matter of the investigation. This subtitle does not prevent a law-enforcement agency from commencing any action which may lead to a punitive measure as a result of a law-enforcement officer's refusal to submit to a blood alcohol test, blood, breath, or urine tests for controlled dangerous substances, polygraph examination, or interrogation, after having been ordered to do so by the law-enforcement agency. The results of any blood alcohol test, blood, breath, or urine test for controlled dangerous substances, polygraph examination, or Interrogation, as may be required by the law-enforcement agency under this subparagraph are not admissible or discoverable in any criminal proceedings against the law-enforcement officer when the law-enforcement officer has been ordered to submit thereto. The results of a polygraph examination may not be used as evidence in any administrative hearing when the law-enforcement officer has been ordered to submit to a polygraph examination by the law enforcement agency unless the agency and the law-enforcement officer agree to the admission of the results at the administrative hearing.

(8) A complete record, written, taped, or transcribed, shall be kept of the complete interrogation of a law-enforcement officer, including all recess periods. Upon completion of the investigation, and upon request of the law-enforcement officer under investigation or his counsel, a copy of the record of his interrogation shall be made available not less than ten days prior to any hearing.

(9) If the law-enforcement officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he shall be completely informed of all his rights prior to the commencement of the interrogation.

(10) At the request of any law-enforcement officer under interrogation, the officer shall have the right to be represented by counsel or any other responsible representative of his choice who shall be present and available for consultation at all times during the interrogation, unless waived by the law-enforcement officer. The interrogation shall be suspended for a period of time not to exceed ten days until representation is obtained. However, the chief may, for good cause shown, within that ten-day period, extend that period of time.

(11) A statute may not abridge and a law-enforcement agency may not adopt any regulation, which prohibits the right of a law-enforcement officer to bring suit arising out of his duties as a law-enforcement officer.

(12)(I) A law-enforcement agency may not insert any adverse material into any file of the officer, except the file of the internal investigation or the intelligence division, unless the officer has an opportunity to review, sign, receive a copy of, and comment in writing upon the adverse material, unless the officer waives these rights.
(II) 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 unsustained or unfounded; and
   2. Three years have passed since the findings by the law enforcement agency.

(13)(I) If the chief is the law-enforcement officer under investigation, the chief of another law-enforcement agency in this state shall function as the law-enforcement officer of the same rank on the Hearing Board.

(II) If the chief of a state law-enforcement agency is under investigation, the Governor shall appoint the chief of another law-enforcement agency as the law-enforcement officer of the same rank on the Hearing Board.

(III) If the chief of a county or municipal law-enforcement agency is under investigation, the official who may appoint the chief's successor shall appoint the chief of another law-enforcement agency as the officer of the same rank on the Hearing Board.

(IV) If the chief of a state law-enforcement agency or the chief of a county or municipal law-enforcement agency is under investigation, the official who may appoint the chief's successor, or that official's designee, shall function as chief for the purposes of this subtitle.

(L4) The law-enforcement officer's representative need not be present during the actual administration of a polygraph examination by a certified polygraph examiner, if the questions to be asked are reviewed with the law-enforcement officer or his representative prior to the administration of the examination, the representative is allowed to observe the administration of the polygraph examination, and if a copy of the final report of the examination by the certified polygraph operator is made available to the law-enforcement officer or his representative within a reasonable time, not to exceed ten days, after the completion of the examination.

(c) This subtitle does not limit the authority of the chief to regulate the competent and efficient operation and management of a law-enforcement agency by any reasonable means including but not limited to, transfer and reassignment where that action is not punitive in nature and where the chief determines that action to be in the best interests of the internal management of the law-enforcement agency.

Section 729

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 possible conflict of interest with respect to the performance of his official duties, or unless such disclosure is required by state or federal law.

Section 729A

A law enforcement agency may not prohibit secondary employment but may promulgate reasonable regulations as to a law enforcement officers' secondary employment.

Updated 7/03
Section 730

(a) If the investigation or interrogation of a law enforcement officer results in the recommendation of some action, such as demotion, dismissal, transfer, loss of pay, reassignment, or similar action which would be considered a punitive measure, then, except as provided under subsection (c) of this section and except in the case of summary punishment or emergency suspension as allowed by Sec. 734A of this subtitle, and before taking that action, the law enforcement agency shall give notice to the law enforcement officer that he is entitled to a hearing on the issues by a Hearing Board. The notice shall state the time any place of the hearing and the issues involved. An official record, including testimony and exhibits, shall be kept of the hearing.

(b) (1) Administrative charges may not be brought against a law enforcement officer unless filed within one year after the act that gives rise to the charges comes to the attention of the appropriate law enforcement agency official.

(2) The one-year limitation of paragraph (1) of this subsection does not apply to charges related to criminal activity or excessive force.

(c) A law enforcement officer is not entitled to a hearing under this section if the law enforcement officer has been charged and convicted of a felony.

(d) The hearing shall be conducted by a Hearing Board. Both the law-enforcement agency and the law-enforcement officer shall be given ample opportunity to present evidence and argument with respect to the issues involved. Counsel may represent both.

(e) Evidence, which possesses probative value commonly accepted by reasonable and prudent men in the conduct of their affairs, shall be admissible and shall be given probative effect. The Hearing Board conducting the hearing shall give effect to the rules of privilege recognized by law, and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. All records and documents, which any party desires to use, shall be offered and made a part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(f) Every party has the right of cross-examination of the witnesses who testify, and may submit rebuttal evidence.

(g) The Hearing Board conducting the hearing may take notice of judicially cognizable facts and, in addition, may take notice of general, technical, or scientific facts within its specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity and reasonable time to contest the facts so noticed. A Hearing Board may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented.

(h) With respect to the subject of any hearing conducted pursuant to this subtitle, the chief or the officer designated by the chief shall administer oaths or affirmations and examine any individual under oath.
(I) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court. Witness fees, mileage, and the actual expenses necessarily incurred in securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the law-enforcement agency.

(II) The Chief, or Hearing Board, as the case may be, shall in connection with any disciplinary hearing, have the power to administer oaths and to issue summonses to compel the attendance and testimony of witnesses, and the production of books, papers, records, and documents as may be relevant or necessary. These summonses may be served in accordance with the Maryland Rules of Procedure pertaining to service of process issued by a court, without cost. Any party may request the Chief or Hearing Board to issue a summonses or order under the provisions of this subtitle.

(2) In case of disobedience or refusal to obey any of these summonses, the Chief, or Hearing Board, may apply to the Baltimore City Court or the circuit court of any county, as the case may be, where the summoned party resides or conducts business, for an order requiring the attendance and testimony of the witness and the production of books, papers, records, and documents, without cost. Upon a finding that the attendance and testimony of the witness, or the production of the books, papers, records, and documents sought is relevant or necessary, the court may issue an order requiring the attendance, testimony, or production of books, papers, records and documents without cost, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

Section 731

(a) Any decision, order, or action taken as a result of the hearing 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. A finding of not guilty terminates the action. If a finding of guilt is made, the Hearing Board shall reconvene the hearing, receive evidence, and consider the law-enforcement officers past job performance and other relevant information as factors before making its recommendations to the Chief. A copy of the decision or order and accompanying findings and conclusions, along with written recommendations for action, shall be delivered or mailed promptly to the law-enforcement officer or to his attorney or representative of record and to the chief. The person who may take any disciplinary action following any hearing in which there is a finding of guilt shall consider the law-enforcement officers past job performance as a factor before he imposes any penalty.

(b) After the disciplinary hearing and a finding of guilt, the Hearing Board may recommend punishment as it deems appropriate under the circumstances, including but not limited to demotion, dismissal, transfer, loss of pay, reassignment, or other similar action which would be considered a punitive measure.

(c) The written recommendations as to punishment are not binding upon the Chief. Within 30 days of receipt of the Hearing Board's recommendations, the Chief shall review the findings, conclusions, and recommendations of the hearing board and then he shall issue his final order. The Chief's final order and decision is binding and may be appealed in accordance with this subtitle. Before the Chief may increase the recommended penalty of the Hearing Board, he personally shall review the entire record of the Hearing Board proceedings, shall permit the law enforcement officer to be heard and shall state the reason for increasing the recommended penalty.

(d) Notwithstanding any other provisions of this subtitle, if a chief is an eyewitness to the incident under investigation, the decision of the Hearing Board, both as to findings of fact and punishment,
if any, is final. The decision then may be appealed in accordance with subsection 732 of this subtitle.

Section 732

Appeal from decisions rendered shall be taken to the circuit court of the counties or the Baltimore City Court. Any party aggrieved by a decision of a court under this subtitle may appeal to the Court of Special Appeals.

Section 733

A law-enforcement officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to his employment or be threatened with any such treatment, by reason of his exercise of or demand for the rights granted in this subtitle, or by reason of the lawful exercise of his constitutional rights.

Section 734

Any law-enforcement officer who is denied any right afforded by this subtitle may apply at any time prior to the commencement of the hearing before the hearing board, either individually or through his certified or recognized employee organization, to the circuit court or the circuit court of Baltimore City where he is regularly employed for any order directing the law-enforcement agency to show cause why the right should not be afforded.

Section 734A

The provisions of this subtitle are not intended to prohibit summary punishment or emergency suspension by higher-ranking law-enforcement officers as may be designated by the head of a law-enforcement agency.

(1) Summary punishment may be imposed for minor violations of departmental rules and regulations when: (i) The facts which constitute the minor violation are not in dispute; (ii) the officer waives the hearing provided by this subtitle; and (iii) the officer accepts the punishment imposed by the highest ranking officer of the unit to which the officer is attached.

(2) (I) Emergency suspension with pay may be imposed by the chief when it appears that the action is in the best interest of the public and the law-enforcement agency. Any person so suspended shall be entitled to a prompt hearing.

(II) If the officer is suspended with pay, the chief may suspend the police powers of the officer and reassign the officer to restricted duties pending a determination by a court of competent jurisdiction with respect to any criminal violation or final determination by an administrative hearing board as to any departmental violation.

(III) Any person so suspended shall be entitled to a prompt hearing.

(3) (I) Emergency suspension of police powers without pay may be imposed by a chief if a law-enforcement officer has been charged with the commission of a felony.
(II) Any person so suspended shall be entitled to a prompt hearing.

Section 734B

Except for the administrative hearing process provided for in Article 41 4-201 concerning the certification enforcement power of the Police Training Commission, the provisions of this subtitle shall supersede any state, county or municipal law, ordinance, or regulation that conflicts with the provisions of this subtitle, and any local legislation shall be preempted by the subject and material of this subtitle.

Section 734C

Any person who knowingly makes a false statement, report, or complaint in the course of an investigation or any proceeding conducted under the provisions of this subtitle is subject to the same penalties as provided in Article 27, Section 100.

Section 734D

Any officer may waive in writing any or all rights provided in this subtitle.