
	<b>GAITHERSBURG POLICE DEPARTMENT</b>		
	<b>Police Accountability Board</b>		
	<b>GENERAL ORDER      208.4</b>	Related CALEA Standards:	
<b>Effective Date      06/05/2024</b>	26.1.4, 26.2.1, 26.2.2, 26.2.4, 26.3.2, 26.3.3, 26.3.5		
<b>Authorized by:      Mark P. Sroka</b> CHIEF OF POLICE	SIGNATURE	DATE <b>06/05/2024</b>	

**1. PURPOSE**

The purpose of this directive is to provide information relating to the Department’s disciplinary process for sworn police officers as required by Maryland Public Safety Code (3-101 – 3-114) for complaints of police misconduct which involve a member of the public.

**2. POLICY**

It is the policy of the Department to investigate all complaints or concerns regarding the conduct of any employee, when they believe an employee acted in a manner that is improper, in violation of the law, or in violation of Department policy. Complaints which allege misconduct by any sworn officer and involve a member of the public, shall be reported to the Montgomery County Police Accountability Board (PAB). The PAB Administrative Charging Committee (ACC) will be responsible for reviewing each administrative investigation and determining whether the involved officer(s) will be administratively charged, or not. If charges are determined, the ACC will also recommend discipline, in accordance with a disciplinary matrix established by the Maryland Police Training and Standards Commission (MPTSC) and adopted by the Gaithersburg Police Department.

**3. DEFINITIONS**

**3.1. Employees** - Within the context of this directive, the term “employee” includes both sworn and civilian members of the Gaithersburg Police Department.

**3.2. Complaints Involving a Member of the Public** – Within the context of this directive, the term “complaints involving a member of the public” refers to a complaint of police misconduct involving a member of the public and a sworn officer, regardless of whether the complaint originated from within the Department or from an external source.

**3.3. Internal Complaints of Technical Infractions** – Within the context of this directive, the term “internal complaints of technical infractions” refers to a minor rule violation by a sworn officer, solely related to an administrative policy, that does not involve an interaction between a member of the public and a sworn officer, or is not otherwise a matter of public concern.

- 3.4. Police Misconduct** - Within the context of this directive, the term “police misconduct” refers to any communication from a complainant that alleges a pattern, a practice, or conduct by a sworn officer which includes:
- 3.4.1. Depriving persons of rights protected by the Constitution, or laws of the State, or the United States;
  - 3.4.2. A violation of criminal statute; or
  - 3.4.3. A violation of the Department’s standards and policies.
- 3.5. Police Accountability Board (PAB)** - Within the context of this directive, the term “Police Accountability Board (PAB)” refers to a board established by the Montgomery County Government, which will receive complaints of police misconduct. The PAB will also appoint civilian members to charging committees and trial boards, review outcomes of disciplinary matters considered by the charging committee, and make recommendations on changes to policy that would improve police accountability.
- 3.6. Administrative Charging Committee (ACC)** - Within the context of this directive, the term “Administrative Charging Committee (ACC)” refers to a committee established to serve local and county-wide law enforcement agencies by reviewing their investigatory files and findings related to a complaint of police misconduct involving a member of the public and determining whether the involved officer will be administratively charged. If an officer is charged, the ACC will make a disciplinary recommendation to the Chief of Police, in accordance with the disciplinary matrix established by the Maryland Police Training and Standards Commission (MPTSC).
- 3.7. Disciplinary Matrix** - Within the context of this directive, the term “disciplinary matrix” refers to a standardized matrix that provides ranges of disciplinary actions for sworn police officers for specific sustained allegations. The disciplinary matrix created by the Maryland Police Training and Standards Commission shall be adopted by each Maryland law enforcement agency.
- 3.8. Victim’s Rights Advocate** – The Special Operations Bureau Commander will act as the victims’ rights advocate. The victims’ rights advocate will explain to the complainant:
- 3.8.1 The complaint, investigation, administrative charging committee, and trial board process;
  - 3.8.2 Any decision to terminate an investigation;

- 3.8.3 An administrative charging committee's decision of administratively charges, not administratively charged, unfounded, or exonerated; and
- 3.8.4 A trial board's decision: provide a complainant with an opportunity to review a police officer's statement, if any, before completion of an investigation by a law enforcement agency's investigative unit; notify a complainant of the status of the case at every stage of the process; and provide a case summary to a complainant within 30 days after the final disposition of the case.

#### **4. PROCEDURES**

##### **4.1. General Provisions**

- 4.1.1. Information describing the complaint process and procedures for filing a complaint through GPD are found on the Complaint Form 175A in the Police Station's lobby or on the Department's website.
- 4.1.2. Complainants may file their complaint through GPD or via the Montgomery County Police Accountability Board (PAB), who will forward the complaint to the GPD within three (3) days after receipt by the Board.
- 4.1.3. Complaints of police misconduct may be filed in person, by telephone, via email, or US mail.

##### **4.2. Complaint Processing**

- 4.2.1. Complaints of Police Misconduct Involving a Member of the Public
  - 4.2.1.1. Complainants should file their complaint on a GPD Form 175A (Complaint Against Personnel Report). These forms shall be forwarded to the Chief of Police, or designee, immediately.
  - 4.2.1.2. In the absence of a GPD Form 175A, all complaints will be forwarded on the Complaint Against Personnel Form (GPD 176) to the Chief of Police, or designee, immediately.
  - 4.2.1.3. All complaints alleging police misconduct involving a member of the public will be investigated, via an Internal Affairs Investigation, as prescribed in General Order 209.1 Internal Affairs.

4.2.1.3.1. Complainants will be provided a unique identifying number upon receipt of their complaint.

4.2.1.3.2. This number will allow the complainant to track the status of their complaint investigation through the GPD website.

4.2.1.4. Once a complaint investigation is complete, the investigation will be forwarded and resolved via the Administrative Charging Committee process.

### **4.3. Administrative Charging Committee (ACC) Review**

4.3.1. After review and approval by the Chief of Police, the investigative file and all related documentation and evidence will be forwarded to the Administrative Charging Committee (ACC) for review.

4.3.2. The ACC shall review the findings of the GPD's investigation, and determine whether the involved officer will be administratively charged or not.

4.3.3. The ACC shall conduct a review and make a determination, or ask for further review, within 30 days after completion of the internal investigation.

4.3.4. If an officer is charged, the ACC shall make a disciplinary recommendation to the Chief of Police, based on the disciplinary matrix created by MPTSC.

4.3.5. The ACC shall review any body worn camera footage that may be relevant to the matters covered in the misconduct complaint.

4.3.6. The ACC may authorize a police officer to appear before the Committee, accompanied by a representative.

4.3.7. The ACC's findings definitions are as follows:

4.3.7.1. **Administratively Charged** – A police officer has been formally accused of police misconduct.

4.3.7.2. **Exonerated** – A police officer acted in accordance with the law and agency policy.

4.3.7.3. **Unfounded** – There exists an insufficient basis for administratively charging a police officer.

- 4.3.8. The ACC will issue a written opinion that describes in detail its findings, determinations, and recommendations, and it will forward the written opinion to the Chief of Police, the involved officer(s), and the complainant.
  - 4.3.8.1. The process of complaint review, through the disposition by the ACC, shall be completed within one year and one day after the filing of a complaint by a citizen.
  - 4.3.8.2. Within 15 days after the ACC issues an administrative charge against a police officer, the Chief of Police shall offer discipline to the officer. The Chief of Police may offer the same discipline that was recommended by the ACC, or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the ACC.
- 4.3.9. If the officer accepts the Chief's offer of discipline, then the offered discipline shall be imposed. If the officer does not accept the Chief's offer of discipline, then the matter shall be referred to a trial board.

### **4.3. Trial Board Procedures**

- 4.4.1. A trial board shall be composed of:
  - 4.4.1.1. An actively serving or retired administrative law judge, or a retired judge of the District Court or a Circuit Court, appointed by the Chief Executive Officer of the County;
  - 4.4.1.2. A civilian who is not a member of an Administrative Charging Committee, appointed by the County's (PAB); and
  - 4.4.1.3. A police officer, of equal rank to the police officer who is accused of misconduct, appointed by the head of the law enforcement agency.
- 4.4.2. Before serving as a member of a trial board, an individual shall receive training on matters relating to police procedures by MPTSC.
- 4.4.3. The Trial Board procedures shall be governed in accordance with the Code of Maryland Regulations; Title 28. Office of Administrative Hearings, Subtitle 02. Rules of Procedure (COMAR 28.02.01).

- 4.4.4. At least 30 days before the trial board proceeding begins, the police officer shall be:
  - 4.4.4.1. Provided a copy of the investigatory record;
  - 4.3.4.2. Notified of the charges against the police officer; and
  - 4.4.4.3. Notified of the disciplinary action being recommended.
- 4.4.5. The trial board may administer oaths and issue subpoenas, as necessary to complete its work.
- 4.4.6. Trial boards shall be open to the public, except to protect:
  - 4.4.6.1. The victim's identity;
  - 4.4.6.2. The personal privacy of an individual;
  - 4.4.6.3. A child witness;
  - 4.4.6.4. Medical records;
  - 4.4.6.5. The identity of a confidential source;
  - 4.4.6.6. An investigative technique or procedure; or
  - 4.4.6.7. The life or physical safety of an individual.
- 4.4.7. A complainant has the right to be notified of a trial board hearing, and the right to attend the hearing, except as provided above in 4.4.6.
- 4.4.8. For the trial board, the evidentiary burden of proof is by the preponderance of evidence.
- 4.4.9. The Office of the City Attorney or their designee will represent the Agency's interest before the trial board as directed by the Chief, which may include presenting evidence and calling witnesses to prove police misconduct occurred.
- 4.4.10. Within 30 days after issuance of the trial board report, the decision may be appealed by the employee to the Circuit Court of the County in which the law enforcement agency is located. A trial board decision that is not appealed is final.
  - 4.4.10.1. An appeal taken under this subsection shall be on the record.

4.4.11. A trial board decision is final unless appealed by a police officer under subsection 4.4.10. of this General Order.