



## INVESTIGATION OF MAJOR IID COMPLAINTS

<b>WRITTEN DIRECTIVE:</b>	<b>5.2</b>
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### **I. Purpose**

The purpose of this Written Directive is to establish procedures for conducting investigations of major complaints and interrogations.

### **II. Policy**

It shall be the policy of the University of Maryland, Baltimore Police Force (UMBPF) all investigations and interrogations of members, both sworn and non-sworn, shall be conducted as required in this Written Directive.

### **III. Case Management**

#### **A. Major Investigations**

1. The Professional Standards Commander shall manage the investigation of all major complaints. The Internal Investigations Division (IID) shall conduct the investigation.
2. The IID shall:
  - a. Issue the control number for complaints, and
  - b. Keep a permanent record of all such complaint control numbers issued.
3. The determination of major versus minor violations will be according to the available facts of each case, in compliance with violations listing found in **WD 5.1, Filing and Investigation of Minor IID Complaints**, and this policy.
4. The investigator shall make every effort to complete the investigation **within ninety (90) calendar** days unless some unexpected circumstances prevent this from occurring. If the investigator requires more time to complete the investigation, a written request to the Professional Standards Commander for approval or disapproval will be submitted. In

order for the extension to be granted, the justification for the delay must be reasonable, prudent, and objectively based.

B. Disposition of Complaints

1. When a final disposition is determined, the Professional Standards Commander or designee will notify the complainant.
2. All notifications to complainants, in person, by telephone, or written correspondence shall be documented and become part of the investigative file.
3. If the investigation takes **longer than six (6) months**, the complainant shall be provided with status reports **every six (6) months until** the final disposition is determined.

C. The Investigation

1. When conducting a major IID investigation, the adherence to the accused member's rights under the Law Enforcement Officer's Bill of Rights (LEOBR) or UMBFP policy is paramount. Sworn members shall be provided **UMBPF Form 17-011, Explanation of Police Officer's Rights** shown in **Annex A** and found in **Appendix 5.1.3, Explanation of Police Officer's Rights** and the Forms file in the X drive. Non-sworn members rights shall be protected. They shall be notified of the complaint in writing as stated in **WD 5.1 Filing and Investigation of Minor IID Complaints** and may file appeals of any results as stated in **WD 4.10, Grievances and Appeals**.
2. An impartial investigation of a complaint will include the following:
  - a. Collecting all pertinent written reports;
  - b. Interviewing all witnesses and taking signed statements;
  - c. Collecting all evidence related to the case;
  - d. Consulting with superior officers as required;
  - e. Advising the accused member they are under investigation; and
  - f. Interrogating the accused member.
3. A written case folder will be created containing the following:
  - a. Chain of custody sheet;
  - b. Summary of investigation, classification of incident, and recommended action;  
and
  - c. Appropriate supporting documents.

4. When the investigation is complete, the file will contain:
  - a. A statement of complaint, and
  - b. Statements, reports, photos, and other evidence.

#### **IV. Interrogation Procedure**

##### **A. Rules for Interrogation**

1. Whenever a member is under investigation or subjected to interrogation for any reason that could lead to disciplinary action, demotion, or dismissal, the investigation or interrogation shall be conducted under the following rules:
  - a. The interrogation shall be conducted at a reasonable hour, preferably at a time when the accused member is on duty, unless the seriousness of the investigation is of such a degree that an immediate interrogation is required;
  - b. The interrogation shall take place at a reasonable and appropriate place, either at the office of the investigating officer or as designated by the investigating officer, unless otherwise waived by the accused member;
  - c. The member(s) under investigation shall be informed of the name and rank of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation;
  - d. Prior to asking the accused sworn member questions, (s)he will be given **five (5) days** in accordance with LEOBR to obtain representation if desired; and
  - e. Prior to asking the accused non-sworn member questions, (s)he will be given **five (5) days** to obtain representation. Representation will be as described in the current MOU.
2. There shall only be **one interrogator** and **that interrogator will ask** all questions.
3. Interrogating sessions shall be for reasonable periods of time and shall be timed to allow for any personal necessities and rest periods as are reasonably necessary.

##### **B. Allegations Alleging Brutality**

1. A complaint against a sworn member alleging brutality or excessive force in the execution of their duties, may not be investigated unless the complaint is filed by the aggrieved person, a member of the aggrieved person's immediate family, 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.

2. Maryland law requires that complaints about police brutality and excessive force be filed **within 366** days of the incident. An investigation may be initiated by the Professional Standards Commander if it is determined an immediate investigation is necessary.
3. The sworn member under investigation shall be informed in writing of the nature of the investigation prior to the interrogation. Upon completion of the investigation, the accused sworn member shall be notified of the specifications of charges **not less than 10 days prior to any hearing**. In addition, the sworn member under investigation shall be furnished with a copy of the investigatory file, including the identity of the complainant, the confidential sources, and any information that will not be used in the upcoming hearing, any recommendations as to charges, disposition, or punishment. This information will be given to the accused **not less than 10 days** before any hearing, if the officer and the officer's representative agree:
  - a. To execute a confidentiality agreement with the UMBPF not to disclose any of the material contained in the record for any purpose other than to defend them, and
  - b. To pay any reasonable cost of reproducing the material involved.

C. Investigative Procedures and Testing

1. In addition to interviews with the complainant and member, the IID investigator may require other activities to support an internal investigation and may include medical examinations, lab examinations for blood alcohol, blood tests, breath tests, or urine tests for controlled dangerous substances, or deception detection examinations as long as they are specifically related to the subject matter of the investigation and used in accordance with requirements as set forth in the Law Enforcement Officer's Bill of Rights (LEOBR), UMBPF and UMB policy, and the AFSCME MOU (fitness for duty or drug or alcohol consumption is an exception).
2. Members may be required to submit to other investigative techniques that may include photographs, audio or video recordings, financial disclosure statements, participation in line-ups, and/or any other investigative technique as deemed appropriate and permitted by law.
3. This Written Directive does not prevent the UMBPF from commencing any action which may lead to a punitive measure as a result of a member'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. The results of any blood alcohol test, blood, breath, or urine test for controlled dangerous substances, polygraph examination, or interrogation are **not admissible in any criminal proceedings against** the member when the member has been ordered to submit to the tests or examinations.
4. The results of a polygraph examination **may not be used as evidence in any administrative hearing** when the member has been **ordered to submit to a polygraph**

examination by the UMBPF unless both agree to the admission of the results at the Administrative Hearing.

D. Recording Required

1. A complete written, audio, video, or transcribed record shall be kept of the complete interrogation of a member, including all recess periods. Upon completion of the investigation and upon request of the member under investigation, or his/her counsel or representative, a copy of the record of his/her interrogation shall be made available not less than ten (10) days prior to any hearing.
2. The UMBPF may not insert any adverse material into any file of the member, except the file of the internal investigation, unless the member has an opportunity to review, sign, receive a copy of, and comment in writing upon the adverse material, unless the member waives these rights.

E. Advisement of Rights

If the member under interrogation is under arrest or is likely to be placed under arrest as a result of the interrogation, they shall be completely informed of all rights prior to the commencement of the interrogation. **UMBPF Form 16-021, Explanation and Waiver of Rights** shall be completed. The form is shown in **Annex B** and found in **Appendix 6.30.3** or the Forms file of in the X drive.

F. Right to be Represented by Counsel or Representative

1. At the request of any member under interrogation, they shall have the right to be represented by counsel or representative of their choice as who shall be present at all times during the interrogation, unless waived by the member.
  - a. The interrogation shall be suspended for a period of time not to exceed five (5) days until representation is obtained. However, the Professional Standards Commander or designee may, for good cause shown and within that five-day period, extend that period of time.
  - b. The right to council or representation is discussed in **Section IV, A**, above.
2. The member's representative need not be present during the actual administration of a polygraph examination by a certified polygraph examiner, if:
  - a. The questions to be asked are reviewed with the member or his/her representative prior to the administration of the polygraph examination, and
  - b. If a copy of the final report of the examination by the certified polygraph examiner is made available to the member or his/her representative within a reasonable period of time, not to exceed ten (10) days after the completion of the examination.

## V. Charging Procedures

### A. Role of the Professional Standards Commander

Upon completion of the investigation by the IID, the investigator shall submit the case folder in to the Professional Standards Commander for review. If the Professional Standards Commander approves the conclusions determined by the investigator, the case shall proceed as indicated in the case file.

### B. Statement of Charges

If the investigative case file indicates charges shall be placed against the member, the investigator shall prepare the charging document. The statement of charges form will include the name of the defendant and the plaintiff in the case, the preliminary statement of allegations, and the charging officer.

## VI. Civil Suits

The UMBPF may not adopt any regulation, which prohibits the right of a sworn member to bring suit arising out of his/her duties as a sworn member. This probation applies for non-sworn members in the performance of their Public Safety related duties.

## VII. Annex List

A. UMBPF Form 17-011, Explanation of Police Officer's Rights

B. UMBPF Form 16-021, Explanation and Waiver of Rights

### Written Directive System Impact

Upon approval and publication, this edition of WD 5.2 supersedes all previous editions. Additionally, it incorporates and replaces certain sections of WD 5.4, Charging Procedure and WD 5.9, Internal Investigations, both of which shall be deactivated.



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Interim Chief of Police for Public Safety

CALEA Standard (s): 26.3.1; 26.3.3; 26.3.4; 26.3.6

## Annex A, UMBPF Form 17-011, Explanation of Police Officer's Rights

UNIVERSITY of MARYLAND, BALTIMORE

# POLICE FORCE

## Explanation of Police Officer's Rights

Pursuant to the Law Enforcement Officers' Bill of Rights, Maryland Annotated Code, Public Safety Article, § 3-104, et seq., you are being advised of the following:

1. 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:
  - a. The interrogation shall be at a reasonable hour, preferably while you are on duty, unless the seriousness of the investigation is of such a degree that an immediate interrogation is required. \_\_\_\_\_
  - b. The interrogation shall take place either at the Internal Investigations Division or any other reasonable and appropriate place. \_\_\_\_\_
  - c. You shall be informed of the name, rank, and command of the officer in charge of the investigation, the interrogating officer, and all persons during the interrogation. All questions directed to you shall be asked by and through one interrogator during any one interrogating session consistent with the provisions of subsection (1) (d) of this notice. The command and officer in charge of the investigation is \_\_\_\_\_.
  - d. Interrogating sessions shall be for reasonable periods and shall be timed to allow for any personal necessities and rest periods as are reasonably necessary. \_\_\_\_\_
  - e. You may not be threatened with transfer, dismissal, or disciplinary action. \_\_\_\_\_
  - f. You have the right to be represented by counsel or any other responsible representative of your choice during your interrogation unless waived by you. The interrogation shall be suspended for a period of time not to exceed five (5) days until representation is obtained. \_\_\_\_\_
  - g. A complaint against you, alleging brutality in the execution of your duties, may not be investigated unless the complaint is duly sworn by a qualified complainant. However, the Maryland Court of Appeals has ruled that a police agency is not prohibited from proceeding on its own with a brutality investigation if it so chooses. \_\_\_\_\_
  - h. You may be ordered to submit to blood alcohol tests, blood, breath, or urine tests for controlled dangerous substances, polygraph examinations, or interrogations that specifically relate to the other subject matter of the investigation. Refusal to submit to such test or adherence to such an order may lead to disciplinary action taken against you. The result of such tests or interrogation is not admissible in any criminal proceeding against you. The results of a polygraph examination may not be used as evidence against you in an administrative hearing, unless both you and the Department agree to the admission of the results. \_\_\_\_\_



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UMBPF Form 17-011

**Annex A, Cont.**

- i. If at the time of the interrogation you are under arrest, or are likely to be placed under arrest as a result of the interrogation, you shall be informed of all your rights prior to the commencement of this interrogation. \_\_\_\_\_

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

Do you understand your rights?  YES  NO

Do you want a Lawyer or representative present at this time?  YES  NO

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Witness Signature: \_\_\_\_\_





Annex B, UMBPF Form 16-021, Explanation and Waiver or Rights

UNIVERSITY of MARYLAND, BALTIMORE

**POLICE FORCE**

**Explanation and Waiver of Rights**

CC# \_\_\_\_\_

Name \_\_\_\_\_

Date/Time \_\_\_\_\_

Location \_\_\_\_\_

**YOU ARE ADVISED THAT:**

1. You have the right to remain silent. \_\_\_\_\_
2. Anything you say or write may be used against you in a court of law. \_\_\_\_\_
3. You have the right to talk with an Attorney before/during any questioning. \_\_\_\_\_
4. If you agree to answer questions, you may stop at any time and request an Attorney and no further questions will be asked of you. \_\_\_\_\_
5. If you want an Attorney and cannot afford to hire one, an Attorney will be appointed to represent you. \_\_\_\_\_

**I have been advised of and understand my rights. I freely and voluntarily waive my rights and Agree to talk with the police without having an Attorney present.**

Signature: \_\_\_\_\_

Officer's Printed Name \_\_\_\_\_

Officer's Signature \_\_\_\_\_

Rank \_\_\_\_\_ Unit \_\_\_\_\_ Badge # \_\_\_\_\_

Witnesses: \_\_\_\_\_



UMBPF Form 16-021