

## Personnel Complaints

### 1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of members of the Havre de Grace Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment, or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 1010.2 POLICY

The Havre de Grace Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules:

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy, or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy, federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

#### 1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Internal Complaint-** A matter in which the complaint process is initiated or filed by a member of the Havre de Grace Police Department or the City of Havre de Grace Administration.

**External Complaint -** A matter in which the complaint process is initiated by a source or citizen outside of the organization. Note: Disputes involving matters of law that fall under the purview of the courts are not subject to the complaint process, i.e., disputes over traffic citations or disagreements concerning procedures.

#### 1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone. Individuals from the public may also file complaints with the Police Accountability Board on the Harford County Government website.

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- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

#### **1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

##### 1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website (Md. Code PS § 3-515). Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

##### 1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a Personnel Compliment/ Complaint form(HdG PD Form #IA1) as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

#### **1010.5 DOCUMENTATION**

Supervisors shall ensure that external complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible. Determination of either an informal or formal internal investigation will be made by the Division Commander

All complaints and inquiries should also be documented in Blue Team. The Blue Team entry shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the entries and send an audit report to the Chief of Police or the authorized designee.

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#### 1010.5.1 COMPLAINTS ALLEGING OFFICER MISCONDUCT

A complaint that alleges a pattern, practice, or conduct by an officer that includes the deprivation of constitutional rights, a violation of criminal law, or a violation of department standards or policy should include (Md. Code PS § 3-103):

- (a) The name of the officer.
- (b) A description of the alleged facts leading to the complaint.
- (c) Contact information of the person making the complaint.
- (d) Any other information required by law.

#### 1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

##### 1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any complaint, a complaint form is completed.
  - 1. The original complaint form will be directed to the Division Commander of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  - 2. In circumstances where the complaint requires an urgent investigation, i.e a DUI involving a department member, a supervisor shall orally report the matter to the member's Division Commander or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
  - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution a Form 17 and forward the form to the Division Commander.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Division Commander and the Chief of Police are notified via the chain of command as soon as practicable.

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- (e) Promptly contacting the Division Commander for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic, or other forms of unlawful or prohibited harassment or discrimination. The Division Commander will notify the Director for Human Resources and the Chief.
- (f) Forwarding unresolved personnel complaints to the Division Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses, and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### 1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Internal Affairs Unit, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, the employee shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Havre de Grace Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, the employee should be informed in writing of the nature of the investigation.
- (e) All interviews should be for a reasonable period, and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards, or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable

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steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview may be provided to the employee prior to any subsequent interview.
  - (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
  - (j) All employees shall provide complete and truthful responses to questions posed during interviews.
  - (k) No employee should be compelled to submit to a polygraph examination, nor should any refusal to submit to such examination be mentioned in any investigation (Md. Code PS § 3-107).

### 1010.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

### 1010.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

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**ADMINISTRATIVELY CHARGED:** Means that a law enforcement officer has been formally accused of misconduct in an administrative proceeding.

**EXONERATED:** Means that a law enforcement officer acted in accordance with the law and Agency policy.

**NOT ADMINISTRATIVELY CHARGED:** Means that a determination has been made not to administratively charge a law enforcement officer in connection with alleged misconduct.

**POLICE MISCONDUCT:** Means a pattern, a practice, or conduct by a law enforcement officer or law enforcement agency that includes:

- Depriving persons of rights protected by the constitution or laws of the State or the United States;
- A violation of a criminal statute; and
- A violation of law enforcement agency standards and policies.

**UNFOUNDED:** Means that the allegations against a law enforcement officer are not supported by fact.

#### 1010.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

A complaint of officer misconduct (as defined in Md. Code PS § 3-101) made by a member of the public is subject to immediate review and completion within a sufficient amount of time so that any disposition by the appropriate administrative charging committee can be accomplished within the obligated statutory timeframe (Md. Code PS § 3-113).

#### 1010.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

#### 1010.6.7 NOTICE RELATED TO OFFICER MISCONDUCT

The crime victim liaison should serve as the department's contact for the public in complaints related to officer misconduct covered by Md. Code PS § 3-101 et seq. and should (Md. Code PS § 3-108):

- (a) Explain to a complainant the various processes involved and any decisions made, including status updates through each stage.
- (b) Provide a complainant with an opportunity to review an officer's statement before completion of the department's investigation, with any redactions of protected information that may be required by law.
- (c) Provide any other support required by law.

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The Department should create and maintain a database that enables a complainant to enter their case number to follow the status of the case throughout each stage, and the crime victim liaison should make sure that a complainant is provided information with how to access this database (Md. Code PS § 3-108).

#### **1010.7 ADMINISTRATIVE SEARCHES**

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

#### **1010.8 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Chief of Police may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

#### **1010.9 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the rank of Lieutenant for review of sufficiency. The Lieutenant will review the report and either submit an endorsement or return the document for corrections. The endorsed document will be forwarded to the appropriate Division Commander.

##### **1010.9.1 DIVISION COMMANDER RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file, and any other relevant materials.

The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed. Recommendation should be consistent with the matrix approved by the Maryland Police Training and Standards Commission.

Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

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When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

#### 1010.9.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Chief shall review the entire investigative file, the member's personnel file, and any other relevant materials. If the endorsements recommend disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. Discipline for officers shall be in compliance with the uniform state disciplinary matrix adopted by the Maryland Police Training and Standards Commission (MPTSC) (Md. Code PS § 3-105). If disciplinary action is proposed for an internal complaint, the Chief of Police will provide the member with a written notice and the following: (For External Complaints meeting the criteria related to the Administrative Charging Committee see section 1010.9.6)

- (a) Access to all the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

If the member accepts the Chief's offer of discipline, then the offered discipline will be imposed. If the member does not accept the Chief's offer of discipline, then the matter will be referred to a hearing board in accordance with 1010.9.3.

#### 1010.9.3 TRIAL BOARD

If an officer refuses the Chief of Police's offer of discipline, following an administrative charging committee's charge, the matter should be referred to a trial board for a hearing as provided by Md. Code PS § 3-106 and any related regulations. The Chief of Police or the authorized designee should establish a trial board process consistent with state law that will govern these proceedings (Md. Code PS § 3-106). At least 30 days before any trial board proceeding begins, the officer should be (Md. Code PS § 3-105):

- (a) Provided with a copy of the investigatory record.
- (b) Notified of the charges against the officer.



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- (c) Notified of the discipline being recommended.

#### Composition of a trial Board:

A trial board to adjudicate all matters for which an officer is subject to discipline will be composed of:

- An active serving or retired administrative law judge or a retired judge of the District Court or a circuit court, appointed by the Harford County Executive;
- A civilian who is not a member of an administrative charging committee, appointed by the Harford County Police Accountability Board;
- An officer of equal rank to the officer who is accused of misconduct, appointed by the Chief.

**\*\*Before serving as a member of a trial board, an individual will receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission\*\***

- The actively serving or retired administrative law judge or retired judge of the District Court or a circuit court will:
  - Be the chair of the trial board;
  - Be responsible for ruling on all motions before the trial board;
  - and prepare the written decision of the trial board, including the findings, conclusions, and recommendations of the trial board.
- Within 45 days after the final hearing by a trial board, the trial board will issue a written decision reflecting the findings, conclusions, and recommendations of a majority of the trial board.

#### Proceedings:

- Proceedings of a trial board will be open to the public, except to protect:
  - A victims identity
  - The personal privacy of an individual
  - A child witness
  - Medical records
  - The identity of a confidential source
  - An investigative technique or procedure
  - The life or physical safety of an individual.
- The trial board may administer oaths and issue subpoenas as necessary to complete its work.
- A complainant has the right to be notified of a trial board, and except for the protections provided above, the right to attend the trial board.

#### Burden of Proof:

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- Except as otherwise provided, the Department has the burden of proof by a preponderance of the evidence in any proceeding within this policy.
- Within 30 days after the date of issuance of a decision of a trial board, the decision may be appealed by the officer to the Circuit Court of Harford County.
- A trial board decision is final unless appealed by the officer to the Circuit Court of Harford County.

Once the decision from the trial board is final, the Chief of Police should proceed to conclude the matter in accordance with its recommendations.

#### 1010.9.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

#### 1010.9.5 NOTICE REQUIREMENTS

The Chief of Police or the authorized designee shall provide any notifications required by the uniform citizen complaint process developed by the MPTSC (Md. Code PS § 3-207).

For complaints related to officer misconduct covered by Md. Code PS § 3-101 et seq., the crime victim liaison should provide a case summary to the complainant within 30 days after the final disposition of the complaint, with any redactions of protected information that may be required by law (Md. Code PS § 3-108).

#### 1010.9.6 ADMINISTRATIVE CHARGING COMMITTEE

For complaints alleging a pattern, practice, or conduct by an officer that includes the deprivation of constitutional rights, a violation of criminal law, or a violation of department standards or policy involving a member of the public, before the determination or imposition of any discipline, the Chief of Police or the authorized designee should forward the investigatory files to the appropriate Administrative Charging Committee, with any redactions of protected information that may be required by law (Md. Code PS § 3-101; Md. Code PS § 3-104). All such submissions to the Administrative Charging Committee may include certain written recommendations from the Chief of Police and should be made within the timeframe established by law (COMAR 12.04.09.06).

If the Administrative Charging Committee issues an administrative charge against an officer, within 15 days thereafter, the Chief of Police should offer that officer discipline that is consistent with the uniform state disciplinary matrix, but in no case less than the discipline recommended by the Administrative Charging Committee (Md. Code PS § 3-105).

#### 1010.10 PRE-DISCIPLINE EMPLOYEE RESPONSE

Employees not covered by Md. Code PS § 3-101 et seq. will be given a pre-discipline meeting with the Chief of Police.

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review

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the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation be conducted or may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

#### **1010.11 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

Notice that a licensed member separated shall be sent to the MPTSC within 30 days of member's change in employment status (COMAR 12.04.01.02).

#### **1010.12 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by an employment agreement or other rules.

In the event of punitive action against an officer under Md. Code PS § 3-101 et seq., the appeal process shall be as provided in Md. Code PS § 3-106.

#### **1010.13 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and members other than non-probationary employees or officers under Md. Code PS § 3-101 et seq. may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their name through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

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#### **1010.14 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

#### **1010.15 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons, and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift and will report as ordered.

##### **1010.15.1 EMERGENCY SUSPENSION**

For complaints against officers covered by Md. Code PS § 3-101 et seq., administrative leave may only be imposed as provided by Md. Code PS § 3-107, which addresses when pay and law enforcement authority may be suspended and which limits suspensions to considerations of the public's best interest and a period of 30 days if the suspension is without pay.

#### **1010.16 HAVRE DE GRACE POLICE ACCOUNTABILITY FLOW CHART**

[See attachment: HdG Police Internal Complain Process.pdf](#)

[See attachment: HdG Police Accountability Flow Chart.pdf](#)

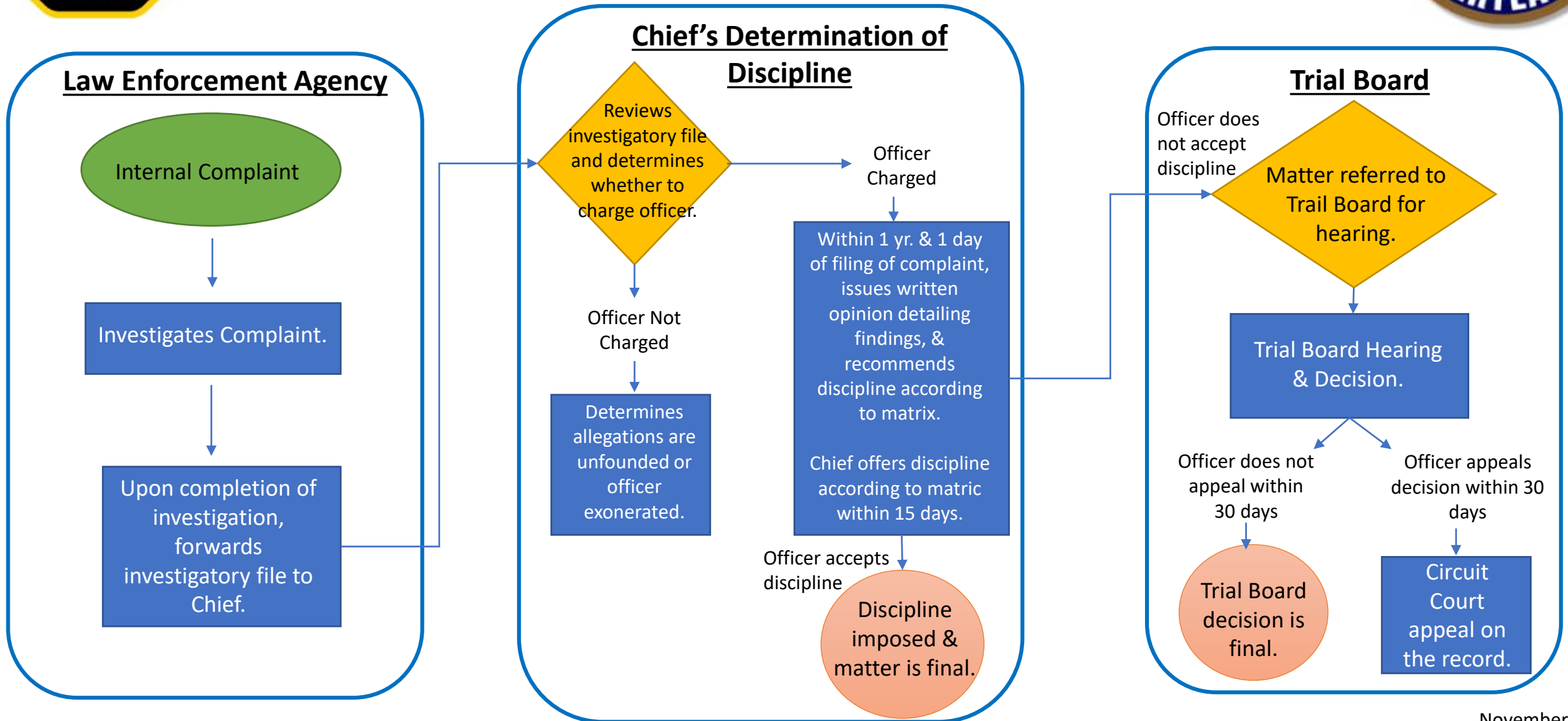
## Attachments

## **HdG Police Internal Complain Process.pdf**



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## Police Internal Complain Process



## **HdG Police Accountability Flow Chart.pdf**





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## Police Accountability Board Complaint Process

