



Public Integrity Bureau

Internal Operations and Training Manual

SEPTEMBER 2020 Edition*

**Each section herein contains its respective court-approved date.*

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CHAPTER 1: INTAKE AND CLASSIFICATION

SECTION 1.A: PROCEDURES FOR RECEIVING COMPLAINTS

**Final court-filed version
Dated 11 March 2020**

This section describes the steps that BPD's Public Integrity Bureau (PIB) takes upon receiving any complaint of misconduct from an external (non-BPD) source. This Manual shall be read in conjunction with Policy 306, *Complaint Intake and Classification Process*.

I. GENERAL PRINCIPLES

1. Intake Members shall accept and investigate anonymous complaints regardless of the (1) means by which the complaint is received (e.g., mail, walk-in, etc.) and the (2) nature of any information omitted (e.g., phone number, address, etc.). A complainant who requests anonymity shall have their complaint entered into IAPro as an anonymous complainant.
2. Intake Members are strictly forbidden from: interfering with, hindering, obstructing, or unnecessarily delaying a complainant from filing a complaint; threatening or harassing a complainant; or otherwise taking any adverse action against a complainant. For the Core Principles of complaint intake, as well as additional Prohibited Actions for Members, see Policy 306, *Complaint Intake and Classification Process*.
3. If at any point an Intake Member becomes aware of a conflict of interest which would undermine their ability to conduct an impartial complaint intake, they shall immediately notify a supervisor.
 - 3.1. The supervisor may assign a different PIB member to conduct the complaint intake if they decide that the initial Intake Member's conflict is sufficiently great as to undermine that Member's ability to be impartial.
 - 3.2. Each Intake Member is required to fill out an IAS Recusal Form (Appendix A) by the end of their tour of duty on the day that they receive a preliminary assignment of a Complaint. This form requires the disclosure of the Intake Member's relationship to the member being investigated, what connections (whether direct or indirect) they may have, and any pertinent information that the investigator may know about the member.

II. NONDISCRIMINATION

1. Intake Members shall be especially sensitive when receiving complaints or witness statements from youth (see Policy 1207, *Youth Interrogations* and Policy 1202, *Youth Interactions*).
2. Intake Members shall not fail to call a supervisor or accept a complaint on the basis of actual or perceived personal characteristics which are protected under Policy 317, *Fair and Impartial Policing*.
3. The fact that a complainant does not speak, read or write English shall not be grounds to decline to accept or investigate a complaint (see Policy 1735, *Language Access Services for Limited English Proficient Persons*). Spanish-speaking complainants shall be provided with Spanish-language complaint forms, upon request.
4. The fact that a complainant is deaf or hard of hearing shall not be grounds to decline to accept or investigate a complaint (see Policy 1103, *Communicating with Individuals Who Are Deaf and Hard of Hearing*). All necessary accommodations should be made for complainants who are deaf or hard of hearing.

III. GENERAL INTAKE STRUCTURE

1. In general, a PIB detective serves as the Intake Member responsible for taking complaints that are made over the phone (by complainants calling 410-396-2300) or complaints by a person who visits the PIB building (in-person at 2524 Kirk Ave.). PIB detectives are assigned this role on a rotation basis. This rotation is commonly known as “Batter’s Up”. A PIB supervisor is responsible for scheduling phone and in-person rotation assignments. A PIB supervisor is also responsible for ensuring that PIB personnel is assigned to staff in-person and over the phone intake at all times that PIB is open.
2. In general, the Administrative Unit at PIB is responsible for receiving and processing complaints that are made online, through email, and by mail or other paper-based complaints. Complaints that are emailed to complaints@baltimorepolice.org or made through the online complaint form on the BPD’s website are received directly by the PIB Online Intake Member.
3. In general, the Intake Member who receives the complaint and conducts the intake is the member responsible for inputting the complaint into IAPro. The Intake Member must enter the complaint into IAPro before their tour of duty ends.
 - 3.1. The member entering the complaint into IAPro must conduct a duplication and associated case check prior to inputting the case into IAPro. This is achieved by querying for Complainant name and/or BPD member name. The Intake Member shall follow the steps described in Section 1.B, PIB Classification Protocol, Part (II)(4).
 - 3.2. The member must also upload all evidence received, including all original complaint forms, documentary evidence and electronic evidence obtained, into IAPro upon entering the case. See Policy 306 at p. 9.

- 3.3. Once entered into IAPro, the case is automatically forwarded to the Classification Supervisor for classification (see Section 1.B, PIB Classification Protocol).
4. All complaints entered into BlueTeam (including complaints that were taken by supervisors at the scene of an incident, by supervisors at any BPD building, or via the 24-hour hotline by a Communications Supervisor) are reviewed and processed by the Classification Supervisor for classification.

IV. REQUIRED ACTIONS FOR ALL COMPLAINTS RECEIVED BY PIB

1. Any member receiving a complaint and/or staffing intake will be courteous and respectful to all complainants. They will not show judgment or skepticism, and treat all complainants and their companions with good customer service.
 - 1.1. If a complainant expresses nervousness or concern, or prefers to provide their complaint in a way other than by phone, email, in-person, or mail, Intake Members shall respond respectfully and flexibly. The Intake Member may explain why a specific procedure is preferred (e.g., it is preferable to interview a complainant alone to preserve the impartiality of the investigation), but ultimately the member should do what is needed to ensure the complainant has a full and fair opportunity to provide a candid account without pressure to do so in a specific manner.
 - 1.2. Generally, whenever the intake deviates from normal procedure detailed below to accommodate the complainant's wishes or needs, the Intake Member should note the reason for it in the IAPro casefile.
2. During all intake interviews, the Intake Member will first allow the complainant to provide their narrative uninterrupted. After they have given their account, the Intake Member will ask any relevant follow up questions to see if there is any further information the complainant has to provide.
3. The PIB Intake Member conducting the intake will ask for as much detailed information as possible, referring to the complaint form as a guide. Nevertheless, the Intake Member shall not require any further information beyond what the complainant is willing to provide.
4. Intake Members shall obtain as much contact information from the complainant as they are willing to provide, but should attempt to obtain phone number, email, and address at a minimum. The Intake Member should note the complainant's preferred method of contact, including phone, email, text, or mail.
5. Intake Members shall also ask complainants about the existence of electronic evidence such as texts, photographs, video or other recording that is relevant to the complaint. Many forms of electronic evidence (e.g. items posted online or store security video) require rapid collection and thus should be identified at the earliest opportunity.
 - 5.1. Intake Members shall seek the complainant's consent to view, receive, or copy digital material upon intake. Absent consent, Intake Members are not permitted

- to confiscate phones or flash drives, or otherwise coerce the production of digital images or files. If an investigator believes that a phone or flash drive must be seized because it contains evidence of a crime, a search warrant must be obtained.
- 5.2. Original materials should be copied so that all property can be returned to the Complainant at the time of intake, when feasible.
 - 5.3. Copies of digital materials shall be stored as an attachment to the IAPro case file. If that is not possible (e.g., due to the size of the digital file), the Intake Member shall ensure the materials are stored securely and note the location in the IAPro case file.
 - 5.4. The Intake Member shall request that the complainant preserve originals of such evidence, as well as any other tangible or electronic evidence, such as text messages, photographs or recordings, that might exist.
6. At the conclusion of any intake interview, the Intake Member will explain the investigative process, describe the next steps, and respond to any questions about the process.
 - 6.1. They will explain that the case will be assigned to a detective within 72 hour and that a follow up call will be conducted within 5 business.
 - 6.2. They will advise the complainant that retaliation against them is prohibited and they should immediately report any retaliation to PIB.
 - 6.3. They will provide the complainant with general contact information for PIB for asking future questions or submitting additional evidence.
 - 6.4. They will provide the complainant with the PIB case number (PIB#) for tracking their complaint.
 7. If at any point during intake, the relevant Intake Member needs immediate assistance or guidance from a supervisor (including complaint of misconduct that a reasonable and trained investigator would conclude could result in criminal charges or cases requiring special accommodations, for example assistive technologies or location accommodations), that member shall immediately seek assistance from a PIB supervisor.
 8. The Intake Member shall notify their supervisor and PIB Command immediately upon receiving a complaint of a misconduct that a reasonable and trained misconduct investigator would conclude could result in criminal charges. This shall include incidents involving assault, DUI/DWI, domestic incidents or cases where a member is arrested or detained.
 9. If at any point a PIB supervisor notes a need to deviate from the above or below procedures due to an immediate need or a particularly time sensitive or serious matter, the PIB supervisor may deem it necessary to ask a Command-level member for permission to deviate from this procedure. If deviation from this procedure is approved by a member of PIB Command, the supervisor shall note the nature of the deviation, with a detailed rationale, in the IAPro case file.

10. Any member who has conducted an intake is responsible for completing the intake and entering it into IAPro prior to the end of their shift, unless otherwise instructed by a PIB supervisor.

V. RECEIVING COMPLAINTS IN-PERSON AT PIB

In addition to the requirements in Part (IV) above, those PIB Intake Members conducting **in-person intakes** shall follow the below steps:

1. Conduct the intake in an interview room, whenever possible and acceptable to the complainant. If the complainant does not wish to be interviewed in such a setting, the Intake Member shall accommodate that wish.
2. If there are multiple complainants or witnesses, the Intake Member shall attempt to interview each complainant or witness separately.
3. The Intake Member must inform complainants that the intake interview will be recorded. The Intake Member shall adhere to the procedures outlined in Part (IV)(C)(b)(iv) of Chapter 2, Section 2.A., PIB Investigations Manual, below.
4. The Intake Member will assist the complainant in filling out the complaint form, unless the complainant prefers to fill out the form on their own.
5. After the form has been filled out with as much information as the complainant would like to provide, the Intake Member should give the complainant the bottom copy of the complaint form and the PIB# associated with this complaint.

VI. RECEIVING COMPLAINTS BY PHONE AT PIB

In addition to the requirements in Part (IV) above, those PIB Intake Members conducting **phone intakes** shall follow the below steps:

1. When answering the phone, Intake Members must speak slowly, clearly, and state that the call is being recorded.
2. When a person on the phone is calling to make a complaint against a BPD member, the Intake Member must either fill out the complaint form or enter the complainant's information directly into IAPro. The Intake Member must use the complaint form as a guide to ask the complainant for the information about their complaint. The Intake Member shall provide the complainant with the PIB# assigned to the complaint.

VII. COMPLAINTS RECEIVED ONLINE / EMAIL COMPLAINTS

In addition to the requirements in Part (IV) above, PIB Online Intake Members conducting **online and email intakes** shall follow the below steps:

1. Upon making a complaint through the website or by emailing complaints@baltimorepolice.org, the complainant will receive an auto-response acknowledging receipt of the complaint and informing the complainant that they will be contacted within 5 days.
2. Upon beginning their shift and periodically throughout the workday, the Online Intake

Member will review the PIB inbox for any complaints received via email or the online form.

3. For each complaint received, the Online Intake Member will fill out the complaint form to the best of their ability based on the information received.
4. If the complainant did provide contact information, the Online Intake Member will respond by email within 2 business days to inform the complainant that the complaint was received, to provide them with the PIB number, to ask them their preferred method of contact, and to provide them with the assigned investigator's name and contact information. The Online Intake Member will also inform the complainant that they will be contacted within 5 business days and that the complaint will be fully investigated.
5. If the information provided by the complainant is incomplete or the Online Intake Member has a clarifying question, the Online Intake Member will seek information from the complainant via this follow-up email communication. They will include any additional information they receive in the intake documentation that they forward to classification.

VIII. COMPLAINTS RECEIVED BY MAIL

1. PIB may receive paper complaints either by USPS mail or by BPD internal mail. For paper complaints, the Administrative Unit will receive and process all letters received.
2. All original letters shall be forwarded to the Administrative Unit at PIB.
3. Upon delivery of any original letters, a PIB member in the Administrative Unit will note the receipt of the original letter into the IAPro entry, scan all materials, upload any media, and will place the paper letter into the paper case file within 5 business days.

IX. COMPLAINTS RECEIVED AT PIB THROUGH BLUETEAM

1. At the start of their work shift, the PIB Classification Supervisor will review all new BlueTeam entries from the field. This review encompasses the BlueTeam entry as well as the scanned complaint form, which must be attached to the BlueTeam entry. The Classification Supervisor will follow the procedures outlined in Section II below, PIB Classification Protocol and in Policy 306, *Complaint Intake and Classification Process*.
2. Upon delivery of any original complaint forms for cases received through BlueTeam, a PIB member in the Administrative Unit will note the receipt of the complaint form into the IAPro entry, scan and upload the form (if it is not already attached), and will place the original form into the paper case file.

X. ALL OTHER COMPLAINTS RECEIVED

1. BPD may receive complaints in many other ways, for example via social media, the Mayor's Office, other elected representatives, other government agencies, or community-based organizations. All complaints will be process per the relevant protocol above, depending on the manner with which it was received.

2. See Section 1.C. of this Chapter for protocols governing PIB's procedures related to the Civilian Review Board (CRB) and CRB eligible cases.
3. All such referred complaints will be forwarded to the Classification Supervisor for processing the complaint, intake, and classification (per the Classification Protocol).

SECTION 1.B: PIB CLASSIFICATION PROTOCOL

**Final court-filed version
Dated 28 December 2018**

This protocol governs the Classification and assignment of Misconduct complaints received by the Public Integrity Bureau (“PIB”) at the Baltimore Police Department (“BPD”). It shall be read in accordance with Policy 306, *Complaint Intake and Classification Process*. Policy 306 shall govern in the case of any conflicts between it and this protocol.

This protocol shall also be read in accordance with the separate protocol governing the exchange of information and materials between the Civilian Review Board (“CRB”) and PIB at the outset of an investigation (“CRB-PIB Protocol”). The CRB-PIB Protocol specifies procedures designed to ensure compliance with state law providing for concurrent investigation of certain public complaints by CRB and PIB. See MD PLL § 16-41 (“CRB Law”) *et seq.* The CRB Law and the CRB-PIB Protocol shall govern in the case of any conflicts between them and this protocol.

I. DEFINITIONS

Allegation – Any assertion of wrongdoing against a member of BPD, whether by a member of the public or a member of the BPD.

BlueTeam – An incident logging and tracking program used by BPD to document a variety of police incidents (e.g., complaints, uses of force, etc.) and link them to the IAPro case management system used by PIB (see below).

Complainant – Any person who makes a complaint of Misconduct or makes a Service Complaint. A Complainant need not be the victim of, or a witness to the complained-of conduct.

Category – Certain tracked characteristics of a complaint, per the list provided in Section IV below.

Classification – A Category assigned to each case to delineate the potential type of Misconduct. Cases may be classified as Serious Misconduct, Other Misconduct, or as a Service Complaint.

Criminal Misconduct – Action, inaction, and/or failure to act by any member of the BPD that violates criminal law.

External Complaint – Complaints of Misconduct made by a member of the public.

IAPro – A case management system used by PIB to track, document and store case information for police Internal or External Complaints, discipline, and statistics purposes.

Intake Member – BPD member assigned to PIB who is responsible for receiving Complaints – whether by phone, email, in-person, or by reviewing BlueTeam for supervisor entries.

Internal Complaint – Complaint of Misconduct made by a BPD member.

Misconduct – Action, inaction, and/or failure to act committed by any member of BPD, civilian or sworn, that violates BPD policy, or the law, including but not limited to criminal acts, applicable civil laws, administrative rules, or regulations.

PIB Classification Supervisor – A BPD lieutenant, assigned to PIB, who is responsible for assigning applicable categories, Classifications, sub-Classifications and Allegations to every complaint received by PIB prior to the case being assigned to an investigator.

Service Complaint – A complaint about a police service (e.g., arrival times, applications of BPD policies) that does not allege member Misconduct.

Unified Complaint Form – A form that members of the public may use to report Misconduct by BPD officers to the Public Integrity Bureau or the Civilian Review Board. BPD members will accept complaint forms at any BPD facility, or in person at any time.

II. CLASSIFICATION PROCEDURES

1. Complaints may be received by BPD and routed to PIB in several ways. See Policy 306, *Complaint Intake and Classification Process*. Every complaint against a BPD member received by PIB, no matter the method of receipt or the amount of information provided, will be forwarded to the PIB Classification Supervisor.
 - 1.1. The Classification Supervisor will conduct a review of all BlueTeam entries, including those received from the field and those inputted by PIB's Intake Members, periodically through the workday. This review shall include a review of the Unified Complaint Form and its full narrative, as well as any attached supplemental reports or exhibits (e.g., e-mail message or handwritten notes from Complainant).
2. The PIB Classification Supervisor will thoroughly review the complaint received and will determine the appropriate Category (or categories, if more than one are appropriate), the appropriate Classification and sub-Classification, and *all* applicable Allegations based on the information provided in the complaint.
 - 2.1. Classification will be based solely on the nature of the Allegations and facts alleged available at the time the complaint is received. (Subsequently-obtained Allegations or evidence may warrant re-Classification as described in Policy 306, page 12.)
 - 2.2. In determining how to classify a complaint, the PIB Classification Supervisor will assess whether the Allegations and information provided thus far, if true, would establish a violation of applicable laws, BPD policies, or regulations.
 - 2.3. The PIB Classification Supervisor will refer to the below categories, Classifications and Allegations to determine the proper Classification of the case.
 - 2.4. It may be appropriate to associate multiple employees and/or multiple Allegations with a single complaint. The Classification Supervisor will assign

Allegations to each involved employee as appropriate based on a review of the facts alleged within the four corners of the complaint.

- **Example:** Complainant A alleges that Officers B and C improperly stopped her as she walked out of an apartment building. She also alleges that Officer B searched her purse without justification and that Officer C used abusive language when she complained of their actions. Allegations regarding the stop would be assigned to both officers, Allegations regarding the search assigned to Officer B, and those regarding abusive language assigned to Officer C.
3. Because it is possible that a single incident may generate multiple complaints — either from the same Complainant or from others present at the scene — it is important to determine whether a newly-received complaint is a duplicate of, or closely associated with, a previously-received or assigned complaint.
- **Example 1: (Duplicate Allegations; Same Complainant):** Complainant A files a complaint at the Eastern District regarding the above-described Allegations against Officers B and C regarding the incident outside the apartment building. One week later, she files a second complaint with CRB alleging the same Misconduct.
 - **Example 2: (Duplicate Allegations; Different Complainants):** Same as Example 1, except that the second complaint filed with CRB was made by Complainant D, who allegedly witnessed the incident from her apartment window.
 - **Example 3: (Associated Complaint):** Complainant A files her complaint regarding Officers B and C at the Eastern District. In addition, Complainant D, files a complaint alleging that he saw the above-described interaction, told the officers to leave Complainant A alone, and then heard Officer C respond to him with abusive language.
4. In order to identify duplicate or associated complaints, the Classification Supervisor will conduct a duplication / association case check on all complaints received prior to assigning a new complaint for investigation or forwarding a CRB-eligible complaint to CRB. This is achieved by querying for Complainant name and/or BPD member name, and/or witness name (if necessary) in IAPro.
- 4.1. If a duplication is identified (Examples 1 and 2 above), the Classification Supervisor will upload and add all of the additional information received in the second complaint into the already existing case in IAPro – even if the complaints were made by different Complainants – to ensure that the investigator receives complete information about the incident.
- 4.1.1. The Classification Supervisor will follow the same procedure even when the second complaint is received much later than the first.
- 4.1.2. The Classification Supervisor will ensure that that both Complainants are identified as such and that all applicable information (Unified Complaint Forms from each Complainant if available, associated CC#s, etc.), is available in the IAPro case file.

- 4.2. If a duplicate case was not detected through the duplication check, and the second complaint was entered into IAPro as a separate case:
 - 4.2.1. Upon discovery of this error, the Classification Supervisor will enter the information from the second complaint (including the complaint itself and any accompanying information or materials received), and add it to the first case.
 - 4.2.2. The Classification Supervisor will set the second case for administrative tracking in IAPro, noting the associated incident number and associated CC# of the case. Under no circumstances will the second case be deleted from the system.
- 4.3. If, upon conducting a duplication check, the Classification Supervisor finds an associated case that is not simply a duplication (as in Example 3 above, when facts from multiple complaints overlap but are not identical):
 - 4.3.1. The Classification Supervisor will enter the second case as a separate case in IAPro.
 - 4.3.2. The Classification Supervisor will link the two cases in IAPro.
 - 4.3.3. The Classification Supervisor will assign the second case to the same investigator assigned to the first case, whenever practical.
- 4.4. When cases are found to be duplicates or associated, all information received by PIB shall be uploaded and stored in the appropriate case file in IAPro, in accordance with the above listed procedures. No information shall be deleted: persons who filed complaints shall remain designated as Complainants – even if a single incident results in multiple complaints.
5. PIB's Classification Supervisor will make an initial determination of the Classification of the alleged offense within 72 hours of PIB's receipt of the complaint.
6. Upon classifying the complaint, the PIB Classification Supervisor will immediately preliminarily assign the case to the appropriate investigative entity within PIB. Additionally, the PIB Classification Supervisor will immediately notify the Civilian Review Board (CRB, described below), via the PIB Administrative Unit.
7. The three investigative entities within PIB are Internal Affairs, Ethics, and Special Investigation Response Team (SIRT).
 - 7.1. The Classification Supervisor will assign the case to Internal Affairs when the case does not fulfill the criteria of cases handled by Ethics or SIRT (described below).
 - 7.1.1. The Classification Supervisor shall assign all Service Complaints to supervisors in Internal Affairs.
 - 7.2. The Classification Supervisor shall assign the case to Ethics when the complaint involves PIB personnel, the complaint alleges corruption, alleges on-going Misconduct (e.g., Allegations that an officer regularly takes bribes or purchases drugs), or requires proactive investigation (e.g., surveillance, or undercover operations), and in certain instances when the complaint involves

BPD command level members (these instances would require approval by PIB Command).

- Example: In the process of classifying a complaint that alleges theft by a particular officer, the Classification Supervisor may determine that the officer has previously been accused of theft multiple times. Because this may suggest an on-going pattern of serious Misconduct, the Classification Supervisor would likely assign the case to be investigated by the Ethics Unit.

7.2.1. For all other Allegations of serious Misconduct (see Part (IV)(B)), prior to assigning the case, the Classification Supervisor will consult PIB Command regarding whether the case shall be assigned to Ethics.

7.2.2. PIB Command must review every case assigned to Ethics.

7.2.3. If a case was not initially sent to Ethics, but PIB Command determines through the weekly IAS Intake and Classification Report that it should be assigned to Ethics, the Classification Supervisor will reassign the case to Ethics.

7.3. The Classification Supervisor shall assign a case to SIRT that involves an Allegation of a Level 3 use of force, a fatal motor vehicle crash in which the actions of a BPD member were involved, an in-custody death, or any case directed to be investigated by SIRT at the direction of the Police Commissioner or their designee.

7.3.1. Due to policy requirements stating that supervisors must contact SIRT immediately upon notice of an incident within SIRT's purview, SIRT is almost always aware of the incident prior to its entry into BlueTeam or a complaint being made with PIB.

7.3.2. In the rarest instances where SIRT was not notified before a complaint was received, the Classification Supervisor will assign the case to SIRT after classifying the case.

7.3.3. The focus of SIRT's investigation will be the force used against the member of the public to determine whether or not the force was justified.

NOTE: In cases where the SIRT investigation uncovers Other Misconduct, SIRT will include these charges for policy violations in their investigation for consideration by the Performance Review Board (PRB).

- Example: SIRT is notified of a serious use of force that occurred during the execution of a search warrant and reports to the scene. During the investigation and review of the available BWC footage, the SIRT investigator discovers that BPD members involved improperly turned their BWC on and off while executing the search warrant. SIRT would include a charge for the policy violation of Failure to Operate BWC as required in their investigation, and present it to the PRB for consideration.

NOTE: It may be that the Other Misconduct discovered in the course of SIRT's investigation gives rise to an investigation into a more serious Allegation, e.g.,

that the failure to activate the BWC was intentional and/or an attempt to conceal other Serious Misconduct (see below).

7.3.4. If during the SIRT investigation, SIRT investigators encounter additional Allegations or evidence of Serious Misconduct, the SIRT investigator will notify PIB Command. PIB Command will assign the further Allegations to the appropriate PIB investigative unit, based on the nature of the Allegations.

- Example: Same facts as the previous example, but while SIRT is conducting its investigation, PIB receives an anonymous complaint that the detectives involved in the search warrant execution stole money and jewelry from a safe within the house that was searched. Here, PIB would assign a PIB investigator to look into the non-force Allegations, including inactivation of the BWC and theft.

7.3.5. If PIB becomes aware of additional Allegations through other means, such as a separate complaint, PIB shall likewise assign the further Allegations to the appropriate PIB investigative unit, and notify SIRT.

8. The Classification Supervisor will send a report that lists every new complaint received in the previous week, along with its Classification, to PIB Command on a weekly basis. The PIB Commander will review the report and either approve the initial Classification or return them for correction.
 - 8.1. If PIB command returns a Classification because it requires further Allegations to be added, the Classification Supervisor shall add additional Allegations to the case in IAPro, noting the approval by the PIB Commander in IAPro.
 - 8.2. If PIB command disagrees with the initial Classification or believes the case was assigned to the wrong investigative entity, the Classification Supervisor will change the Classification based on the PIB Commander's instruction and/or will reassign the case to the proper investigative entity, as instructed by the PIB Commander, noting the approval by the PIB Commander in IAPro.
9. For cases where the facts allege Misconduct indicating apparent criminal conduct by a BPD employee:
 - 9.1. No matter who the complaining party is, whether a civilian, entity without law enforcement powers, law enforcement agency, or prosecutor's office:
 - 9.1.1. The State's Attorney's Office (SAO) will be notified immediately.
 - 9.1.1.1. For complaints received by the Classification Supervisor, they will notify PIB Command immediately, who will, in turn, notify the SAO by phone immediately for consultation about the apparent criminal Misconduct.
 - 9.1.1.2. For cases where PIB Command first learns about the Allegations (for example they receive a call from a district commander or from another external source), PIB Command will notify the SAO by phone immediately for consultation about the apparent criminal Misconduct.

- 9.1.1.3. The Commander who made contact with the SAO will make a notation regarding this consultation in IAPro as soon as practical.
 - 9.1.2. The case will be classified and assigned for an administrative investigation, per the above protocol.
 - 9.1.2.1. All Allegations will be applied to the case, including all applicable Allegations of criminal Misconduct and non-criminal Misconduct.
 - 9.2. If an outside law enforcement agency is conducting the criminal investigation, PIB will still classify and assign the case, applying all applicable Allegations of criminal and non-criminal Misconduct, for an administrative investigation to occur.
 - 9.3. If an outside agency notifies PIB of possible criminal Misconduct but either (1) has no law enforcement powers (e.g., an unarmed security firm) or (2) does not have jurisdiction over the incident (e.g., a complaint was made to Baltimore County police, but the incident actually occurred in Baltimore City), then BPD will conduct the criminal investigation.
 - 9.3.1. PIB Command, in consultation with the SAO, will determine the appropriate unit to conduct the criminal investigation. This could be a unit within PIB or another investigative unit within BPD. PIB Command may deem it necessary to refer the case to an outside law enforcement agency or qualified outside investigator to conduct the criminal investigation.
 - 9.3.2. Notwithstanding, the case will also be assigned for an administrative investigation within the appropriate PIB unit, unless PIB Command determines that the administrative investigation should also be referred to an outside law enforcement agency or qualified outside investigator.
 - 9.4. If the result of the criminal investigation is that no charges will be brought against the BPD member, the case will still be thoroughly administratively investigated to determine whether the preponderance of the evidence establishes Misconduct.
 - 9.5. At any point that evidence of new sub-Classifications or Allegations arise during the investigation, the Classification Supervisor must approve the changing of or addition of new sub-Classifications and/or Allegations, and it must also be approved by PIB Command.
10. The Classification Supervisor shall assign an IAPro Security Level to the case based on the type of case and level of sensitivity of the case. The Classification Supervisor will assign the security access level of each case upon Classification, with the approval of PIB Command.

Type of Case	Access Level	Individuals with Access
Cases Assigned to IA	4	PIB Command, Executive Lieutenants, members of PIB Ethics, IAPro Administrators, members of SIRT, members of IA, and members of the PIB Administrative Unit
Cases Assigned to SIRT	3	PIB Command, Executive Lieutenants, members of PIB Ethics, IAPro Administrators and members of SIRT
Cases Assigned to Ethics	2	PIB Command, Executive Lieutenants, members of PIB Ethics, and IAPro Administrators)
Cases with the Highest Level of Sensitivity	1	(PIB Command and Executive Lieutenants

11. Within 3 days of receipt of a notice of claim and/or a civil complaint filed in court that alleges Misconduct by one or more BPD members, a member of PIB’s Administrative Unit shall search IAPro to determine if PIB has previously received any other notices of claim or civil complaints in relation to the incident(s). The Member shall query the system for other complaints involving the same BPD member(s) or Complainant(s).
 - 11.1. When the Administrative Unit Member or Classification Supervisor determines that (1) a PIB case already exists and is open, or (2) a related PIB case exists and is open or closed, the Classification Supervisor will direct the Administrative Unit member to forward the materials received to the PIB investigator assigned to the existing case.
 - 11.2. When the Administrative Unit Member determines that a PIB case does *not* already exist, the Administrative Unit Member will input the information received into IAPro as a new case, and will notify the Classification Supervisor via IAPro. The Classification Supervisor will classify and assign the case according to this protocol.
 - 11.3. Within 3 days of receipt of new information generated in existing litigation (including but not limited to new facts related to the original Allegations in the litigation, the involvement of additional BPD members, and/or additional witnesses), a member of PIB’s Administrative Unit shall follow the same procedure as above.
12. In some instances, a case may require re-Classification or the addition of further Allegations, based on new information discovered during the course of an investigation. The re-Classification procedure will proceed as follows:
 - 12.1. If, in the process of conducting an investigation, or following a discussion at IASat, a supervisor or the investigator comes to believe that a case presented requires re-Classification or additional Allegations, the topic of re-Classification will be discussed, first between the investigator and supervisor.

- Example: During a PIB interview, Complainant discloses CRB-eligible Allegations of officer Misconduct that were not included in the original complaint submitted to PIB.
 - Example: During a canvass for a CRB-eligible investigation for false arrest, a witness alleges Misconduct that was not mentioned in the original complaint to PIB.
 - Example: During PIB investigation of non-CRB-eligible complaint, PIB becomes aware of lawsuit filed by Complainant that alleges CRB-eligible Misconduct.
- 12.2. Additionally, if at any point during the investigation the assigned investigator believes the case needs to be reclassified or additional Allegations need to be added to the case, the investigator will discuss this with their supervisor.
- 12.3. If the supervisor agrees that the case requires re-Classification or additional Allegations, the supervisor must consult with the investigator's lieutenant for agreement.
- 12.4. Upon receiving notice of any new facts or Allegations that may warrant re-Classification, or if other Classification guidance is needed, the investigator's lieutenant will consult with the PIB Classification Supervisor about changing the Classification or adding any additional Allegations.
- 12.4.1. The PIB Classification Supervisor will make a recommendation regarding re-Classification within 3 business days of receiving notice of new facts or Allegations from an investigator or supervisor. A PIB Commander will confer with the Classification Supervisor and provide a written response to the recommendation within 3 business days of receipt.
- 12.4.2. If approved by PIB Command, the Classification Supervisor will change the case Classification in IAPro, where a permanent record is created of what the previous Classification was, what the new Classification is, who made the change and when it was made.
- 12.4.3. Any additional Allegations that surface during the course of an investigation shall also be made part of the charges against the member through the process described above.
- 12.5. For cases that initially do not fall under CRB jurisdiction, but later are reclassified to fall under CRB jurisdiction:
- 12.5.1. Within two business days of the re-Classification, the PIB Classification Supervisor or designee will inform the CRB designee, via IAPro routing, that a PIB case is now also under CRB's jurisdiction.
- 12.5.2. As with all other cases under CRB jurisdiction, all materials within PIB's case file (with the exception of restricted or sensitive materials) will be contained in the CRB IAPro Case File, as well as all materials supporting the re-Classification (e.g., interview, email, service of lawsuit, etc.)

III. INTERPRETATION OF COMPLAINTS AS CRB-ELIGIBLE

1. In the process of classifying a complaint, the Classification Supervisor shall assign each complaint one Sub-Classification: (1) CRB-Eligible or (2) Not CRB-Eligible.
2. The Classification Supervisor shall assign the complaint the Sub-Classification of “CRB-Eligible” when the complaint includes any one the below Allegations, as defined in Public Local Law (PLL) § 16-41 and in the appendix to this protocol.
 - 2.1. Abusive Language
 - 2.2. Harassment
 - 2.3. Excessive Force
 - 2.4. False Imprisonment
 - 2.5. False Arrest
3. The Classification Supervisor shall assign the complaint the Sub-Classification of “Not CRB-Eligible” for complaints that do not involve at least one the five listed Allegations.
4. Assigning a complaint the Sub-Classification of CRB-eligible does not require the use of specific words or terms, but must involve the consideration of the facts alleged and reasonable inferences from those facts.
 - 4.1. For example, a complaint may allege harassing behavior without ever using the term, “harassment.”
 - 4.2. Where the Classification Supervisor has doubts about whether a complaint is CRB-eligible, the Classification Supervisor shall consult with PIB Command.
5. Classification does not involve the review or weighing of evidence that may corroborate or refute the Allegations.
6. Classification does not involve PIB determining whether a complaint is within the statutory timeframe allowable for CRB to investigate. CRB will determine at the intake stage whether timeliness prohibits the CRB from investigating a referred complaint.
7. After assigning the complaint the Sub-Classification of CRB-Eligible, the Classification Supervisor will also assign Allegations to the complaint. There is often overlap between CRB-Eligible Complaint Allegations. Where a complaint alleges conduct that implicates multiple categories of CRB’s jurisdiction, PIB shall include *all* Allegations in making the Classification determination and referral.
8. Where a member of the public alleges Misconduct but does not complete a complaint form, this shall not preclude the Classification Supervisor from classifying the complaint as “CRB-Eligible.” In such cases, PIB shall provide CRB with the factual Allegation as recorded on intake in the weekly IAS Intake and Classification Report. A CRB-eligible complaint may also allege violations of other BPD policies outside of the jurisdiction of the CRB; such complaints will still be provided to the CRB.

IV. SYSTEM USED TO PROPERLY CLASSIFY EACH COMPLAINT

A. Assignment of CATEGORIES

For each complaint, the Classification Supervisor shall select one or more of the categories listed below. The purpose of assigning a Category is to enable PIB to gather information about the manner in which the complaint was filed; the general subject matter of the complaint; and whether the complaint involved individuals in certain demographic groups.

- External complaint
- Internal complaint
- EODS-eligible
- Criminally-charged officer
- Lawsuit filed
- Mediation program review
- Domestic incident
- Involves a youth**
- LGBTQ related
**only selected if this information is contained in the complaint or volunteered by the Complainant.*
- Involving persons known to be homeless**
**only selected if this information is contained in the complaint or volunteered by the Complainant.*
- Involving persons with a disability, including mental illness**
**only selected if the disability is contained in the complaint, is obvious (e.g., the person is blind, paraplegic, relies on a wheelchair, etc.), or volunteered by the Complainant.*
- Inappropriate conduct during investigations of assault or other crimes of violence against women, that arises during the investigation or is associated with the investigation.
- Interaction with sex worker(s), that arises during the investigation or is associated with the investigation.
**only selected if this information is contained in the complaint or volunteered by the Complainant.*

***“Involving”, as referred to above, indicates the person against whom the Misconduct is directed.*

B. Assignment of CLASSIFICATION (only one Classification can be chosen):

After assigning a Category or categories to a complaint, the Classification Supervisor shall next assign a single Classification to the complaint: (1) Serious Misconduct; (2) Other Misconduct; or (3) Service Complaint.

If the complaint alleges Misconduct committed by a member of BPD, civilian or sworn, the complaint shall be classified as (1) Serious Misconduct or (2) Other Misconduct.

- **Serious Misconduct is the appropriate Classification when the Misconduct, if sustained, may result in discipline of suspension without pay, demotion, or termination, in accordance with Policy 302, *Rules and Regulations*, and Policy 310, *Disciplinary/Failure to Appear and Traffic Matrix*, including, but not limited to the below Allegations, as defined in the appendix to this policy:**
 - **Discriminatory policing**
 - **False arrest**
 - **Planting evidence**
 - **False statement**
 - **Retaliation**
 - **Sexual Misconduct**
 - **Domestic violence**
 - **Any CRB-Eligible Allegation**
 - **Failure to Supervise**
- **Other Misconduct is the appropriate Classification when the Misconduct, if sustained, may result in discipline and/or corrective action less severe than a suspension without pay, in accordance with Policy 302, *Rules and Regulations*, and Policy 310, *Disciplinary/Failure to Appear and Traffic Matrix*, including, but not limited to the below Allegations, as defined in the appendix to this policy:**
 - **Discourtesy**
 - **Neglect of duty**
 - **Missed court**
 - **Conduct Unbecoming of Police Officer/Employee**
- **Service Complaint is the appropriate Classification when the complaint is:**
 - A complaint about a police service that does not claim individual Misconduct by any BPD member. A Service Complaint may arise from either a misunderstanding of how a specific police service is offered or for dissatisfaction with institutional constraints, policies, etc. Delayed police response time is a commonly-cited example of a service complaint.
 - However, if body of the complaint itself or further inquiry reveals that the complaint about police service is attributable to, or coupled with Allegations of one or more BPD member's potential violation of policy—e.g., a delayed response time occurred because the dispatched officer was violating policy (e.g., sleeping on duty, grossly negligent inattention to the call, horseplay, etc.)—the complaint will be classified as a Misconduct complaint, per the below system.

C. Assignment of SUB-CLASSIFICATION (only one sub-Classification can be chosen):

The following two items are the Sub-Classifications available for any complaint received:

1. CRB-Eligible
2. Not CRB-Eligible

The Classification Supervisor shall assign the complaint the Sub-Classification of “CRB-Eligible” when the complaint includes any one the below Allegations, as defined in Public Local Law (PLL) § 16-41 and in the appendix to this protocol.

- i. Abusive Language
- ii. Harassment
- iii. Excessive Force
- iv. False Imprisonment
- v. False Arrest

The Classification Supervisor shall assign the complaint the Sub-Classification of “Not CRB-Eligible” for complaints that do not involve at least one the five listed Allegations.

Below is a description of the above-listed sub-Classifications and how the definitions shall be applied to the Classification of public complaints received by PIB.

C.a. Abusive Language:

A member’s language or “use of remarks intended to be demeaning, humiliating, mocking, insulting, or belittling that *may or may not* be based on the actual or perceived race, color, religion, sex, national origin, sexual orientation, or gender identity of an individual.” (PLL § 16-41(b) (emphasis added)).

NOTE:

- The italicized phrase above – “may or may not” – indicates that it is enough that the remarks be of the type that would demean, humiliate, mock, insult, or belittle a person, without bias being a motivation. For example, a Complainant might allege that an officer called someone an “idiot,” “loser” or a “punk.” The use of such insulting terms falls within CRB jurisdiction even if no biased motivation is alleged.
- The phrase, “remarks *intended* to be demeaning . . .” recognizes that even non-offensive words may be communicated in a manner that insults or demeans an individual.
- The complaint need not articulate the specific language used by the officer; it would be enough, for example, for the Complainant to allege that the officer “mocked” them.
- The person alleging the Misconduct need not be the target of the abusive language. For example, parents or neighbors may complain of offensive remarks directed at a youth.
 - **Example:** A complaint is received that states that an officer sarcastically referred to an individual with cognitive impairments as a “rocket scientist” or “genius”. This complaint would be subject to CRB review for abusive language.

C.b. Excessive Force:

“[T]he use of greater physical force than reasonably necessary to repel an attacker or terminate resistance.” “Excessive force does not include force that is reasonably necessary to effect a lawful purpose.” (PLL §16-41(c)(1)-(2)).

NOTE:

- The complaint need not include the word “force” to constitute a CRB-eligible excessive force complaint. Additionally, there is no requirement that the Complainant allege a *physical injury* for the Classification of excessive force to be appropriate.
 - Examples: A Complainant may allege improper use of a firearm or a Taser (including pointing) or a baton, as well as officer take-downs, or hands-on action that was inappropriate.
 - Examples: An individual alleges that an officer pointed a gun at her without justification.
 - Example: An individual complaining an officer handcuffed her too tightly, even if she alleges no injury.

C.c. False Arrest:

“[A]n arrest made without legal justification.” (PLL §16-41(d)).

NOTE:

- Complaints for false arrest may include complaints alleging that an officer had no legal basis to make an arrest, or that the officer made the arrest for an illicit purpose.
 - Examples: A complaint alleges that an officer made an arrest because the Complainant insulted the officer, or because the officer did not like the Complainant based on previous interactions. These complaints would be sub-classified as CRB-Eligible, and assigned the Allegation of false arrest.
- There may be some overlap between complaints alleging false arrest and false imprisonment, as these two Allegations are closely related.
 - Example: A complaint may allege that an officer performed a *Terry* stop, detained the Complainant for a long time, and drove the Complainant from the location of the stop to the station before releasing him without charge. The officer’s actions in prolonging the stop and transporting the person may have converted the *Terry* stop into an arrest, so such a complaint should receive the sub-Classification of CRB-Eligible and be assigned the Allegation of false arrest. Since the system only allows for the selection of one sub-Classification, in this instance the case will receive all applicable Allegations, which would include false arrest and false imprisonment.
- In reviewing a false arrest complaint for the purposes of Classification, if the complaint alleges a false arrest, PIB will apply the false arrest Allegation and refer the complaint to CRB even if the complaint included information that could cast doubt on the merits of the complaint.

- Example: PIB would classify a complaint as False Arrest (and refer a False Arrest complaint to CRB) even if the Complainant stated elsewhere in his complaint that the subject officer executed a warrant for his arrest. The investigator(s) would evaluate the basis of the false arrest claim, which might include innocence of the charges, mistaken identity, etc.

C.d. False imprisonment:

“[T]he intentional restriction without legal justification of the freedom of movement of a person who is aware of the restriction and who does not consent.” (PLL § 16-41(e)).

NOTE:

- As noted above, there is often overlap between Allegations of false arrest and false imprisonment and all applicable Allegations should be charged. A false imprisonment Allegation does not require that the Complainant have been arrested.
- Moreover, the use of the broad phrase, “restriction of freedom of movement” indicates that false imprisonment is not limited to a more typical complaint that someone was wrongfully arrested.
 - Example: An individual might complain that an officer wrongfully blocked her when she attempted to join a nearby peaceful demonstration and told her that she must stay within the adjacent City block until the demonstration had ceased or she would be subject to arrest. The Complainant alleged unjustified “restriction of freedom of movement.” Thus, PIB would classify the complaint as including a false imprisonment Allegation.
 - Example: After an armed robbery, a “Be on the Look-out” (BOLO) alert based on an anonymous tip is circulated in the police department directing officers to be on the look-out for a grey sedan with tinted windows in the vicinity of a 7-11 in the Northern District. Four days later, an officer patrolling in the Northern District sees a grey Nissan with tinted windows and recalls the BOLO. The officer pulls over the driver and holds him at the scene until his supervisor can arrive. The claim that the detention of the driver was without legal justification would result in a Classification of false imprisonment.

C.e. Harassment:

“(1) repeated or unwarranted conduct that is intended to be overtly demeaning, humiliating, mocking, insulting, or belittling, or (2) any conduct that is intended to cause unnecessary physical discomfort or injury.” On the other hand, “[h]arassment does not include conduct that is reasonably necessary to effect a lawful purpose.” ((PLL § 16-41(f)).

NOTE:

- There is no requirement that behavior must be repeated or frequent to amount to harassment for sub-Classification purposes.

- There may be often be overlap between harassment complaints, abusive language complaints, and excessive force complaints.
 - Example: A complaint that an officer drive-stunned a person to inflict pain would constitute an excessive force complaint as well as a harassment complaint.
 - Example: An officer repeatedly contacts a crime victim for unnecessary call backs or to repeatedly ask the victim to go on a date.
- A complaint that an officer conducted a search by unnecessarily requiring an individual to place his hands on the hot hood of a patrol car would describe a harassment Allegation, and may also describe an excessive force Allegation.

D. Assignment of ALLEGATIONS

The Classification Supervisor shall assign *all* appropriate Allegations based on a review of facts alleged within the four corners of the complaint.

○ CRIMINAL MISCONDUCT/FELONY

Where an employee has been alleged to have committed a criminal felony offense or has been sustained administratively for committing a criminal felony offense, or has been criminally charged with committing a criminal felony offense. Also includes a conviction for a criminal felony offense.

NOTE: Since the standard of proof for administrative charges is lower than the criminal standard (preponderance of evidence for administrative charges), an acquittal or dismissal of one or more charges in a criminal case would not preclude a sustained finding under this charge. This applies to felony and misdemeanor criminal Misconduct.

- Example: An officer is charged with felony theft or, first degree domestic assault.

○ CRIMINAL MISCONDUCT/MISDEMEANOR

Where an employee has been alleged to have committed a criminal misdemeanor offense or has been sustained administratively for committing a criminal misdemeanor offense, or has been criminally charged with committing a criminal misdemeanor offense. Also includes a conviction for a criminal misdemeanor offense.

- Example: An officer is charged with driving under the influence of alcohol.

○ ABSENT WITHOUT LEAVE (AWOL)

Being absent from duty without approved leave or permission from their supervisor.

- Example: An officer fails to report for their assigned shift, or leaves early before the end of their tour of duty without justification or permission from their supervisor or approved leave.

○ **ABUSE OF DISCRETION/AUTHORITY**

Acts that are done for personal gain or benefit (or for the benefit of others – e.g., family or friends of the officer) that constitute an abuse or overstep of the discretion and authority afforded to a law enforcement officer.

- Example: An officer conducts a lawful traffic stop of a person, with the intention of obtaining the driver's personal information to later contact them for a date.
- Example: An officer parks in a no-parking zone at BWI in order to pick up his son; when questioned by a parking attendant, the officer makes threatening statements. (In such a case, the Classification could potentially include both a charge of abuse of discretion and a charge of abusive language.)

○ **ABUSIVE OR DISCRIMINATORY LANGUAGE**

Language that is demeaning, humiliating, mocking, insulting, or belittling, that may or may not be based on the actual or perceived race, color, religion, sex, national origin, sexual orientation, or gender identity of an individual.

- Example: Calling a person inappropriate names or making fun of someone's appearance. The use of profanity is abusive.
- Example: A transgender woman tells the officer that she identifies as female. The officer continues to refer to her as a male.
- Example: A man wearing a turban walks into a BPD district station and asks to speak to a supervisor. The desk officer calls over the intercom to summon the supervisor but also makes an offensive remark about the man's perceived race or religion.

○ **COMPUTER/EMAIL/INTERNET MISUSE**

Using BPD devices, BPD software, BPD accounts, or BPD resources in a way that would constitute a violation of BPD's Email, BPDnet, Internet Usage and Social Media policies.

- Example: Using BPD applications to search for a subject's arrest history for non-law enforcement purposes.
- Example: Using official databases to search for a person's contact information for purposes of pursuing an inappropriate relationship.
- Example: Posting inappropriate material, visiting inappropriate (e.g., adult or gambling) websites while on duty or while using BPD computers or networks.

○ **CONDUCT UNBECOMING A POLICE OFFICER/EMPLOYEE**

Any breach of the peace, neglect of duty, Misconduct, or any conduct or omission on the part of any member of the Department, either within or outside the City of Baltimore, and whether on or off duty, which tends to undermine the good order, efficiency or discipline of the Department, or which reflects discredit upon the Department or any member thereof, or which is prejudicial to the efficiency and

discipline of the Department, even if such Misconduct is not specifically enumerated elsewhere in policy.

- Example: An off-duty officer, attending a professional sporting event, is drunk /disorderly and gets into a physical altercation that does not amount to an assault or otherwise involve a legal violation.
- Example: (1) An officer shopping while off-duty shouts and directs profanity at a store cashier; (2) An officer in uniform gets into a verbal altercation with a parking attendant.

Depending on the specific language used, these examples may also include other Allegations, such as abusive language and or inappropriate comment, and perhaps harassment.

NOTE: Conduct Unbecoming is often a lesser included Allegation that would be added in cases where BPD members are subject to other Allegations set forth within this protocol.

○ **INAPPROPRIATE ASSOCIATION**

Knowingly commencing or maintaining a relationship with any person who is under criminal investigation, indictment, arrest, or incarceration by this or another law enforcement or criminal justice agency or persons whom they know, should know, or have reason to believe are involved in criminal activity (except as necessary for the performance of official duties) or where unavailable or impractical because of familial relationships. Pursuing or engaging in social, sexual or romantic relationships with non-members known or believed to be active or recent confidential informants, victims, or witnesses. Knowingly entering any establishment in which the law is knowingly violated (except in the performance of official duties).

- Example: Entering into a close relationship with a subject who is under investigation for a felony charge, or is a habitual criminal offender.

○ **DOMESTIC INCIDENT**

Verbal argument or dispute between intimate partners or former intimate partners.

- Example: Officer and his wife get into a verbal altercation in their rowhome, which prompts the neighbor to call the police, who arrive to investigate the matter.

○ **EXCESSIVE FORCE**

One or more uses of force that violates BPD's policies governing use of force. (See Policy 1115, *Use of Force*, Policy 719, *Conducted Electrical Weapon*, Policy 1118, *Oleoresin Capsicum Spray*, Policy 1111 *Batons*, Policy 414, *Less-Lethal Launchers and Chemical Munitions*, and 409, *Firearms*)

○ **FAILURE TO APPEAR IN COURT (FTA)**

Failing to appear in court and/or provide testimony when subpoenaed for any of the following proceedings: Federal and/or State Grand Juries, Criminal Courts, Civil Courts, State Liquor Board, Motor Vehicle Administration, Forfeiture Court, Environmental Control Board, the Civilian Review Board (for witness officers), and/or an Administrative Hearing Board.

- Example: Failing to appear in court when summonsed for a domestic assault case without permission.

○ **FALSE ARREST**

An arrest made without legal justification.

- Example: An arrest made where the officer knew there was no probable cause or an arrest warrant.

○ **FALSE IMPRISONMENT**

The intentional restriction without legal justification of the freedom of movement of a person who is aware of the restriction and who does not consent.

- Example: an individual might complain that an officer wrongfully blocked her when she attempted to join a nearby peaceful demonstration and told her that she must stay within the adjacent City block until the demonstration had ceased or she would be subject to arrest. The Complainant alleged unjustified “restriction of freedom of movement.” Thus, PIB would classify the complaint as including a false imprisonment Allegation.
- Example: After an armed robbery, a “Be on the Look-out” (BOLO) alert based on an anonymous tip is circulated in the police department directing officers to be on the look-out for a grey sedan with tinted windows in the vicinity of a 7-11 in the Northern District. Four days later, an officer patrolling in the Northern District sees a grey Nissan with tinted windows and recalls the BOLO. The officer pulls over the driver and holds him at the scene until his supervisor can arrive. The claim that the detention of the driver was without legal justification would result in a Classification of false imprisonment.

○ **FALSE STATEMENT/UNTRUTHFULNESS**

Making, whether orally or in writing, any false statement or misrepresentation of any material fact, or making any material omission of fact, including but not limited to statements or omissions made with the intent to mislead any person or tribunal.

- Example: Officer lies to supervisor about obtaining consent to search a vehicle; later lies about the incident in court or during Internal Affairs investigation.
- Examples: Putting false information in a police report, court document, government application or report, search warrant, a computer-generated document, or other official document.

- Example: Police officer knowingly writes in report that he recovered drugs on the passenger side of a car when actually recovered drugs on the driver's side.

- **HARASSMENT**

Repeated or unwarranted conduct, unrelated to the workplace, that is intended to be overtly demeaning, humiliating, mocking, insulting, or belittling; or any conduct that is intended to cause unnecessary physical discomfort or injury. It does not include conduct that is reasonably necessary to effect a lawful purpose.

- Example: Repeatedly stopping a person with no legal justification, strip searching an arrestee in public to humiliate them.
- Example: A BPD officer using Facebook messenger to send messages to a member of the public that he met previously to make fun of the person's speech pattern.
- Example: An officer repeatedly contacts a crime victim for unnecessary call backs or to repeatedly ask the victim to go on a date.

- **IMPROPER STOP**

When an individual is stopped/detained without reasonable articulable suspicion or probable cause or other legal justification (e.g., to prevent suicide) that the individual is planning to commit, did commit or is about to commit a crime.

- Example: Officer without RAS or PC stops a male because his manner of dress (baggy pants and hoodie) match a known stereotype.
- Example: Officer without RAS or PC stops a vehicle because the driver gave him the middle finger. This conduct may also give rise to Allegations of Retaliation and Interference With Civilians' Constitutionally Protected Free Expression/Speech (see Allegation below).

- **IMPROPER SEARCH**

One or more searches conducted in violation of BPD's search policies: Policy 1109, *Warrantless Searches* and Policy 1007, *Search and Seizure Warrants*.

- Example: A male is sitting on his porch and the police come up onto the porch to conduct a field interview and then go into the home to look around the living room without probable cause.
- Example: Officer has a car towed to the district after arresting the owner. After processing the suspect, he proceeds to search the car at the district without a warrant.
- Example: Failing to properly search an arrestee.
- Example: An officer conducts a search for an impermissible purpose, such as sexual harassment, humiliation, or seeking to assign a person's gender based on anatomy.

○ **IMPROPER STRIP SEARCH**

One or more searches conducted in violation of BPD's strip search policy: *Policy 1013, Strip Searches and Body Cavity Searches*.

- Example: An officer requires an arrestee to pull down his pants on the side of the road in public view.
- Example: An officer conducts a strip search without probable cause that a person is concealing contraband or a dangerous weapon in the area to be searched.
- Example: An officer insists that a woman lift up her shirt to prove that she is not concealing drugs.

○ **IMPROPER SEIZURE OF PERSONAL PROPERTY**

Taking of a person's personal property without legal justification or in violation of BPD policies governing seizure: Policy 1016, *Public Observation/Recording of Officers*, Policy 1007, *Search and Seizure Warrants*, and Policy 1401, *Control of Property and Evidence*. Such conduct could overlap with other property- or integrity-related Allegations, such as Criminal Misconduct.

- Example: Officers at the scene of a disturbance observe an uninvolved individual recording the scene without impeding enforcement action. They seize his phone when he refuses to stop recording. Such conduct may also result in an Allegation of Interfering With A Person's Right To Observe Or Record Law Enforcement Activities (see below).
- Example: Officer with RAS stops a teenager and asks for identification. The teenager offers his ID along with an insult. The officer decides to "teach him manners" by keeping the ID. The conduct would also give rise to Allegations of Retaliation and First Amendment Protected Activity (see below).

○ **INAPPROPRIATE COMMENTS AND/OR GESTURE(S)**

Any inappropriate statements, including language that is unprofessional but not demeaning on its face. This language can be exchanged between two or more BPD employees, in addition to situations where it is directed at one or more civilians. Additionally, if the comments or gestures arise to the level of abusive language, that Allegation would be added and the complaint may be subject to concurrent CRB jurisdiction. See PLL §§ 16-41(b) and 16-42(a)(1).

- Example: A member spreads false rumors that another officer has a substance abuse problem.
- Example: An individual tells officer he will file complaint against him for false imprisonment. Officer raised a clenched fist and replies, "Go ahead, see what happens." The Retaliation Allegation would also apply to this situation.
- Example: A person complains about social media posts by a self-identified BPD member that include racial or homophobic slurs against city residents. Depending

upon the nature of the conduct, the complaint may also give rise to other Allegations, such as Computer/Email/Internet Misuse or Conduct Unbecoming.

NOTE: Any public comment, whether on social media or in person, has to be weighed against the member's first amendment right to speech. A public comment by a BPD member must interfere with the ability of the Department to operate effectively in order to outweigh the member's first amendment rights.

- **Example:** A Complainant alleges that an officer gratuitously commented on her sexual orientation and gender identity, and inquired about sexual practices, surgical history, or anatomical features.

○ **IN-CUSTODY DEATH**

A death of an in-custody individual that is attributable to the actions or inactions of a BPD member. For purposes of Classification, "in-custody" extends beyond the physical control of BPD persons, vehicles, or buildings to include the presence of BPD members. The circumstances of the death may give rise to additional Allegations, including criminal Misconduct.

- **Example:** A member observes a suspect choke after swallowing object but does not offer assistance.
- **Example:** A member places handcuffed suspect on their abdomen following foot pursuit; suspect asphyxiates.
- **Example:** A member strikes an arrestee repeatedly in the head with their radio after the arrestee is in handcuffs sitting on the curb.

NOTE: SIRT investigates all in-custody deaths, regarding less of whether there is an Allegation of Misconduct.

○ **INSUBORDINATION**

Refusing to comply with a lawful order.

- **Example:** Officer refuses or fails to comply with supervisor's order to complete a written report.

○ **NEGLECT OF DUTY**

Failure to properly perform their assigned duties or reasonably exercise their discretion.

- **Example:** An officer forgets to serve a Protective Order as assigned at start of shift.
- **Example:** Residents complain that an officer failed to investigate when they reported someone tossed a gun in the bushes.

- **FAILURE TO REPORT USE OF FORCE**

Failure to write, report, or record a use of force when required to do so per Departmental policy.

- Example: Failing to write a use of force report after using physical force on an arrestee, or pointing a weapon at a member of the public.

- **FAILURE TO SUPERVISE**

Failure to supervise a subordinate employee as required. This includes failing to counsel, failing to report Misconduct of a subordinate, or failing to train, or stop a subordinate from committing an offense that is a violation of Department policy, City Ordinance, State law, or Federal Law.

- Example: A supervisor on the scene of an incident observes a subordinate officer use abusive language and unnecessary force on a subject. The supervisor stands by and watches the incident and does not intervene, nor does the supervisor address the incident at a later point in time. Such conduct would also constitute a failure to intervene.
- Example: A lieutenant fails to conduct an inspection of officers during roll call. One of the uninspected officers responds to and handles a domestic assault complaint. It is later determined that the officer did not have his BWC on his person as required. The officer would be charged with Failure to Operate BWC and the Lieutenant would be charged with Failure to Supervise.

- **FAIL TO ATTEND AND COMPLETE REQUIRED TRAINING**

Failure to report to a training seminar, conference, class, event or school when sponsored by, directed to attend, or paid for by the Department, when scheduled or directed to attend.

- Example: An officer fails to attend in-service training or doesn't show up for a scheduled training without an excused absence from his/her supervisor, absent any mitigating circumstances, (e.g., the officer was hospitalized or otherwise incapacitated and therefore unable to communicate with their supervisor).

- **FAILURE TO OPERATE BWC AS REQUIRED**

Failure to comply with the BWC policy, such as (1) failing to activate the BWC; (2) failing to keep the BWC activated, (3) failing to report a malfunctioning BWC, or (4) failing to store the BWC properly or keep it in good repair.

- Examples: Failing to activate the BWC while on a traffic stop or effecting an arrest. Turning off the BWC before clearing a call.

- **NEGLIGENT USE/HANDLING/STORAGE OF FIREARMS**

The negligent use, handling, and storage of a firearm(s) that is contrary to the Firearms policy.

- Example: Storage of department-issued firearm in an unattended vehicle, which leads to its theft.
- Example: Leaving a firearm in an area where it can be handled by children.
- **SECURING/TREATMENT OF PEOPLE BEING DETAINED OR TRANSPORTED**
Unjustified failure to properly secure, search, or guard a person in the officer's custody—whether or not the member's acts or omissions are intentional.
 - Example: Officer fails to secure prisoner obtaining hospital treatment, leading to escape.
 - Example: Officer fails to seatbelt a prisoner for transport, leading to injury when vehicle makes a sudden stop.
- **DISCRIMINATORY POLICING**
Violation of the following policies: Policy 317, *Fair and Impartial Policing*, Policy 720, *Interactions with LGBTQ Individuals*.
 - Example: Officer without RAS or PC conducts traffic stop based upon motorist's race.
 - Example: Officer threatens to arrest a transgender female for attempting to enter restroom marked "Women."
- **RESPONDENT IN CIVIL PROTECTIVE ORDER**
BPD member is named as a respondent in a protective order application and/or a granted protective order.
 - Example: An officer is a respondent in a protective order proceeding initiated by her estranged spouse.

NOTE: This Allegation will be used for Classification purposes even when the protective order was not granted or was granted but later withdrawn.
- **RETALIATION**
Taking adverse action against an individual because they have engaged in activity protected by law or policy. (In this context, "adverse action" means conduct – even if otherwise lawful - that would dissuade a reasonable individual from engaging in that protected activity.) This Allegation can apply to complaints received through internal sources as well as external sources.
 - Example: An officer, upset that individual has accused him of Abusive Language during traffic stop, later visits the individual's home and issues citations for illegal parking.
 - Example: An officer tells motorist during traffic stop he will issue a warning for a minor speeding violation. However, when the motorist complains the stop was racial profiling, the officer changes his mind and issues a citation because of the complaint.

- Example: An individual complains about Officer A via social media. Officers B and C, unhappy with these statements about their fellow officer, repeatedly show up at the individual's workplace and ask him to present identification without legal justification.

○ **SECONDARY EMPLOYMENT VIOLATION**

Any violation of the Secondary Employment policy.

- Example: An officer works secondary employment without notifying the Department and/or obtaining authorization.
- Example: An officer is on medical leave, but is observed working as plainclothes security at a local grocery store. (The conduct may also give rise to other Allegations, including those relating to criminal Misconduct/theft related.)

○ **UNSAFE OPERATION OF DEPARTMENTAL VEHICLE**

Failing to operate a Department motor vehicle operate departmental vehicles with utmost care and caution in violation of Policy 1503, *Emergency Vehicle Operation and Pursuit Policy* or other policies related to the operation or use of a BPD vehicle.

- Example: An officer drives his/her patrol vehicle 30 miles over the speed limit and is involved in a preventable collision.
- Example: An officer fails to stop at a stop sign and strikes an oncoming vehicle that had the right of way.

○ **CRIMINAL MISCONDUCT/DOMESTIC VIOLENCE**

Officer engages in assault of their spouse or significant other.

- Example: An officer is charged with Assault in the First Degree after allegedly pointing her duty weapon at her spouse.
- Example: An officer is charged with Assault in the Second Degree after allegedly punching his romantic partner at their residence.

○ **CRIMINAL MISCONDUCT/DRIVING UNDER THE INFLUENCE (DUI)**

Officer engages with any offense alleging impaired driving in any state or federal jurisdiction

- Example: A member is caught, either on-duty or off-duty, whether in a personal or departmental vehicle, driving under the influence of alcohol or of drugs.

○ **CRIMINAL MISCONDUCT/SEXUAL MISCONDUCT**

Officer engages in any sex-related crime under state or federal law in any court.

- Example: A member is charged with Rape in the Second Degree of his next door neighbor in another jurisdiction;

- Example: A member provides protection to a sex-worker in exchange for sex – even though the sex worker refuses to testify against the member in a criminal proceeding
- Example: A member fondles an individual's genitals under the pretext of conducting a frisk or other search – whether or not a prosecutor decides to pursue criminal charges.

○ **CRIMINAL MISCONDUCT/THEFT RELATED**

Officer engages in any theft-related crime.

- Example: A member is charged with theft of property or services with a value of at least \$1,500 but less than \$25,000 for switching price tags on two televisions and paying a lower price for the higher value television.

○ **CRIMINAL MISCONDUCT/PLANTING EVIDENCE**

Officer engages in falsifying evidence.

- Example: An officer plants a bag of controlled dangerous substance in a drawer while executing a search warrant at a residence, then turns on his/her body worn camera and records the false recovery of the planted evidence.

○ **VEHICLE PURSUIT VIOLATION**

Operating a law enforcement vehicle in attempts to keep pace and/or to immediately apprehend one or more occupants of an eluding vehicle under circumstances that are not allowed for in Policy 1503, *Emergency Vehicle Operation and Pursuit Policy*.

- Example: An officer attempts to stop a vehicle for improper tags. The suspect accelerates in an attempt to elude the police. The officer follows with lights and sirens activated while pacing the vehicle.
- Example: Officers aware of ongoing vehicle pursuit create roadblock without supervisor authorization or radio notification of their actions
- Example: An officer initiates a vehicle pursuit and a supervisor terminates the pursuit, but the officer continues to pursue.

○ **FOOT PURSUIT VIOLATION**

Failure to comply with Policy 1505, *Foot Pursuits*.

- Example: An officer chases a juvenile who is solely suspected of violating the city curfew provision.
- Example: An officer fails to terminate a foot pursuit after being ordered to do so by a supervisor.
- Example: An officer initiates a foot pursuit and fails to initiate a radio broadcast.

○ **INAPPROPRIATE WORKPLACE CONDUCT**

Unwelcome conduct from a supervisor, coworker, and/or group of coworkers that belittles, threatens, demeans, disparage, ridicules or shows hostility towards an individual or group of workers. Physical assaults, threats, bullying and intimidation are forms of inappropriate workplace conduct. Inappropriate workplace conduct may also include offensive jokes, name-calling, offensive nicknames, inappropriate images on a computer, and offensive pictures or objects. Such conduct need not be motivated by bias against a protected Category (e.g., race, sex, age).

- Example: During roll call an officer makes repeated, unwelcomed jokes about another officer's obesity.
- Example: Sergeant is verbally abusive (e.g., using profanity, demeaning language, homophobic, body shaming) to their subordinate.
- Example: Officer gives shoulder massages to coworker despite being told they are unwelcome.
- Example: Officer posts offensive memes or materials in workplace cubicle, for example a photo of another officer including a statement stating sexual interest.
- Example: An officer refers to another officer using a racial epithet.
- Example: Supervisor mocks officer regarding physical handicap or learning disabilities.

○ **INTERFERENCE WITH CIVILIANS' PROTECTED FREE EXPRESSION/SPEECH**

Failure to comply with the provisions of Policy 804, *First Amendment Protected Activity* and Policy 1016, *Public Observation/Recording of Officers*.

- Example: Officer without PC arrests a resident who curses at him.
- Example: Officer tells a protester to stop chanting anti-police slogans because he objects to their content.

○ **INTERFERING WITH RIGHT TO ASSEMBLE**

Preventing persons from gathering at or near the object the assembly or protest and/or not permitting persons to assemble on sidewalks, streets, in parks and in other spaces, where legally allowed to do so (see Policy 804, *First Amendment Protected Activity*).

- Example: Officer prevents citizen from joining a lawful protest.
- Example: A BPD member uses profanity at a group that is protesting the death of a person in police custody.

○ **INTERFERING WITH RELIGIOUS PRACTICE**

Unjustified interference with an individual's legal rights to exercise their religious beliefs.

- Example: Officer without RAS or PC tells Jehovah's Witnesses to leave the neighborhood or face arrest.
- Example: Detective assigned to investigate criminal complaint filed by resident who asks to postpone an interview in order to avoid violating the Sabbath. The detective, annoyed at the prospect of having to reschedule, pressures the Complainant to provide the interview anyway.

○ **INTERFERING WITH A PERSON'S RIGHT TO OBSERVE OR RECORD LAW ENFORCEMENT ACTIVITIES**

Not permitting persons to observe and/or record police activity in public settings, such as parks, sidewalks, streets, and locations of public protest, or in their home or business, common areas of public and private facilities and buildings, and in any other public or private facility at which the person has a legal right to be present (see Policy 1016, *Public Observation/Recording of Officers*).

- Example: Officer orders civilian to stop recording with a mobile phone when the civilian is not hindering an ongoing police investigation or otherwise interfering with police activity.
- Example: Officer, while conducting a stop, tells a bystander across the street to move along even though the person is not interfering with the stop.

○ **DISCOURTESY**

Failing to be courteous and considerate in interactions with the public.

- Example: An officer is asked a question by a member of the public and refuses to answer civilly or just ignores the person outright.
- Example: A person asks the officer for directions. The officer rudely tells the person to look it up for themselves on their phone.

○ **FAILURE TO INTERVENE**

Failure to intervene as required by Policy 319, *Duty to Intervene*. **

- Example: An officer sees his partner begin to beat a resident who was merely disrespectful to the officers. Although the officer can safely intervene, he declines to do so.

** *Policy 319 is currently a draft policy only.*

SECTION 1.C: PIB/CRB PROTOCOL FOR COMPLAINT INTAKE & CLASSIFICATION

Final court-filed version
Dated 25 March 2019

I. INTRODUCTION

The Baltimore Police Department's (BPD) Public Integrity Bureau (PIB) strives to carry out its mission with integrity and transparency. PIB endeavors to rebuild community trust and confidence investigating all allegations of misconduct fairly, impartially, effectively, and transparently.

To accomplish this goal, PIB collaborates with the Civilian Review Board (CRB) of Baltimore City in reviewing and investigating allegations that fall within the CRB's statutory purview: complaints lodged by members of the public regarding police officers' **(1) abusive language, (2) false arrest, (3) false imprisonment, (4) harassment, (5) or excessive force**, as those allegations are defined in the Code of Public Local Laws of Baltimore City (P.L.L.), § 16-41(b)-(f) (definitions included in the following section).

For all BPD procedures and requirements regarding receiving, processing, classifying and assigning complaints, BPD members shall refer to Policy 306, *Complaint Intake and Classification Process* and the PIB Classification Protocol. When interacting with Limited English Proficient persons, BPD members must follow the procedures outlined in Policy 1735, *Language Access Services for Limited English Proficient (LEP) Persons*.

A. Definitions

Abusive Language – The use of remarks intended to be demeaning, humiliating, mocking, insulting, or belittling that may or may not be based on the actual or perceived race, color, religion, sex, national origin, sexual orientation, or gender identity of an individual.

Administrator of CRB – Agency head that oversees the Civilian Review Board.

Chief of PIB – Division head that oversees BPD's Public Integrity Bureau.

CRB IAPro Case File – A file created by BPD, shared in IAPro, for CRB eligible cases. This case file is used for the transfer of documents, information and materials between PIB and CRB. It is also the place where all communications between PIB and CRB are documented.

CRB Liaison – PIB intends to hire a civilian employee as the PIB liaison to CRB. The CRB Liaison would act as the point-person for all communications between PIB and CRB, with the exception of Sensitive Cases.

Excessive Force – The use of greater physical force than reasonably necessary to repel an attacker or terminate resistance. It does not include force that is reasonably necessary to effect a lawful purpose.

Executive Session – A closed session per General Provisions Article § 3-305 for voting CRB Board members and the Administrator of CRB (or designee) only. Minutes taken during this session are adopted as sealed.

False Arrest – An arrest made without legal justification.

False Imprisonment – The intentional restriction without legal justification of the freedom of movement of a person who is aware of the restriction and who does not consent.

Harassment – The repeated or unwarranted conduct that is intended to be overtly demeaning, humiliating, mocking, insulting, or belittling, or any conduct that is intended to cause unnecessary physical discomfort or injury.

IAS Intake and Classification Report – A report listing all cases received and classified by PIB from the previous week.

Restricted Information – Information or materials that cannot be disclosed to CRB as a matter of statute, as specified below in Part (V)(A).

Sensitive Case – A case established (per Part (VI) below), that will be temporarily withheld from CRB (though complaint shared with them).

Sensitive Case Log – A log internal to PIB where all activity involving a Sensitive Case is documented, as specified in Part (VI)(B)(3.8.) below.

Sensitive Information – Information that is not otherwise Restricted may nonetheless be exempt as Sensitive where its disclosure to CRB, though lawful, would nonetheless present an unacceptably high risk of jeopardizing either safety of an individual or an ongoing criminal investigation. See Part (V)(B) below.

II. COMMUNICATIONS WITH CRB

PIB is committed to maintaining an on-going and cooperative relationship with CRB. Furthermore, PIB prioritizes fostering a strong relationship with CRB's leadership to ensure effective coordination between the two entities and proper resolution of issues when perspectives differ.

1. The Chief of PIB and a member of the Law Department will meet with the Administrator of CRB or designee, at least once a month to discuss cases and logistical matters.
2. The Chief of PIB and the Administrator of CRB (who has signed the MOU mentioned in Part (VI) below), will also discuss Sensitive issues requiring follow-up, will check in every month on whether Sensitive cases remain Sensitive, and will conduct after-action reviews of Sensitive cases that have been withheld from CRB in the presence of the Law Department, if appropriate (As described at length in Part (VI) below, there may be rare instances where PIB temporarily withholds from CRB a case it deems a Sensitive).
3. PIB will send a representative to every CRB monthly public meeting, absent exceptional circumstances.

4. PIB's Administrative Unit will be accessible and responsive to CRB's communications. In general, communications occur via departmental email between the PIB Administrative Unit Sergeant and/or Lieutenant [or CRB Liaison] and the CRB designee.
5. The Chief of PIB and the Administrator of CRB or designee will maintain an open line of communication if an urgent and/or Sensitive matter needs to be addressed.

III. TECHNOLOGY ACCESS & DOCUMENTATION PROCEDURES

1. The CRB, through its designee(s), will have access to files for cases that it is reviewing via IAPro. These files will be duplicate files of the original IAPro file, in order to account for Restricted or Sensitive Information (described below). The procedure for creating and maintaining duplicate files is described in detail in Part (IV) below.

NOTE: IAPro will be used by PIB and CRB in the transfer of information between the two entities but will not, at this juncture, be used as a case management tool for CRB to house its investigative work. There may be a time in the future when it is determined that this software may also serve as the CRB's investigative case management tool, but that determination requires an assessment that has not yet been completed.

2. The CRB, through its designee(s), will have access to body-worn camera footage pertinent to cases that it is reviewing by way of private links sent to the user through Evidence.com. The procedure for sharing such links is described in Part (IV) below.
3. The IAPro and Evidence.com systems both track the dates/times that certain people sign in, access specific files, and download items, allowing for the ability to review and audit the exchange of information.
4. All work undertaken by the PIB Administrative Unit on cases under the CRB's jurisdiction must be noted in the specific CRB IAPro Case File in the "Tasks" section.
 - 4.1. This includes every time the Administrative Unit [CRB Liaison] uploads documents to a CRB file, emails or has a call with a CRB designee regarding a specific case, hand delivers any materials, holds in-person meetings, or any other work or progress made on a specific case under CRB's jurisdiction.
 - 4.2. New evidence or information in PIB's investigative file, which must be entered into IAPro, should also be entered into the parallel CRB IAPro Case File.
 - 4.3. Communications noted should provide as much of the following information as possible: date of communication, individuals involved in the communication, substance of the communication, resolution (if applicable), and follow up required.
 - 4.4. Information regarding cases deemed as Sensitive Cases (see Part (VI) below), will not be kept in the CRB IAPro Case File until the time that the case is determined to no longer be Sensitive. Information regarding Sensitive Cases will be preserved in Sensitive Case Logs maintained separately by each agency.

NOTE: If unrelated incidents were to come forward on the same complaint form, where one of the incidents is deemed to be Sensitive due to a criminal investigation or charges but the other does not involve any Sensitive Information and is under CRB's jurisdiction, BPD will separate these incidents into separate cases. The Sensitive Case will be dealt with per the guidelines in Part (VI) below, and the non-Sensitive matter will be sent to CRB per the guidelines set forth in Part (IV) below.

IV. GENERAL (NON-SENSITIVE) PROCEDURES FOR CASE CLASSIFICATION & INFORMATION SHARING

PIB personnel shall adhere to the below requirements regarding classification and the initial sharing of information with CRB. Exceptions to the sharing of information are addressed in Parts (V) and (VI), below.

A. Classification

1. Every complaint against a BPD member received by PIB, no matter the method of receipt or the amount of information provided, will be forwarded to the PIB Classification Supervisor per the procedures outlined in Policy 306, *Complaint Intake and Classification Procedures* and PIB's Internal Operations and Training Manual.
2. The PIB Classification Supervisor will thoroughly review each complaint and will determine the proper classification category (or categories, if more than one are appropriate), per the PIB Classification Protocol.
3. The CRB Liaison will send all signed Unified Complaint Forms received to CRB within 48 hours, unless the 48 hours falls within a weekend or holiday, in which case the complaint form should be sent the following business day. Those that have been classified as CRB-eligible will be sent just as received, and those not classified as CRB-eligible will be sent with the accused BPD member's identifying information (e.g., date of birth, address, phone number, email address) redacted. Additionally, per the procedure outlined in the following section (Part (B)), PIB will provide CRB with every complaint it receives that contains at least one CRB-eligible allegation.
 - 3.1. If CRB has questions upon review of a Unified Complaint Form, the CRB designee will email the questions to the PIB Classification Supervisor. When the CRB designee makes a request, Classification Supervisor and/or designee shall respond to them within 10 business days.

NOTE: If a CRB designee successfully contacts the complainant upon receiving their contact information and learns further information that would justify classifying the complaint as CRB-eligible, as long as the complainant gives their permission, the CRB must provide PIB with the additional information to ensure proper classification.

- 3.2. If disagreement continues after the Classification Supervisor and the CRB designee communicate, the Chief of PIB and the Administrator of CRB will discuss the disagreement and attempt to resolve the matter.

- 3.3. If disagreement continues, the Administrator of CRB will inform the Board, during an Executive Session, of the disagreement. The Administrator of CRB will provide the Board with the IA case number that is in dispute and any salient facts regarding the case. The Board will discuss the matter and determine if it believes the case is CRB- eligible. If the Board believes that it is not a CRB-eligible case, it will send a letter/email to the Chief of PIB. If the Board determines that the case is CRB-eligible, it will send a letter/email to the Director of the Mayor's Office on Criminal Justice and Chief of PIB to explain the reasoning for their determination.
- 3.4. As part of their public reports, CRB and PIB shall present aggregate data concerning disputes about classification and the resolution of those disputes.
- 3.5. If the disagreement about classification continues, the parties shall follow the steps outlined in Part (VII) below.

B. Notification to CRB of Complaints Under CRB Jurisdiction

PIB will provide CRB with every complaint received that contains at least one CRB-eligible allegation. PIB shall provide such notice within 48 hours, with the exception of holidays and weekends, of classifying the complaint, which includes providing CRB with the Unified Complaint Form for each CRB-eligible complaint. PIB shall forward those complaints that, on their face, appear to fall outside the one-year time limitation period set forth in P.L.L. §16-44(b).

1. Every complaint will be entered into IAPro through the process outlined in Policy 306, *Complaint Intake and Classification Process* and PIB's Internal Operations and Training Manual.
2. The PIB Classification Supervisor will classify all cases per the PIB Classification Protocol.
3. The PIB's Administrative Unit [CRB Liaison] will complete the following within two business days:
 - 3.1. Create the CRB IAPro Case File in IAPro. The CRB IAPro Case File will include the IA case number, the CC reference number assigned to the complaint by BPD communications, the complainant's original narrative, any information gathered from the complainant (e.g. copies of tickets, business cards, screen shots, etc.), PIB's initial classification of the complaint, and any documents (e.g. Unified Complaint Form, letters, officer reports), images, or recordings collected by PIB and uploaded to IAPro during the intake process, subject to the restrictions below. The CRB IAPro Case File will not contain Restricted or Sensitive Information, until such materials have been released pursuant to the procedures set forth in Section V below.
 - 3.2. Inform the CRB designee about the new complaint by way of IAPro routing (the internal IAPro messaging system).

4. The PIB's Administrative Unit [CRB Liaison] will send a link to all applicable BWC footage to the CRB designee within five business days of receiving the complaint.
5. As soon as the CRB IAPro Case File has been created, the CRB designee will have full access to all materials within the file.

C. PIB Receipt of Complaints from CRB

1. The CRB designee will email PIB's Administrative Unit within 48 hours, with the exception of holidays and weekends, of receiving a new complaint. The email will contain a scanned copy of the Unified Complaint Form, as well as any information gathered from the complainant (e.g. copies of tickets, business cards, screen shots, etc.).
2. The PIB Classification Supervisor or designee will then conduct a duplication / associated case check, per the PIB Classification Protocol procedure.
3. If the duplication check results are negative, the Administrative Unit Intake Member will enter the complaint into IAPro, and the Classification Supervisor will classify the complaint per the PIB Classification Protocol.
4. When a duplication or association is detected, if the new complaint or the prior complaint includes one or more CRB-eligible allegations, PIB will notify the CRB designee of the new complaint and its association with the prior complaint in its inventory.

D. Quality Control for Classification Procedure

1. The Classification Supervisor will send the IAS Intake and Classification Report to PIB Command every week. Command will review each case in the report for accurate classification and will provide written approval/disapproval to the Classification Supervisor within two business days of receipt.
2. At PIB's weekly IASat meeting, PIB Command will review each case's progress through presentations by investigators about the status of the investigation. A case's classification will be reviewed, and a case may be identified as requiring reclassification.

E. Reclassification

1. Reclassification of cases may occur, per the procedures specified in the PIB Classification Protocol.
2. For cases that initially were not classified as CRB-eligible, but later are reclassified to fall under CRB jurisdiction:

- 2.1. Within two business days of the reclassification, the PIB Classification Supervisor or designee will inform the CRB designee, via IAPro routing, that PIB has reclassified a PIB case as CRB-eligible.
- 2.2. As with all other CRB-eligible complaints, all materials within PIB's case file (with the exception of Restricted or Sensitive Information) will be contained in the CRB IAPro Case File, as well as all materials supporting the reclassification (e.g. interview, email, service of lawsuit, etc.)

F. Record Sharing with CRB

1. PIB's Administrative Unit [CRB Liaison] is responsible for receiving and responding to CRB requests for materials or records. CRB requests will be made through IAPro routing for the specific case for which materials are being sought.
 - 1.1. CRB will make requests of materials on Wednesdays, via IAPro or email (with a copy of the email saved in the IAPro case file). By Friday, PIB's Administrative Unit will respond to those requests, via IAPro or email (with a copy of the email saved in the IAPro case file), acknowledging receipt of the request and will provide a plan for fulfilling the request.
2. PIB's Administrative Unit [CRB Liaison] will review all CRB-related requests received via IAPro.
3. Upon receipt of a CRB-related request for records or evidence relating to a CRB-eligible case, PIB's Administrative Unit [CRB Liaison] will forward the request to the assigned investigator. The investigator shall notify the Administrative Unit whether some or all of the requested material exists. The investigator will identify any logistical issues associated with providing the material (e.g., copying security camera footage).
 - 3.1. Evidence that is part of the investigator's case file will be provided to the CRB designee, via the CRB IAPro Case File. PIB must turn over evidence/materials/information that exists, even if the investigator determines that the evidence/materials/information is not relevant to the investigation. Sensitive evidence may be withheld from disclosure and is addressed in Part (V)(A).

Example: PIB investigates allegations of officer neglect of duty and abusive language. Because abusive language is subject to CRB jurisdiction, PIB would provide CRB the materials they requested, even though some portions may, on their face, pertain only to the neglect of duty allegations.

Example: PIB investigates allegations of officer corruption that include allegations of false arrest and abusive language — allegations that fall within CRB jurisdiction. Because the corruption allegations may involve Sensitive information or materials, PIB would utilize the process set forth in Part (V)(A) below.
4. The PIB's Administrative Unit [or CRB Liaison] is responsible for reviewing the investigative files of each CRB-eligible investigation on a weekly basis, and updating

the CRB IAPro Case File with any new materials or information that was uploaded to IAPro by the investigator.

5. For cases where PIB and CRB share jurisdiction, the PIB investigator on the case has the duty to disclose all new materials developed or received.
 - 5.1. As with any investigation, all new evidence or information for a case will be noted in the PIB's investigative file in IAPro. The PIB investigator will upload the new information in the case file before the end of their tour of duty.
 - 5.2. Additionally, the investigator has a duty to enter notes in their IAPro case file (under "Tasks") regarding all case work accomplished, even when there are no new physical materials to upload. These notes shall include, but are not limited to, the following:
 - 5.2.1. When the investigator speaks to a complainant or witness on the phone,
 - 5.2.2. When an investigator conducts an area canvass, and
 - 5.2.3. When the investigator mails a letter.
 - 5.3. The PIB's Administrative Unit [CRB Liaison] will review all PIB/CRB shared jurisdiction case files in IAPro on a weekly basis, and upon detecting updated information (i.e., information added between the last time the case was reviewed by the Administrative Unit and this time), will add this information to the CRB IAPro Case File by the next business day.
6. As described above, all tracking of documentation, evidence, and communication exchanges between PIB and CRB (through the CRB designee) will be recorded in the CRB IAPro Case File by PIB's Administrative Unit [CRB Liaison].
 - 6.1. It is the responsibility of PIB's Administrative Unit [CRB Liaison] to make a note in the "Tasks" section in the CRB IAPro Case File of when documents were delivered, if any documents were withheld and reason for withholding, and if any documents are delayed, the reason for the delay and the expected delivery date.
 - 6.2. For electronic media files too large to transfer via IAPro or Evidence.com, the Administrative Unit will hand-deliver the affected materials every Wednesday after the affected material has been received by PIB. CRB will be required to sign for all materials that are hand-delivered, and CRB will be provided a receipt that will include the name of the person who delivered the materials, the person who received them, the date and time of the delivery, and a description of the materials.
 - 6.3. All hand-deliveries will also be recorded in the CRB IAPro Case File.

V. RESTRICTED OR SENSITIVE INFORMATION IN GENERAL CASES

A. Restricted Information

1. Restricted Information consists of the following:

- 1.1. Juvenile arrest records (protected from disclosure pursuant to MD Code, Courts and Judicial Proceedings, § 3-8A-27).
- 1.2. Medical records obtained without the individual's consent to share with CRB.
- 1.3. Personnel records that are not specifically related to the misconduct alleged in the current complaint (protected from disclosure pursuant to MD Code, Gen. Prov. § 4-311(a)). This restriction does not include a summary of the prior disciplinary history of the accused officer.
- 1.4. Any other information whose disclosure to CRB is otherwise prohibited or restricted by statute(s), such as grand jury proceedings.

B. Sensitive Information

1. Sensitive Information extends only to the following:
 - 1.1. Confidential informant identifying information, to include any footage or documentation in which the confidential informant's name, address, phone number, email address, or appearance is disclosed or depicted.
 - 1.2. Undercover officer identifying information to include any footage or documentation in which the undercover officer's name, identifying information, or appearance is disclosed or depicted.

NOTE: In most instances, Sensitive Information can be redacted so that the informant or undercover officer's identity is masked, but the information or interaction can otherwise be shared. Whenever possible, PIB will redact the identifying information and provide CRB with redacted materials via the CRB IAPro Case File.

C. Procedure for Restricted or Sensitive Information

1. Any materials falling under the above categories will first be identified by the Administrative Unit [CRB Liaison] during their weekly review of IAPro case files. Upon identifying a Restricted or Sensitive item, the CRB Liaison will consult the Administrative Unit Supervisor.
2. The Administrative Unit Supervisor will evaluate the item to determine whether the document or information within the document must be withheld or redacted.
3. Where practical, PIB will preserve the confidentiality of Restricted or Sensitive Information using redaction rather than withholding the entire document or footage.
4. After the Administrative Unit Supervisor makes their determination, the Administrative Unit Supervisor will confer with PIB Command to seek their approval prior to redacting or withholding any information.
5. If PIB Command, in consultation with the Law Department when appropriate, has agreed that a document or a piece of information requires withholding, the

Administrative Unit Supervisor is responsible for redacting or withholding this information.

6. The Administrative Unit Supervisor will document what materials or information are being withheld (including whether a piece of information may be redacted within a document), the reason for the redaction, which Commander (and a Law Department attorney, if applicable) approved of the redaction, and the date(s) of their approval, in the original casefile in IAPro.
 - 6.1. In the CRB IAPro Case File, the Administrative Unit [CRB Liaison] must document the Evidence Request Number (if one exists), Item, Request Sent Date, Decision to Withhold Date, the Approver, and Reason. The reason for withholding must contain sufficient information to permit CRB to assess the validity of the withholding.

Example: If a document contains the name of a confidential informant, the Administrative Unit Supervisor would redact the confidential informant's identifying information. The reason would be listed as "confidential informant information". The reason needs to state more than simply that the information is sensitive.

D. Review of Sensitive Information or Materials

1. PIB Command will conduct a 30 day review of every case containing Sensitive Information or materials to determine if the nature of information continues to warrant it being withheld from the CRB.
2. If PIB Command, in consultation with the Law Department, determines that the information is permissible to be shared, the Administrative Unit [CRB Liaison] will produce this information by adding it to the CRB IAPro Case File within 30 days of re-designating the information as not Sensitive.

VI. SENSITIVE CASES

There may be extremely rare instances where an entire case is deemed a Sensitive Case. In these instances, PIB will forward the complaint, including the accompanying materials received with the initial complaint – e.g., copies of tickets, business cards, screen shots, etc. – to the CRB. However, in these instances PIB will delay the transmission of any information beyond the complaint and initial accompanying materials, despite the CRB's statutory jurisdiction to review and/or investigate all cases alleging any of the five above-mentioned CRB-eligible allegations. PIB will also ask CRB to delay their investigation in these circumstances. *These cases are an extraordinary exception to the general rule.* As such, a case can only be deemed a Sensitive Case after careful and deliberate consideration of all of the facts of that specific case, and must be approved as a Sensitive Case by the BPD Police Commissioner, or designee.

The purpose of this section is to outline specific procedures that PIB and CRB will use in those rare instances where a case must be designated Sensitive. Those procedures are

intended to provide transparency and accountability so that the classification of a matter as Sensitive is not employed improperly or routinely. As stated above, the general rule, which will be applicable to nearly every complaint received by PIB, is that all materials contained in the case file for complaints alleging any of the five CRB-eligible allegations shall be shared with CRB on an on-going basis, per the normal procedure. Only if the following conditions are met and procedures are satisfied may PIB and CRB deviate from that general rule.

An MOU will be signed between the Chief of PIB and the Administrator of CRB, containing a strict confidentiality clause for these individuals and stating that they are the only individuals permitted to have knowledge of a Sensitive Case. PIB and CRB shall not communicate by e-mail regarding these cases.

A. Procedure for Designating an Entire Case as “Sensitive”

1. The rare designation by PIB of a Sensitive Case will only be utilized when one or more of the following circumstances apply:
 - 1.1. There are pending criminal charges against the member pertaining to the complaint made,
 - 1.2. BPD is conducting a criminal investigation into the allegations, which must remain confidential by statute, or,
 - 1.3. There is an open investigation by an outside law enforcement agency where that agency has imposed a confidentiality requirement on BPD. These cases are confidential either at the request of the investigating agency or by practice.
2. A Sensitive Case may initially be identified by the Classification Supervisor, PIB Command, or the Police Commissioner, depending on who is notified regarding pending criminal matters or investigations involving outside agencies.
3. As it pertains to a complaint by a member of the public, a case must be determined to be a Sensitive Case by the Chief of PIB, in consultation with the Law Department, if permissible.
4. If the Chief of PIB determines that an entire case is Sensitive, and there is a related misconduct complaint under the CRB’s jurisdiction, the Chief of PIB will consult the Police Commissioner or their designee within 10 business days to assess whether the PIB investigative file materials should be temporarily withheld from the CRB (until such time that the case is no longer deemed to be a Sensitive Case). **Only cases approved as Sensitive by the Police Commissioner, or their designee, will be given the designation of Sensitive Case.**
5. This approval, along with the rationale for designating the case as Sensitive, will be documented in PIB’s Sensitive Case Log and via an Administrative Report, Form 95, and saved in the PIB IAPro case file.
6. PIB will defer conducting the administrative portion of the investigation into any Sensitive Cases until when doing so would not jeopardize the criminal investigation.

The only exception would involve limited investigative steps to preserve perishable evidence (e.g., CCTV footage).

B. PIB/CRB Procedures for Sensitive Cases

1. Due to the potential gravity, importance, and delicacy of these Sensitive Cases, the nature of information shared between the PIB and CRB for these cases will in many instances need to be extremely limited.
2. The Administrator of CRB will be the point-person for these types of communications, and the Chief of PIB is the point-person for PIB.

NOTE: The above-mentioned point-person is the same individual that has signed the MOU mentioned above.

3. Upon designating a new CRB-eligible complaint as a Sensitive Case, the following steps will occur:
 - 3.1. The Chief of PIB will ensure that the complaint is hand-delivered in a double-sealed envelope to the Administrator of CRB within 48 hours of receiving the complaint, with the exception of holidays and weekends.
 - 3.2. The Chief of PIB will inform the Administrator of CRB (either by phone or in-person) that the case has been designated as a Sensitive Case.
 - 3.3. During this communication, the Chief of PIB will notify the Administrator of CRB that PIB has suspended its own administrative investigation into the complaint. The Chief of PIB will request that the Administrator of CRB not forward the complaint to the Board for its assessment until such time as the case is no longer deemed to be a Sensitive Case and PIB recommences its administrative investigation.
 - 3.4. The Chief of PIB will provide the Administrator of CRB with a copy of the written approval and justification for the designation of the case as a Sensitive Case referred to above in VI(A)(5).
 - 3.5. The Administrator of CRB will request that the Board, during an Executive Session, toll the case and will provide the Chair of the Board with the IA case number. The Administrator of CRB will not provide any further information until such time that the case is no longer deemed Sensitive.

NOTE: The statute of limitations of one year for bringing disciplinary charges as a result of an administrative investigation is governed by the Law Enforcement Officer's Bill of Rights (LEOBR). See Md. Code Ann., Public Safety § 3-106(a). Under LEOBR, the statute of limitations does not apply to charges that relate to criminal activity. See Md. Code Ann., Public Safety § 3-106(b). Absent specific circumstances that would jeopardize the criminal investigation, PIB shall and CRB may continue with the administrative investigation. In such circumstances where PIB delays its administrative investigation, CRB will choose to also delay its administrative investigation until it can be conducted simultaneously with PIB. See P.L.L. § 16-46(a)(2), which

states that if the CRB chooses to investigate a complaint, it shall be done “simultaneously with the Internal Investigative Division.”

NOTE: Per P.L.L. § 16-45, PIB shall complete its investigation and provide its full investigative report within 90 days from the date of the complaint and, if it cannot, request an extension of time from CRB. CRB may grant an extension for good cause.

- 3.6. PIB will initiate or recommence the PIB administrative investigation when doing so would not jeopardize the criminal investigation.
- 3.7. Within five days of such determination, the Chief of PIB will inform the Administrator of CRB that PIB is recommencing its administrative investigation, and that the complaint may be processed for review and possible investigation.
- 3.8. The Chief of PIB, or their designee, will document all activity involving a Sensitive Case in PIB’s Sensitive Case Log, to include (but is not limited to):
 - 3.8.1. IA case number and CC number, if applicable.
 - 3.8.2. Date, time and BPD members involved in the decision to designate the case a Sensitive Case,
 - 3.8.3. Date, time, and method of communication of when the Administrator of CRB was notified that the case was a Sensitive Case, and
 - 3.8.4. Any communications received by PIB from outside agencies or investigative authorities regarding the case.

NOTE: PIB will designate one person within the agency to memorialize and track Sensitive Cases in PIB’s Sensitive Case Log. This designee is the only person, besides the Chief of PIB and the Police Commissioner, who has access to any information contained therein.

C. Cases Designated as Sensitive Cases After CRB Investigation has Begun

1. In the event that CRB has already begun an investigation, and later PIB learns that there is a related case fitting the criteria in Part (VI)(A)(1.1.-1.3.) above, the Chief of PIB will contact the Administrator of CRB by phone or in-person to request that CRB pauses its investigation. PIB will also suspend its administrative investigation at the same time.
2. PIB will document the Sensitive Case designation and the communication(s) with the Administrator of CRB in PIB’s Sensitive Case Log.

D. Review of Sensitive Case Designation

1. Every 60 days, PIB Command will conduct an internal review of the Sensitive Cases to assess whether the case shall continue to be designated as a Sensitive Case. The purpose of the review is to determine that the requirements for the Sensitive Case designation continue to be met.

2. Every 60 days, the PIB Sensitive Case designee will reach out to the outside agency involved with the case, if applicable, to check in on the status of the case. That will be documented as a task in the PIB IAPro case file, and in the Sensitive Case Log.
3. As soon as a case is no longer Sensitive, for example the criminal case or investigation has been resolved, PIB will document this in PIB's Internal Sensitive Case Log.
 - 3.1. PIB will conduct its administrative investigation regarding the complaint received.
 - 3.2. The Chief of PIB will inform the Administrator of CRB that the case is no longer Sensitive and that the case information will be turned over to CRB according to the procedures outlined above in Part (II)-(IV).
 - 3.3. For cases referred to in Part (VI)(D) above, upon determination that the case is no longer a Sensitive Case, the Chief of PIB will inform the Administrator of CRB that PIB is resuming its administrative investigation , and that the CRB may also resume its investigation.

E. After-Action Review

1. The Chief of PIB has a duty to engage in an after-action review with the Administrator of CRB, once it is appropriate to do so, about each Sensitive Case.
2. The Chief of PIB will provide the Administrator of CRB with the memorialized documentation of the Sensitive Case determination to facilitate this review. The CRB may review the documentation at its election.
3. The after-action review will occur at the monthly meeting, described in Part (II)(1) and (2) above, following the determination that a case is no longer deemed a Sensitive Case.
4. As part of their public reports, CRB and PIB shall present aggregate data about the identification of Sensitive Cases and any resulting delays of administrative investigations.

VII. DISPUTE RESOLUTION

In the event that a dispute arises during any of the procedures outlined above, the following steps will be taken.

1. If the disagreement pertains to a matter that is not a Sensitive Case, the CRB designee will notify the Administrative Unit and request an opportunity to discuss the issue. The parties shall complete the discussions within 10 business days of the CRB request. If after the discussion the disagreement continues,
2. The Chief of PIB and Administrator of CRB (or designee) will communicate directly to attempt to resolve this difference of opinion. If the disagreement continues,
3. The Chief of PIB, Board Chair, and Administrator of CRB (or designee) will meet with the Director of the Mayor's Office on Criminal Justice to attempt to resolve the matter.

4. At all times, the CRB retains the option to exercise its statutory authority to subpoena materials from BPD. P.L.L. § 16-46(b)(1)(ii).
5. As part of their public reports, CRB and PIB shall present aggregate data about the invocation of the dispute resolution procedure under this Section.

VIII. EFFECTIVE DATE

This protocol shall go into effect on July 1, 2019.

CHAPTER 2: INVESTIGATIONS

SECTION 2.A: PIB INVESTIGATIONS MANUAL

Final court-filed version
Dated 15 November 2019

I. INTRODUCTION

The Public Integrity Bureau (PIB) is responsible for the fair and consistent implementation of the disciplinary process throughout the Baltimore Police Department (BPD). Fundamental to this process is the investigation of all allegations of misconduct by BPD members. In order for PIB to reinforce the Department's goals of constitutional, effective and respectful policing, PIB's investigations serve to ensure that all BPD members perform in a manner consistent with the expectations and policies of the Department, as well as local, state, and federal laws.

PIB has the following powers and authorities:

- PIB investigates all complaints of officer misconduct and coordinates with the Civilian Review Board (CRB) on all complaints within CRB jurisdiction that they are also investigating or reviewing,
- PIB oversees all investigations into allegations of misconduct that do not involve police-civilian interactions.

PIB's mission is to conduct fair, thorough, objective, and timely investigations of all allegations of potential officer misconduct. In doing so, PIB investigators will treat all individuals with dignity and respect, and without preference or discrimination. All conclusions drawn throughout investigations are based on objective, unbiased, and independent information. PIB rigorously tests the accuracy and reliability of information from all sources and presents the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences. All investigative findings are based on the appropriate standard of proof, delineated within this manual.

A. Confidentiality

1. Personnel assigned to PIB must maintain the highest degree of confidentiality concerning all matters related to PIB complaints, investigations and any other confidential or privileged information they glean from their official duties.

2. PIB personnel, other than the PIB Chief or designee, are prohibited from disclosing or confirming to anyone outside of PIB whether a complaint has been made or an investigation is being conducted, including the identity of complainants and named and witness employees, unless required by PIB protocols or disclosure laws. This does not preclude required communication with complainants or other required disclosures per Departmental and PIB policies and procedures.
3. Complaint and investigative information must not be left unattended in areas accessible by non-PIB personnel. PIB personnel are required to sign an agreement regarding confidentiality and any private experts or BPD technical staff outside of PIB who are consulted must also sign a confidentiality agreement for each specific case for which they are consulted.
4. All media requests should be referred immediately to the Media Services Section (Public Information Officers).

B. Investigative Due Diligence

1. All investigations must be conducted in a thorough and consistent fashion. This means that investigators thoroughly explore and pursue all reasonable investigative leads.
2. For each case, the investigative checklist must be completed by the investigator fully. The investigator must mark with “Not Applicable” or “N/A” where the step does not apply to the case at hand. All investigative checklists will be reviewed for investigative due diligence.
3. Supervisors are responsible for providing regular supervision to address any omissions or deficiencies during the investigative process, and become accountable for any omissions once they approve the investigation and forward to the next level of review.
4. All administrative investigations must be completed to conclusion regardless of whether the member separates from employment with the agency and regardless of what happens to the complainant (e.g., whether complainant is participating or not, whether complainant is charged and goes to prison or not, whether the respondent resigns or retires, etc.).
5. Whenever an investigative deficiency or omission is identified, the investigator must address the issue and take action to address the investigative step of concern.
6. If at any time during the intake or investigation of the misconduct complaint the investigator finds evidence indicating potential criminal conduct by any BPD personnel, the investigator shall promptly notify their chain of command, via their direct supervisor. The PIB investigator shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation.

C. Case Assignment

1. The PIB Classification Supervisor will classify the case per the requirements of the PIB Classification Protocol, Section 1.B. above. Upon classifying a case, the PIB

Classification Supervisor will make the preliminary assignment of a case to a primary investigator based on a rotation of which investigator is next up for case assignment.

2. Each PIB investigator will be paired with a partner investigator in their same investigative squad, allowing for a higher quality, timelier investigation. In general, detectives will be paired because they have complimentary skills, and/or one may have more investigative experience than the other. These pairings allow detectives to support each other throughout the investigation and consult with each other about investigative steps or procedures.
3. Both the primary and secondary investigator must fill out an IAS Recusal Form, Appendix A (described in the next section) within one working day of being assigned the case.
4. The investigators' sergeant and lieutenant must review and complete the recusal forms.
5. If upon reviewing the completed form, either the investigator, sergeant or lieutenant determines that a conflict exists for either the primary or secondary investigator, they will notify the Classification Supervisor, who will reassign the case to another investigator pair.
6. Upon reassigning the case to a new primary and secondary investigator, both newly assigned investigators must complete a recusal form on the case.
7. In cases where the investigator's sergeant or lieutenant has a conflict, they will notify the Classification Supervisor, who will reassign the case to a new investigator under a different supervisor or in a different investigative group (if the lieutenant has a conflict).

C.a. Role of Primary and Secondary Investigator

1. The primary investigator is the investigator responsible for planning the investigative strategy, completing all of the necessary investigative steps and for recording all investigative work into the case file and IAPro.
2. The secondary investigator will generally assist the primary investigator with area canvasses and interviews. At times, the secondary investigator may also assist with brainstorming investigative strategy or with other needed tasks, depending on the particulars of the case.
3. Additionally, the use of a partner system will allow for the secondary investigator to take over in the event that the primary investigator becomes unavailable, whether temporarily or permanently, since the secondary investigator will be familiar with the case already and can more easily take over where the primary left the case.

D. Conflicts of Interest

1. BPD recognizes the negative impact of actual bias or perceived bias on the legitimacy of internal investigations. For that reason, conflicts of interest in misconduct

investigations or in those assigned by BPD to recommend or make disciplinary decisions shall be prohibited. As such:

- 1.1. No employee who was involved in or a witness to an incident shall conduct or review a misconduct investigation arising out of that incident;
 - 1.2. No employee who has a current or former external business relationship or a current or former close personal relationship with a respondent or witness in a misconduct investigation shall conduct or review the misconduct investigation. No such person may make any disciplinary decisions with respect to the misconduct including the determination of any applicable grievance or appeal arising from any discipline. A close personal relationship includes a personal friendship, a romantic or familial relationship.
 - 1.3. No employee shall be involved in an investigation or make any disciplinary decisions with respect to any person who they directly report to in their chain of command. In cases where BPD is unable to meet this requirement, the investigation must be referred to an outside authority. Any outside authority retained by BPD must possess the requisite background and level of experience of PIB investigators and must be free of any actual or perceived conflicts of interest;
2. PIB investigators will not be assigned to any assignments, to include secondary employment or detail assignments, which could create an actual or perceived conflict of interest for their administrative investigations, including any assignment in which the investigator would report to or work with the subject of an open investigation. To fulfill the above requirements, an investigator shall disclose the circumstances of any relationship with a BPD member accused in an investigation (via the IAS Recusal Form, see Appendix A) to ensure that the nature of the relationship could not be perceived to compromise the investigative process. An investigation shall be reassigned if any of the following conditions exist:
 - 2.1. Family relationship;
 - 2.2. Outside business relationship;
 - 2.3. Romantic relationship (current or past);
 - 2.4. Personal friendship; or
 - 2.5. Work relationship, including where the investigator would report to or work with the subject of the investigation.
 3. Additionally, if at any point during the investigation, the investigator thinks it will be difficult to maintain neutrality with any witness, complainant or respondent for any reason, or if specific concerns about a conflict of interest are raised by any person, they shall document the issue in the case file, consult with a PIB Sergeant and/or recuse themselves from the case.
 4. The primary investigator must ensure that all PIB investigation case files contain an accompanying recusal form executed by the investigator, sergeant and lieutenant and approved by PIB Command.

5. PIB investigators and supervisors may be tasked with investigating and assessing the performance and credibility of individuals whom they have known and might have worked with in other capacities at BPD. They must listen closely to and treat with respect all persons who believe the police have mistreated them. Investigators must be aware that extra care needs to be taken to show the public that despite being peers of those against whom complaints are filed, all aspects of PIB's work will be conducted fairly and scrupulously. They should communicate with all participants in an investigation using the same degree of formality for everyone and should identify themselves as investigators within a section or unit of PIB.

E. Preparedness Expectations

1. All investigators must be prepared with necessary equipment prior to leaving the office while on duty, most notably, the investigator must have their Departmental cell phone and their BPD-issued audio recorder.
2. All investigators have a duty to report any malfunctioning or broken equipment to their supervisor, for example, video and audio recording equipment, printer/scanner, among others, in order for it to be promptly addressed.

F. CRB Considerations

1. The PIB/CRB Protocols, Sections 1.C. above and 2.B. below, mandate the requirements for the interactions between PIB and CRB as it pertains to cases where the CRB is conducting a parallel investigation for a CRB-eligible case.
2. For cases where the CRB is conducting a parallel investigation, the primary case investigator must follow all obligations as set forth in the PIB/CRB Protocol.
3. Specifically:
 - 3.1. The investigator has an on-going obligation to timely upload, document and alert CRB Liaison of all information, evidence and materials that are added to the file.
 - 3.2. The investigator must be aware of and adhere to the 90 day case completion deadline for cases. If the investigator anticipates that a CRB-eligible case will require additional time, an extension request must be timely submitted to the CRB.

II. DEFINITIONS

Field Contact – An initial contact or contact during an area canvass with an individual, during which the investigator obtains basic information, determines if the person has relevant information to the case, and attempts to arrange a time for a formal interview.

Field Investigative Interview – A recorded statement (audio and video if possible; more likely to be audio recording) made by an individual encountered at the scene of an incident or during an area canvass.

Formal Interview – A pre-scheduled interview that must always be recorded (audio and video recording; only audio as last resort), except in the rare instance when a non-employee agrees to be interviewed but refuses to be recorded. Formal interviews occur in a controlled setting, such as an interview room at PIB or a controlled setting convenient to or preferred by the interviewee.

Phone Interview – A recorded interview over the phone, which may occur on the intake of the complaint, or when the interviewee does not wish to participate in an in-person interview.

Phone Contact – Any contact over the phone between an investigator and a complainant, witness or respondent. To the extent possible, phone contacts should be recorded on the PIB recorded line. In the event that a phone contact occurs on a cell phone and is unable to be transferred to the recorded line, the investigator must record the content of the call in the IAPro case file. Phone contacts generally entail garnering basic information, scheduling interviews, or case status updates, but should not include obtaining a statement by a complainant, witness or respondent.

III. PLANNING THE INVESTIGATION

The investigator assigned an internal investigations case should initially outline the case to determine the best investigative approach and identify those interviews immediately necessary.

A. Organize Investigative Packet

1. Create the physical file
 - 1.1. The investigator will maintain an organized physical case file to facilitate completing the case at the end of the investigation.
2. The primary investigator must organize IAPro file and upload all materials received.
3. The primary investigator must ensure that physical files and IAPro files contain all of the same materials. Therefore, all items in the physical file must be uploaded to the IAPro file and all uploads, tasks and investigative reports entered into IAPro must be printed and included in the physical file.
4. The ultimate goal is that all PIB investigative files will be fully uploaded and maintained in IAPro, therefore making the physical file unnecessary. Until the point that BPD has the technological capacity to fully store all items seamlessly into IAPro, PIB will rely on the procedure outlined above requiring identical physical and IAPro files.

B. Planning the Investigation

1. The primary investigator shall review the complaint and all materials collected during the intake process, and will consult with the PIB staff member who conducted the intake to ensure that any perishable evidence has been collected, or to make it a priority to collect the evidence at that point.

2. The investigator shall create an investigative plan (see Appendix L) to help focus and guide the investigation, and review it with their PIB Sergeant within 24 hours of being assigned the case. The plan will provide an investigative strategy, identify witnesses and other potential sources of information, set out anticipated timelines for conducting the investigation, and help the investigator anticipate problems before they arise.
 - 2.1. If an immediate supervisor is not available to review the investigative plan, the investigator must meet with the next available permanent rank supervisor in the chain of command.

C. Key Segments of the Investigative Plan

C.a. Allegations/Issues to be Investigated. To identify all allegations/issues, the primary investigator must do the following:

1. Check the complaint and the initial evidence gathered during intake, if available. Review the specific violations alleged for each named employee. Identify and review the BPD policies that apply to or are implicated by the allegations in the complaint.
2. Review any public safety statements, which BPD employees are obligated to provide regarding a work-related incident or activity, including Use of Force Reports and incident reports.
 - 2.1. Where any employee believes that there may be a Fifth Amendment or Garrity concern if they provide a verbal or written statement that they believe will be self-incriminating and refuses to do so, the employee will not be compelled to provide a statement, unless ordered to do so after PIB Command consults with the prosecuting attorney and receives approval by the Police Commissioner.
3. Review all statements by personnel in incident reports, arrest reports, use of force reports and similar documents and statements made in interviews such as those conducted in conjunction with BPD's routine use of force review process. Such statements are part of each employee's routine professional duties and are not compelled statements.
4. Include in the case file a copy of the BPD policies at issue, along with any related policies, regulations or statutes. If the alleged conduct occurred when a different policy was in effect, that version of the policy must be included. If the alleged conduct occurred over a longer period, include all relevant versions of the policy. Different requirements may have been in effect at different times. Contact the Best Practices Unit (formerly Written Directives) to obtain previous versions of policies by emailing Policy@baltimorepolice.org.
5. Include a photo of officer(s) involved from InPursuit RMS.
6. Identify the legal elements needed to sustain each allegation. Consult with Legal Affairs if any questions arise. Focus on identifying the specific actions, behaviors and words alleged by the complainant.
7. Do not limit the allegations to those explicitly named by the complainant. Complainants are not typically be familiar with BPD policies. They likely will not frame their complaint

neatly within the language of BPD policies. Assess the totality of the facts as alleged to ensure that the employees named and allegations listed fully cover the potential misconduct alleged. Where, following the review, additional allegations or involved employees are identified, discuss with a PIB Sergeant and Lieutenant who will consult with the PIB Commander and the Classification Supervisor. Any changes to allegations attached to a complaint must follow the provisions outlined in the PIB Classification Protocol, Section 1.B. above.

C.b. Identify Witnesses and Others with Relevant Information. To identify all witnesses/others, the primary investigator must do the following:

1. Create a list of witnesses and others who might have relevant information include the complainant, named employee(s), witnesses to the incident, others with information about the incident, and subject matter experts.
2. The complainant likely was interviewed during intake, but consider whether to conduct a follow-up formal interview, particularly if the initial complaint statement was not done in-person. In general, PIB investigators must conduct a follow-up formal interview to ensure all key information is garnered, and to build trust in the process while assuring the complainant that there is activity in the case.
 - 2.1. Almost invariably, witnesses offering their account of an event will offer details that the complainant did not mention. In addition, subjects of an investigation typically offer a competing narrative that introduces new factual allegations. As a result, it is usually crucial to determine whether the complainant corroborates or disputes material allegations offered in these other narratives. Follow-up interviews are a key means of obtaining that information.
 - 2.2. Because follow-up interviews are so often critical, investigators should include in their investigative report a detailed explanation of any instance in which they did not conduct a follow-up interview. Additionally, investigators must keep track of the attempts made to locate and make contact with the complainant, and any offers of accommodating the complainant's needs and/or wishes.
3. Note contact information for each potential witness.
4. Identify issues about which each witness is likely to provide testimony.
5. Highlight discrepancies in the actions described, timelines, or otherwise, among witnesses or with other, tangible evidence; consider the physical scene and any special elements (e.g., sight-lines, points-of-view) that should be reviewed with witnesses; note the relationship of any witness to the complainant or the named employees.
6. Consider the order in which to interview witnesses and any special considerations, such as whether any parties are anticipated to be unavailable for any period of time, whether there is concern a witness might be less willing to participate if much time passes, or whether the witness requires any accommodations.

C.c. Create an Evidence List. To identify all evidence, the primary investigator must do the following:

1. Create a perishable documentary/physical evidence list. (See *Part (IV)(D.b)* below for a list of possible evidence.) Investigators must prioritize obtaining perishable evidence first.
2. Identify evidence that will be easier to gather and attempt to obtain that evidence promptly, while planning how to obtain other more complicated items. This permits the two-investigator team assigned to the case to work in parallel fashion to gather evidence more efficiently.
3. Follow policy requirements outlined in Policy 1401, *Control of Property and Evidence*, Policy 1017, *Mobile Device Searches*, Policy 1011, *Electronic Surveillance Procedures* (when applicable).

C.d. Chronologies and Timelines. To identify all timelines, the primary investigator must do the following:

1. Set out an anticipated chronology for the investigation.
 - 1.1. Identify what tangible evidence must be collected or analyzed prior to each witness interview. [Identify the optimal sequence for interviewing witnesses]
 - 1.2. Is the investigation CRB-eligible, and would it require CRB-approval for any extension beyond 90 days?
 - 1.3. Make an objective estimate as to how long each step of the investigation will take and whether there could be any problem in meeting the investigation deadline.
 - 1.4. Consider whether holidays, training schedules, workload, or scheduled absences (for you or witnesses) will impact the investigation timeline.
 - 1.5. Consider the amount of time it will take to prepare the Investigative Summary Report and to organize the case file before forwarding it for review.
2. Develop a schedule for the investigation that includes all steps to be taken before it can be forwarded for review.
3. Keep in mind that there are several steps after you submit the case that must be completed within the allowable statutory and contractual timelines and that if the reviewers request additional investigation, it is preferable that the additional investigation happen before memories or evidence are negatively affected.

C.e. Special Considerations

1. In making a plan and timeline for the investigation, investigators must consider whether the investigation involves or requires special considerations, and address the following questions:

- 1.1. Is assistance from others in PIB necessary because the complaint is time-sensitive, because an unusually large number of witnesses are involved, or because the issues are novel or complex and an additional perspective would be useful? Keep in mind confidentiality and conflict of interest principles outlined above.
- 1.2. Is assistance from outside PIB necessary, such as forensic video analysis?
- 1.3. Is the complaint related to another PIB complaint or to any other BPD investigation, investigation by another agency, or litigation from which material evidence might be obtained?
- 1.4. Does the named employee or complainant have other open PIB cases with which the investigator should be familiar and should discuss with the sergeant?

C.f. Review of the Investigation Plan

1. The investigator may consult Legal Affairs while developing the Investigative Plan to get feedback on whether any additional information or investigative steps should be taken based on the attorney’s review of the preliminary information and proposed investigative plan.
 - 1.1. For example, Legal Affairs may be consulted to ensure an understanding of the elements of the offense, the rules or regulations regarding the violation(s) they are investigating, and/or if they plan to conduct searches, subpoenas, or intrusive surveillance.
2. The plan should be developed in conjunction with the investigator’s supervisor. The investigator must submit a draft investigative plan to their supervisor within 24 hours of being assigned the case to ensure that the supervisor is aware of the plan and assists in identifying any areas of improvement in the plan. The supervisor must review and approve the plan, or return the plan to the investigator for revision, within 24 hours.

C.g. Time Limitations on Administrative Investigations

1. Administrative investigations must be completed within 90 days from the date of the complaint. This requirement is mandated by BPD as well as the law governing the CRB’s authority. As such:
 - 1.1. Any request for an extension of time must be approved in writing by the Deputy Commissioner of PIB, and
 - 1.2. For CRB-eligible investigation, a request for an extension must also be made to the Civilian Review Board. The CRB may grant an extension based on a show of good cause.

IV. CONDUCTING THE ADMINISTRATIVE INVESTIGATION

Complaints must be professionally, objectively and expeditiously investigated in order to gather all information necessary to arrive at a proper disposition. It is important to

document concerns from members of the public, even those that appear to be unfounded or frivolous. If such complaints are not documented or handled appropriately, public dissatisfaction will grow, fostering a general impression of agency insensitivity to community concerns.

When conducting an internal misconduct investigation, the investigator shall interview the complainant, all witnesses and the respondent officer, as well as retrieve and review all relevant reports, documents and other data and all video or audio recordings, including local surveillance videos (private and public), social media video, private persons' video footage, and BWC footage. Investigators should respond to the scene, take photographs and identify potential witnesses and evidence through an area canvas, when appropriate.

Only after a thorough and impartial investigation can an informed decision be made as to a complaint's proper disposition. Decisions based upon such an investigation will support the credibility of the department both among its ranks and the public at large.

A. Investigative Checklist

- 1. Investigators must use the Initial and 30-Day investigative checklists to ensure that investigations are thorough and objective. (See Appendix B)**
2. The primary investigator assigned to any case is responsible for ensuring the investigation follows the investigative steps in the investigative checklists (see Appendix B), and documents that the steps were taken.
3. Investigators shall not wait for their initial supervisor meeting to conduct any preliminary investigative steps on the checklist that require immediate attention due to their potential perishability. However, in all cases where collection of perishable evidence presents legal concerns (e.g., concerns about legality of collection or cases involving potential criminal conduct by BPD members), investigators must consult with a supervisor or, if directed, with Legal Affairs or the concerned prosecuting agency, as applicable.
4. The investigative checklists [Appendix B] are useful, but it is merely a tool to help the primary investigator build the investigative plan that fits the allegations and facts of the assigned case. To conduct a thorough investigation, the investigator must follow the evidence and any investigative leads that arise for each investigation. Therefore, though it is the expectation that the investigator considers each step detailed on the checklists, some steps will not apply to a given case and should be marked "N/A." In addition, some cases will require investigative steps that are not mentioned on the checklist, but nonetheless belong in the investigative plan.
 - 4.1. If the investigator is unsure about possible investigative steps or course of action, they shall consult their direct supervisor on the matter.
 - 4.2. During the course of an investigation the primary investigator should re-review the checklists to ascertain whether items previously marked "N/A" are now pertinent in light of evidence or allegations that emerged later on.

B. Procedures for Identifying and Contacting Complainants, Witnesses and Accused

It is generally recommended that the complainant, and all witnesses (whether civilian or sworn) be interviewed as soon as practicable.

The general preference is that all communications and interviews with complainants and witnesses are recorded (preferably video and audio, but at least audio). There may be times, though, when it is not practical or the person objects to being recorded. The investigator must use their discretion around the feasibility of recording, with a priority of obtaining information. Investigators must consider whether it will be a challenge to obtain the information later. In all instances where the investigator is unable to record, after the conversation, the investigator must document what was said, and why recording of the conversation was not feasible.

B.a. Initial Complainant Contact

1. Procedures and guidelines for contacting the complainant apply for both internal and external complainants.
2. The complainant should be personally initially interviewed if circumstances permit. All reasonable steps must be taken to locate and interview in-person all complainants at a time and place that is convenient for them. If the complainant cannot travel to the investigator's office, or if it is not convenient for them to do so, the investigator should conduct the interview at the complainant's home or place of employment if feasible. If not, a recorded phone interview may be conducted. All relevant identifying information concerning the complainant should be obtained, e.g., name, complete address, telephone numbers and area codes, race or ethnic identity, sex, date of birth, place of employment, and place of employment (name and address). All relevant facts known to the complainant should be obtained during the interview. An effort should be made to obtain a recorded statement from the complainant at the initial interview.
3. If the person making the complaint (or a witness) has been arrested or is also facing investigation involving a criminal charge related to the same transaction or occurrence as the PIB case, the investigator should nonetheless seek an initial recorded interview.
 - 3.1. If the person has not been charged yet, they must be advised of the Fifth Amendment privilege against self-incrimination (consult legal affairs with any questions).
 - 3.2. If criminal charges related to the same transaction or occurrence have been filed, the very first question that the investigator must ask them is whether they have an attorney.
 - 3.2.1. If the person states that they do have an attorney, the investigator must contact the attorney to discuss the possibility of the complainant participating in a formal interview.
 - 3.2.2. If the person does not have an attorney, the investigator must contact the public defender and determine if they are representing the person.

If yes, the investigator must arrange an interview through the public defender.

- 3.2.3. If an attorney cannot be identified and the person is facing criminal charges, under no circumstances should an interview be conducted without counsel present. Such an interview may violate the person's Sixth Amendment right to counsel.
 - 3.2.4. If the person is facing criminal charges related to an event that is completely different than the event they are claiming involved the misconduct, they can be interviewed about the event that is not related to the criminal charges, and the criminal charges should not be discussed.
4. As with all contacts or attempts to contact anyone regarding a specific case, the investigator must promptly document all calls, call attempts, voicemails left, letters sent, texts, and emails sent in the case file. The investigator must describe the reason for the communication and summarize any communications that resulted.

B.b. Procedures for Contacting and Arranging an Interview of the Complainant

1. Upon receipt of each new case for administrative investigation, the assigned investigator shall reach out to the complainant by telephone (recorded line when available) within one business day of being assigned the case. The investigator shall leave a message if there is no answer. This call will serve as an opportunity for the investigator to introduce themselves and schedule a time and place convenient and accessible for the complainant to be interviewed. If convenient and accessible for the complainant, preferred practice is to conduct the interview in the controlled setting of PIB. If the complainant is not willing to come to PIB but is otherwise willing to participate, the investigator must conduct the interview at a time and place that is acceptable to the complainant.
2. The initial call to the complainant shall also serve as an opportunity to ask the complainant about the existence of electronic or media evidence such as texts, photographs, video or other recording of the incident.
 - 2.1. Many forms of electronic evidence (e.g. items posted online or store security video) require rapid collection and thus should be identified at the earliest opportunity.
 - 2.2. The investigator should request for the complainant to preserve any tangible or electronic evidence, such as text messages, photographs or recordings. (Preservation of source material is important even if the complainant has forwarded copies.)
 - 2.3. It is important for the complainant to bring to their first interview any such evidence they possess – even if they have previously provided copies via email or other means. If the interview is at the complainant's home or workplace, the investigator should inquire about the original evidence. Viewing the material

from its original source will enable the investigator to identify issues of authentication, forensic analysis/preservation, etc.

3. This initial call also serves as an opportunity to explain the investigative process to the complainant. A brief overview helps dispel any inaccurate assumptions, address any fears of retaliation, and develop rapport that will prove helpful in the interview process.
 - 3.1. This overview should include advising the complainant that retaliation against them is prohibited and they should immediately report any instances of retaliation to the investigator.
4. Additionally, the investigator must compose and mail a letter via regular mail within 5 business days of case assignment, in order to introduce themselves and schedule a time for the complainant to come into the office for a recorded interview (see Appendix C). If the investigator and complainant have already scheduled an interview during the initial phone call, the letter must confirm the date/time/location agreed upon during the call. If the investigator has an email address for the complainant, they may send an email containing the same information instead of the letter.
5. If the investigator does not receive contact by the complainant within 10 days of sending the letter, the investigator must re-send the letter by mail as a certified letter. Likewise, if no response to an initial email is received within 10 days, the investigator must send a certified letter by mail.
6. If the investigator calls the person and the number is no longer in service, the investigator must do the following to identify another valid phone number: search in databases like LINX, BPD Navigator, In Pursuit, MVA database, or conduct an internet search.
7. All reasonable steps must be taken to locate and interview in-person all complainants at a time and place that is convenient for them.

B.c. Procedures for When the Complainant Does Not Wish to Participate

In an effort to ensure integrity of the Department and the complaint process, along with securing the trust of the members of the Department and the citizens and residents of Baltimore City, PIB investigators will thoroughly investigate all allegations whether or not the complainant is participating in the investigation. In this regard, anonymous complaints will be provided with the same level of scrutiny to verify the allegations as provided to complaints with a named complainant.

1. If the investigator is unable to make contact with the complainant, the investigator shall make reasonable steps to make contact such as:
 - 1.1. Attempt to call at three different times from a recorded line – in the morning, in the afternoon, and before investigator's tour ends. Leave a message if no answer. The investigator shall note in the file the date/time/recorded line they called from. Additionally, the investigator shall pull the audio from each attempt and/or successful call and upload the audio file to the IAPro case file.
 - 1.2. Additionally, if the investigator does not successfully contact the complainant through the first two calls, after making the second call the investigator must

also send a text message to any cell phone number provided to request a callback from the complainant.

- 1.3. When the investigator is not able to successfully contact the complainant by call or text, the investigator shall visit the complainant's home or another known location where the complainant may be in order to interview the complainant. If no answer at the home or other location, the investigator will leave a contact card;
 - 1.4. If no response, the investigator should check for an alternative address via law enforcement available databases, the inmate locator database, or public information.
2. If at any point the complainant indicates that they do not want to receive further contact from PIB regarding their complaint, the member receiving this information shall attempt to record this request with an audio and video recording. After receiving such a request, the BPD member receiving this information must include this information in the IAPro case file, noting specifically what the complainant stated. The BPD member who receives this information from the complainant shall inform the complainant that the complaint will still be investigated as thoroughly as possible, even if the complainant no longer wishes to participate. At no point will an investigator suggest to the complainant that they may make such a request.
 3. After receiving an explicit request from a complainant to no longer be contacted by PIB, the investigator shall not contact the complainant further, but shall continue to follow all investigative procedures set forth in this manual, to include those covered on the Investigative Checklist. The investigator is responsible for making diligent efforts to gather evidence to verify the allegation(s), even without further participation by the Complainant. Such diligent efforts shall include attempts to locate witnesses, surveillance, reports, documents and other relevant evidence.
 4. The investigator must ensure that the reason stated for the recommended finding is based on the evidence collected and not the fact that the complainant is uncooperative.
 5. If a Complainant expresses their desire to withdraw a Complaint, they may complete a Request to Withdraw Complaint Form (See Appendix D). A Complainant may choose to formally withdraw, but BPD shall not stop an investigation based on the Complainant's desire to withdraw.
 - 5.1. Upon receiving the Complainant's Request to Withdraw Complaint Form, the investigator assigned to the case shall audio and/or video record the interview with the Complainant in which they shall be asked to explain the reason(s) for the request to withdraw. This audio and/or video recording and the completed withdrawal form shall be made a part of the investigation which must continue, utilizing what information has already been provided by the Complainant and any witness. The investigation must be concluded with a proper disposition. The disposition of "WITHDRAWN" is not utilized by BPD.
 6. If a Complainant withdraws their Complaint, and subsequently refuses to participate in a recorded interview, or refuses to assert their withdrawal in writing, the assigned

investigator must memorialize the withdrawal in writing, clearly stating, when and how the withdrawal was communicated and any witnesses to the withdrawal.

7. If the complainant at any point says that they no longer want to participate, the investigator must tell them that they can always call at a later date if they change their mind to find out the status of the investigation and/or to participate.
 - 7.1. Advise complainant that PIB will still send them an outcome letter at the end of the investigation.
 - 7.2. If complainant says they do not want to receive an outcome letter, the investigator will inform the person that they will make note of this request in the case file.

B.d. Procedures for Continued Communication with the Complainant

Throughout the investigation, the investigator serves as the point of contact with the complainant.

1. The investigator must make all calls to complainants on a recorded line and must document every conversation with a complainant as soon as possible. When the complainant prefers to communicate by text message, the investigator shall attempt contacts with the complainant by text message via their departmental cell phone. The investigator will retain the text message communications by screenshot in the investigative file.
2. In the event that the investigator receives a call on their cell phone when they are unable to record the call, the investigator must do the following:
 - 2.1. If the complainant is calling to have a conversation that does not involve discussing the facts of the incident (for example, they are calling back to schedule an interview or to ask about the status of the investigation), the investigator should take the call and then document what was discussed as soon as they return to the office.
 - 2.2. If the complainant is calling to discuss facts of the incident, the investigator should try to either schedule an in-person interview or ask the person if they can call them back upon having a recorded line (or audio recorder available).
 - 2.3. If the complainant does not want to wait, or if there is a likelihood that by not having the conversation at that moment, the information will be lost, the investigator must conduct a phone interview and document the content of the call as soon as possible after the call has ended. It is best for the investigator to write down notes during or immediately after the call in order to preserve as much information as possible. The investigator must complete an investigative report with the information from the statement as soon as possible, but no longer than 48 hours after the phone interview.
3. The investigator must send periodic updates to the complainant by mail and by email (if the complainant provides an email address) as described below.

4. Within five business days of receipt of a complaint, the investigator will send non-anonymous complainants written notice of receipt (See Part (B.b)(4) and Appendix C).
 - 4.1. This letter shall include the CC# originally assigned to the complaint, along with all other case numbers (e.g., IA number, CRB number if applicable) assigned to the case.
 - 4.2. This letter shall state how the complainant may ask about the status of the complaint.
 - 4.3. This letter shall not include any language that could be reasonably construed as discouraging participation in the investigation, such as warning against providing false statements or a deadline by which the complainant must contact the investigator.
5. 30 days after receipt of the complaint, the investigator will contact the complainant by written letter (See Appendix E) and by email (if available) to inform them of the status of the investigation.
6. In the course of investigating a civilian complaint, the investigator will send written updates to the complainant at least every 30 days by mail and by email (if available). Communication with the complainant every 30 days is the minimum requirement. Investigators may find it helpful or necessary to maintain more frequent contact with a complainant.
7. Investigators must be responsive to calls and requests by the complainant. If the specific request by the complainant is not possible or permissible (e.g., the information requested does not exist or the information is protected by law), the investigator must inform the complainant as to why the information is not being provided. The investigator cannot simply ignore the request by the complainant.
 - 7.1. Information protected by law that cannot be shared with a complainant includes:
 - 7.1.1. Personnel records
 - 7.1.2. Juvenile arrest records
 - 7.1.3. Medical records for someone other than the complainant
8. Additionally, an investigator cannot disclose any information that would jeopardize the integrity of an investigation and/or an administrative or criminal trial. If the complainant requests such information, the investigator shall explain that they are unable to provide that information in order to protect the investigation and/or potential trial.
9. All investigators shall communicate with complainants in a professional and respectful manner. Investigators who fail to do so shall be subject to discipline, demotion, and/or appropriate corrective action based on the seriousness of the conduct per Policy 302, *Rules and Regulations*.

B.e. Procedures for Identifying the Accused Officer

1. In many instances the accused officer will be readily identifiable from the Complaint or named by the complainant.
2. In instances where the accused officer is not named, and is not readily identified through KGA, BWC, incident reports or charging documents, other officers, supervisors, or witnesses, the investigator must make all reasonable efforts to identify the officer if the complainant could not identify the officer's name
3. These efforts shall include:
 - 3.1. Reviewing or requesting information about officer's description
 - 3.2. Using incident time, location, type, complainant information, any other applicable factors to attempt to identify the implicated officer. This could involve:
 - 3.2.1. Reviewing the KGA
 - 3.2.2. Looking for body-worn camera footage from approximate date/time/location.
 - 3.2.3. Reviewing CAD
 - 3.2.4. Going to the schedule and the run sheets from that particular district or unit to determine who was working that day.
 - 3.2.5. Talking to supervisors from that particular district or unit.
 - 3.2.6. Utilizing any GPS data available.
 - 3.2.7. Contacting Citiwatch and/or businesses in the area to see if cameras perhaps captured the accused officer.
 - 3.2.8. When all of the above avenues have been exhausted, conducting a photo array with the complainant and/or witnesses per Policy 1009, *Double-Blind Sequential Photographic Array Procedures*.
4. The primary investigator may request that the complainant or other witnesses identify otherwise-unknown persons depicted in BWC or other pertinent video footage obtained during the investigation.
 - 4.1. If the person has already seen the video, the investigator may do so by showing the person the video.
 - 4.2. If the person has not already seen the video, the investigator should show a still photo of a frame in the video, but not expose the complainant or witness to a video that they have not yet viewed.
5. If none of the above turns up the person, the investigator shall discuss the issue with their supervisor for other possible strategies to identify the accused member.

B.f. Identifying and Contacting Witnesses – Non-BPD Affiliated and BPD Employees

1. The primary investigator must use all information gathered in the investigation to identify all witnesses to the incident, and ensure that they are added to the witness list created during the Investigative Planning Stage, Part (III)(C.b) above.
2. The investigators should conduct area canvas, talk to post officers, conduct search of nicknames in BPD databases (for example, In Pursuit, BPD Navigator, Lotus Notes, LINX, etc.).
3. Identification of persons anonymously claiming to be witnesses in social media posts or online comments to news articles may present special challenges. Nonetheless, the witness list should include any online pseudonyms of persons claiming to be witnesses and updated once those persons are positively identified.
4. The investigator shall contact every witness identified either in the complaint or by the complainant or other witnesses (via recorded line, whenever possible). When the investigator successfully makes contact with any witness, this presents an opportunity to confirm the person's contact information, schedule an in-person interview, ask about the identities of any other potential witnesses, and/or learn about any facts or evidence that the witness would like to share.
5. Written communications to witnesses should be limited to logistical matters, such as obtaining contact information or setting up the time for a recorded interview. Written communications regarding substantive matters (e.g., sending an e-mail message to witnesses that ask them to provide a written account of what they saw) deprive the investigator of the ability to obtain spontaneous statements, to evaluate witnesses' demeanor, and to test responses with immediate follow-up questions. If a complainant or witness is only willing to communicate with PIB in writing (e.g., via text message or social media platform), then the investigator must consult with their supervisor, but in such a case an exception to the above may need to be applied.
6. It is always preferable to conduct an in-person interview, as long as the witness agrees to be interviewed. When contacting complainants and witnesses, find out about their availability. (e.g., Do they have upcoming vacations? What is their work schedule so you know when to contact them and when may be a convenient time to arrange an interview?)
7. If the witness refuses an in-person interview but is willing to undergo an interview over the phone, the investigator must conduct a recorded phone interview at a time that is convenient for the witness.
 - 7.1. The investigator must notify the person that the call is being recorded and if the person does not refuse, the recording shall continue.
 - 7.2. Confirm during the recorded interview that the witness had declined or was unable to appear in person.
 - 7.3. Use the recorded interview (i) to confirm there were no prior, unrecorded interviews by the investigator (e.g., "We haven't spoken about this incident before, correct") and (ii) to memorialize any prior, unrecorded statements made

by the witness (e.g., “When I called you yesterday to schedule this interview, you said something about the incident. Could you repeat that so I have a clear record of it?”)

8. The investigator shall discuss with each witness any evidence that they may possess or may be aware of to assist in progressing the investigation. If the witness possesses evidence, discuss evidence preservation and how to provide it to the investigator (same as guidance under Part (IV)(B.b)(2) above.
9. The investigator must ensure all evidence and its origin are documented in the investigative file with an administrative report.
10. The investigator must take all reasonable steps to locate and interview in-person all witnesses at a time and place that is convenient for them.
11. All efforts to contact non-BPD witnesses should be noted in in IAPro in a Task or in an Investigative Report. Sustained and reasonable efforts must be made to contact these individuals and complete interviews. All available means of contacting these individuals shall be attempted, including but not limited to attempting to locate them in person, calling them texting them, and or contacting them through social media if necessary.

C. Procedures for Formal Interviews

C.a. Types of Interviews

1. A **formal interview** refers to a planned interview that occurs in a controlled environment. This interview is conducted by an investigator, and its purpose is to get an official recorded account from the complainant, a witness (whether civilian or sworn), or the respondent officer, about the incident in question. Often, this interview occurs at the PIB office, though it may occur at another place preferred by the interviewee. If the interviewee refuses to be recorded, the priority should be to obtain the information and write an investigative report immediately following the formal interview.
2. A **field investigative interview** may occur when an individual is identified at the scene of an incident, or during an area canvass at some time after the incident. Though it is preferred by PIB that any involved person or witness provides their statement in a controlled setting, whether the PIB office or elsewhere, there are times when the interviewee will either refuse to be interviewed in such a controlled setting, or where the investigator understands that getting the person’s statement at the time may be critical (e.g., there’s a risk of losing contact with the person later). As such, there may be less time to prepare for a field investigative interview, but the below guidelines should apply to the extent possible. All field investigative interviews must be recorded with at least an audio recorder, and should be conducted in a quiet/controlled environment to the extent possible (e.g., in the investigator’s car, in a quieter area of the street, in a person’s home, in order to obtain the recorded statement. All PIB investigators must bring their BPD-issued audio recorder with them when responding to a scene and when conducting an area canvass. In the rare instance where a member’s audio recorder is unavailable, they may use their BPD-issued cell phone to

record the interview. If the interviewee refuses to be recorded, the priority should be to obtain the information and write an investigative report immediately following the formal interview.

3. There may be times where a complainant or witness calls the investigator on the telephone. In general, phone conversations are not considered formal interviews or field investigative interviews, and therefore should not be used to get facts of the case or the person's account of the incident. In such cases where the person would like to give facts of the case over the phone (a **phone interview**), the investigator should ensure the call occurs over the PIB recorded line. Therefore, if the person reaches the investigator on their cell phone at a time that the person is not at their desk, the investigator should schedule a time to call the person back on the PIB recorded line. Where the individual does not wish to participate in an in-person interview but is willing to speak over the phone, the investigator should follow the below guidelines to the extent that they can apply to an over the phone interview. At the start of a phone interview, the investigator should inform the person that the conversation is being recorded. If the person refuses to be recorded, the investigator should document the refusal, take thorough notes and prepare a narrative summary for inclusion into IAPro and the investigative file, in accordance with Part (IV)(C.b.iii)(4.3.).

C.b. General Guidelines for All Interviews

1. Every effort must be made to conduct a formal interview all individuals in-person. BPD employees must be interviewed in-person. For circumstances where non-BPD complainants or witnesses cannot or decline to be interviewed in-person, the reason must be explained in sufficient detail in IAPro.
2. Interviews should be scheduled to allow time for preparation by the investigator and to provide sufficient notice to the person being interviewed.
3. The investigator shall take audio and video recorded statements from every witness, unless in the field, in which case a BPD-issued digital audio recorder should be used to record the statement. If a witness who is not a BPD employee objects to the statement being recorded, specifically document the objection.
4. The investigator shall conduct due diligence on all persons to be interviewed by reviewing all available background information, to include a database review for addresses, contact information, employment information, criminal history, open warrants, or other BOLOs for the individual. This does not include a review of financial records or immigration status.
5. The order of interviews will be guided by the specific nature of the complaint, the anticipated testimony of each person being interviewed, and other tactical considerations, though special circumstances may dictate when an interview can or should take place. Individuals who are being interviewed who are expected to be uncooperative are sometimes best interviewed last, allowing the investigator to gather evidence from other sources and to develop specific questions, rather than relying on that individual to offer information. Generally, interviews should be conducted in the following order:

- 5.1. Complainant (interview as soon as possible)
 - 5.2. Individual affected by the misconduct (if not the complainant)
 - 5.3. Non-BPD witnesses
 - 5.4. BPD employee witnesses
 - 5.5. Respondent employee
6. The investigator shall conduct a follow-up interview of the complainant when appropriate or if necessary (for instance, if additional questions need to be asked). It may be necessary to conduct a follow-up interview with one or more witnesses as a way to corroborate and/or test new factual claims that emerge during the course of interviews.
 7. All adult interviewees – whether witness, complainant, respondent or witness officer – shall be interviewed separately and individually. Interviewees may have their counsel present with them, if requested. If the person requires an accommodation, see paragraph 8 in Part (IV)(C.b.ii) below for accommodations. In the exceptional circumstance where a person cannot or will not be interviewed without the presence of a specific support person, do the following:
 - 7.1. Interview the support person first to ask their knowledge of the incident at hand and find out if they were a witness;
 - 7.2. Then, during the interview with the other complainant or witness, state on the recording that the support person was previously interviewed by the investigator, that their presence in this interview is only that of a support person, and ask that they please do not suggest any answers being asked of the complainant or witness.
 8. For youth interviewees, parental permission is required to conduct the interview. Parents also have a right to be present during the interview. When considering interviewing a minor witness or complainant, consult with your supervisor to determine the best course of action. There may be times where it is appropriate to have the Baltimore Child Abuse Center or another provider specializing in working with children as the interviewers of the minor, or where otherwise appropriate (consult your supervisor).
 9. For witnesses not employed by BPD, including the complainant, interviews should be scheduled at the time and place most convenient for the interviewee, while avoiding unnecessary delays to the investigation.
 10. If a witness is difficult to locate, an investigator should consult with a PIB Sergeant about strategies to use to locate the witness.
 - 10.1. If the witness is not returning phone calls or text messages, attempt to call them from a recorded line three (3) times during the same shift – in the morning, in the afternoon, and before the investigator’s tour ends. Leave a message if no answer.
 - 10.2. Additionally, if the investigator does not successfully contact the witness through the first two calls, after making the second call the investigator must

- also send a text message to any cell phone number provided to request a callback from the witness.
- 10.3. Visit the witness's home or workplace to establish contact, if necessary. Whenever the investigator has gone to a location to locate a witness and did not find that person, the investigator must leave a card with their contact information.
 - 10.4. Attempt to contact the witness via social media, if you have the person's social media identifiers. No BPD member shall use a personal social media account for such communications. Communication with complainants or witnesses through social media may only be done through a BPD-approved social media account and with supervisory approval.
 - 10.5. As a final step, a letter and an email should be sent asking for contact.
 - 10.6. The investigator must specifically document in IAPro as a Task any and all efforts taken to reach the witnesses. Upload audio recordings of calls and call attempts into IAPro file. List dates, times, name of investigator(s), locations, etc. of all attempted attempts to call, door knocks, or other attempts to contact. Include copies of any written correspondence.
11. Two investigators will attend all formal and field investigative interviews conducted, whenever practicable. Nevertheless, obtaining the information should always outweigh the need for two investigators.
 - 11.1. Generally speaking, the two investigators attending the interview will divide their duties as described below.
 - 11.1.1. The primary investigator is generally the person to lead the interview, ask the questions, and steer where the interview is going. They must listen carefully to the interviewee's answers to ask appropriate follow up questions and ensure all relevant information has been elicited from the interviewee.
 - 11.1.2. The secondary investigator detective is present to assist the primary by listening to the interview, and help ensure all relevant information is gathered. The secondary investigator may interject questions. The secondary investigator's role in the interview is also to serve as a witnessing member in the event that the primary investigator becomes unavailable at a later time. This model may be modified given the specific circumstances of each case and interview.
 - 11.2. If another investigator has a related case, meaning another case that involves some or all of the same complainants or witnesses, that investigator should serve as the secondary interviewer for the sake of efficiency. The primary investigator on the case takes the lead to set the strategy prior to the interview, control the flow of the interview, ask most of the questions, take brief notes, and operate the recorder. Note that even if two investigators with related cases support each other in the interview, each interview must be planned and conducted separately.

12. If the complainant declines to be interviewed in person or over the phone, try to gather the necessary information from them by email or text. Note – Generally substantive conversations with complainants and witnesses via email or text should be avoided. This should be a last resort after several attempts at in-person or telephonic cooperation, or in circumstance where the individual has made clear that it is the only manner in which they are willing to communicate.

C.b.i. Location of interviews

1. Interviews of BPD employees generally will take place at the PIB office.
2. Witnesses not employed by BPD should be interviewed at a time and place that is convenient and accessible for them (if they agree to be interviewed). Generally speaking, it is preferable for the interview to occur in the controlled setting of the PIB office, so long as the witness agrees that it is a convenient and accessible location for them. On occasion, it may be preferable to interview witnesses as well at the location of an incident so that they may identify points of view (POVs), sight lines, and the like. In such cases, the investigator should seek to video record any walk-throughs conducted and take POV photographs when practicable.
3. When the witness determines that it is most convenient and accessible for them to be interviewed in a location other than PIB, the investigator must ensure the location is private, no one else is present, environmental distractions are eliminated, (e.g., radio, television), and the interview is recorded audio recording on BPD recording device, at a minimum).

C.b.ii. Preparing for the Interview

1. The investigator shall review the Investigative Plan to determine the interview objectives and the issues to be addressed with the individual to be interviewed. The investigator shall refer to the interview template as the guide while preparing for the interview (See Appendix F).
2. The investigator shall consider whether there are documents, BWC video, photos or other evidence about which you want to show and question the interviewee.
3. The investigator shall consider using photographs of the scene or diagrams in order to assist the interviewee with identifying where certain people were located, the relative positioning of people and things, and events that took place.
 - 3.1. For easy reference, the investigator shall bring extra copies of diagrams or maps to the interview so that the witness is able to draw or makes notes on them during the interview.
4. The investigator shall prepare an outline of topics and subtopics to be covered with the interviewee.
5. The investigator may want to show witnesses evidence captured on video. In most circumstances where video is to be shown, video review should be conducted at the end of an interview, after a witness's uncontaminated full recollection has been exhausted by careful questioning. Video-related preparation includes deciding which

video footage to show, and/or which excerpts to show. Investigators should also consider whether video review with a witness should be postponed for a planned follow-up interview.

- 5.1. The investigator must determine whether to show video, must plan on what video footage to show and how they want to show it (e.g., on a computer monitor or a large television monitor where the recording equipment picks up what is seen on the video as well as the witness who is pointing things out or narrating what is being viewed).
 - 5.2. There may be times where it is helpful to have the witness walk the investigator through what happened with the aid of video.
 - 5.3. There may be times where video can be used to confront inconsistencies.
 - 5.4. When using video, the investigator must ensure that the person authenticates the video, by asking, for example “Is that you?” and having the witness confirm.
 - 5.5. If the video does not have audio, the investigator should be prepared to ask what was said at certain moments in the video.
 - 5.6. Supervisors should play an active role in assisting the investigators for planning the use of video in interviews.
 - 5.7. The decision to show video footage, and how to show video footage, shall not depend on whether the interviewee is a BPD member or a member of the public. The criteria used to decide whether and how to use video should be applied equally to both populations of interviewees.
6. The investigator shall consult with their supervisor prior to conducting any significant or complex interviews to discuss the plan and the appropriate strategies for conducting the interview given the case’s complexity, the interviewee’s potential knowledge, the existence of other evidence and how it may be used in the interview if appropriate, etc.
 7. The investigator shall consult with Legal Affairs prior to conducting an interview of a respondent officer in any case where the allegations, if true, would result in a Category E or F violation. This consultation will entail the investigator sharing their proposed interview questions with the Legal Affairs attorney, and discussing the case and their proposed questions to determine if there are additional questions they should ask based on the attorneys review the questions and preliminary investigation. There may be times when, upon consultation with Legal Affairs, the Legal Affairs attorney determines that they should be present for the interview to provide the investigator with advice and counsel while conducting interview.
 8. PIB personnel will ascertain if the interviewee needs a foreign language interpreter or any other accommodation, such as for a hearing or sight impairment. PIB will arrange for an interpreter or language line service, if needed, and will make reasonable accommodations to assist those complainants and witnesses with disabilities. See *Policy 1103, Communicating with Individuals Who are Deaf and Hard of Hearing, Policy 1735, Language Access Services for Limited English Proficient Persons, Policy 1736, Service Animals, and Policy 1737, Accommodation Procedure.*

C.b.iii. Recording the Interview

1. All interviews conducted at PIB shall be recorded with audio and video recording equipment in their entirety absent a specific, documented objection by a complainant or witness not employed by the BPD. Audio and video recordings serve as a safeguard to ensure an objective record of exactly what was said during any interview.
2. If audio and video equipment is not attainable, or if the interview is being conducted at a location other than PIB, the interview must be audio recorded with the BPD-issued digital audio recorder.
3. BPD employees are required to submit to recorded interviews. Still, consent to the recording should be noted at the beginning of the interview, and if they refuse, the refusal should be documented.
4. Complainants and witnesses who are not employed by BPD are not required to consent to a recorded interview, but investigators are obligated to notify the interviewee that they are being recorded (Md. Code, Cts. & Jud. Proc. § 10-402).
 - 4.1. As such, investigators must advise these witnesses that they are being recorded, and state the time, date and location of the recording, as well as the IAD case number and the investigator(s) conducting the interview.
 - 4.2. If the person declines to be recorded, the investigator will tell the interviewee the rationale for recording interviews and encourage them to consent.
 - 4.3. If consent is not provided, the investigator must document the refusal and take thorough notes during the interview. The interview should still be conducted to the same level of detail as if it were recorded. In these circumstances, prepare a narrative summary of the interview immediately after the interview to include in IAPro and the investigative file. Information derived from an unrecorded interview should be given the same weight and credibility that would be provided if it was recorded.
5. At the beginning of the recorded interview, the investigator must memorialize all previous communications that have been made between the investigator and the witness previously about the case. (e.g., Have you and I spoken before? Did we talk about anything else? Did you talk to anybody else in the agency about the case?)
 - 5.1. If any relevant discussion or review of a video or other evidence occurred prior to the recording, it should be noted on the record. This is accomplished by making a statement like the following to the interviewee while the recording device is activated:
 - 5.1.1. *Before starting this recording, please tell us what you reviewed. Confirm whether it included BWC footage, your cell phone video, an email, a report, etc.] that was [recorded, written] on X date. Can you confirm that this is what you reviewed?*
 - 5.1.2. The recorded statement must include WHAT was reviewed, WHEN that item was created (if known), and a verbal confirmation from the

interviewee that this is the item they reviewed prior to the activation of the recording device.

5.1.3. *What other sources of information about the matter have come to your attention?* [Cover extraneous sources such as media or social media, statements from fellow officers, family members, etc.]

5.1.4. Similarly, the recorded statement must include details about what sources of information reached the officer prior to the interview.

5.2. Additionally, the investigator must ask the interviewee on the record whether they have spoken to anyone else about the incident, and ask them to identify all persons they have spoken with about the incident.

6. Typically, during a formal interview, an interviewee will not be permitted to make a recording of the interview in order to protect the integrity of the case. If a non-employee civilian complainant or witness refuses to be interviewed without being allowed to make their own recording, the investigator shall consult their supervisor to determine whether it is advisable to allow an exception.

C.b.iv. Conducting the Interview

1. Investigators must give interviewees all appropriate warnings as required by law, to include, if necessary, warnings required pursuant to Miranda (see Appendix M), LEOBR, and Garrity (see Appendix N). If the interviewee is represented by counsel, the advisements may be made by counsel, but the advisement must be noted on the recording.
2. The investigator's demeanor during the interview shall be respectful, courteous, and professional. It is very important to maintain formality and neutrality, even if the interviewee is someone the investigator knows. This can include body language and overall demeanor in the interview.
3. The investigator must consider the interviewee's information to be perishable; they may move away or stop participating. It is important to get as much information as possible, because it may be the only opportunity to speak to the interviewee.
4. The investigator must strive to maintain appropriate eye contact throughout the interview, engage in active listening, listening closely to the answers provided.
5. The investigator must seek to establish rapport with the interviewee. Work to overcome barriers to communication, explain the investigative process, including timeframes and dispositions.
6. Throughout the interview, investigators must not make statements that an interviewee could reasonably understand as intended to discourage the interviewee from providing a full account. An example of such a statement may include: *"If I catch you lying, you could be charged with a false statement"* or, *"Only tell me about what happened that day. Your previous encounters with the officer are irrelevant."*
7. The investigator shall not make false promises or convey unreasonable expectations.

8. The investigator may need to preface the interview by reinforcing that the witness or someone associated with them is not in legal peril.
9. The investigator should give a brief explanation about the purpose of the interview, and why the person is being interviewed, though the investigator must avoid taking actions that may inadvertently taint the interviewee's testimony).
10. In a non-threatening manner, the investigator shall seek the interviewee's commitment to provide a truthful, complete account of the incident. For example: *In order for us to do a complete investigation and make accurate findings in the case, we want everyone we interview to provide us a truthful, complete account of what they remember about this matter. We also want everyone to tell us about any other sources of evidence, such as other witnesses, or physical evidence. Does that sound fair to you? Are you fine with that?*
11. The investigator shall explain the entire investigative process, including timeframes and dispositions.
12. The investigator must avoid forming any inappropriate or biased-based assumptions regarding the person being interviewed and instead focus on obtaining as much information and evidence as possible. Do not rush to judgement concerning the agenda or credibility of the interviewee, and do not question the integrity of the interviewee. The investigator will not express to the interviewee any opinion regarding the complaint or eventual outcome of the case.
13. If at any point during the interview, it becomes obvious to the investigator that the person is having a hard time following along or comprehending what is going on, the investigator should ask the interviewee if they are ok or if they understand what is being asked of them. The investigator should make any appropriate accommodations necessary based on the interviewee's response.
14. Although the nature of the complaint may make the interview uncomfortable, the investigator nonetheless must ask the necessary questions. Specific and sometimes direct questions must be asked in order to address the elements present in each allegation. If there is reason to believe the witness was the victim of trauma, then the investigator must keep in mind the following:
 - 14.1. Everyone reacts differently to traumatic events
 - 14.2. Most victims of trauma experience continuing trauma that may affect their physical, emotional, social and economic well-being.
 - 14.3. Victims of trauma may not remember all details of the incident due to the impact of trauma.
 - 14.4. Trauma may be a factor in delayed reporting of an incident
 - 14.5. Therefore, the investigator must treat victims of trauma with respect, patience, compassion, and professionalism.
 - 14.6. Investigators must not express blame, judgment or disbelief.
15. Open-ended and probing follow-up questions (see chart at paragraph 21.1. of this section) must be asked in order to fully understand what the person being interviewed

saw, heard and/or otherwise knows about the matter under investigation. Keep interruptions to a minimum so that the interviewee offers as much detail as possible. Attempt to obtain information to fill in any gaps that remain after the preliminary investigation interview, or that have arisen prior to the interview.

16. It is the responsibility of the investigator to collect all available information so that the Investigative Lieutenant can make initial findings based on facts discovered during a complete, objective and thorough investigation.
17. At times it may be necessary to challenge assertions and probe further when there are incomplete responses. Prepare topics of discussion ahead of time to be addressed, but be sure to listen closely to the interviewee's responses in order to ask appropriate follow up questions. Additionally, be prepared to address specific points of contention and to anticipate how interviewees may respond.
18. Interviewers must be familiar with policy requirements relevant to the allegations raised against the Respondent employee to guide the interview. Some witnesses may be able to speak to all elements of all allegations, while other witnesses may offer more limited information.
19. While the interview outline serves as a guide, it may be necessary to pursue an unexpected line of information or clarify inconsistent or incomplete answers. Do not lose the opportunity to gather as much information as needed to assist you later in making a determination regarding the case.
20. Investigators shall attempt to answer the *Who? What? When? Where? How? And Why?* as much as possible given the interviewee's experience and knowledge.
21. Investigators shall not ask leading questions that assume facts not established in the interview, that suggest or imply an answer, suggest legal justifications for the officer's conduct, or otherwise do not provide an individual with an opportunity to provide a sufficiently full and complete answer. Leading questions typically are those that can be answered with a "yes" or "no, or that otherwise imply the answer in the phrasing of the question. Leading questions may also be framed in terms of an interviewer making a statement and asking the interviewee whether they would agree with the statement.
- 21.1. Examples of leading questions to avoid, and better ways to frame your questions include:

Examples of questions to avoid	Open-ended way to ask the question to get to the necessary facts
Do you remember seeing the subject with a gun when you arrived?	What did you see when you arrived? Who was there? What did you notice about them?
Were you next to your car when you saw the officer?	Where were you when you saw the officer?
Were Officers Smith and Jones present?	Were any officers present? If so, who?
Did Officer Smith say that the subject had a weapon?	Did Officer Smith say anything? If so, what?

Did you use your Taser because the subject would not drop his weapon after you asked him to?	Why did you use your Taser? Or, what were you thinking when you made the decision to use your Taser?
You were worried about your safety, right?	What was going through your mind at the time?
Did the other officers ask for your assistance?	Did the other officers say anything? If yes, what?
You didn't see anything, though, right?	What, if anything, did you see?
Did the officer sound apologetic after you told him you wanted to make a complaint?	What, if anything, did the officer say to you after you told him you wanted to make a complaint?
And you were hurt during the event, right?	Did you sustain any injuries from the event?
And, is it true that as the officer walked away, you yelled at him?	Did you do or say anything when the officer walked away?

22. Investigators should likewise avoid questions that unnecessarily convey value judgements about the complainant or witness (e.g., “Why were you at that location, instead of being in school?” “You said you’ve called the police on your partner four times. Why haven’t you left him yet?”).

23. Interviews should move from broad to more specific questions.

23.1. Use repetition to understand details.

23.2. Restate what you heard to ensure accuracy.

23.3. Avoid commenting on what was said.

23.4. Don’t express judgment about what is said, either verbally, by tone of voice, or by facial expression.

24. Investigators may ask the interviewee to use a map, diagram, photo, video, etc. to help explain what happened. In such cases, the investigator should ask the interviewee to initial and date any document used.

24.1. While the interview is being recorded, the investigator must identify any exhibits they are presenting to the witness, and state what annotations they are using (e.g., “Here’s a diagram of the room we can call Exhibit 1. Now, with your initials, please indicate where you were standing when the police arrived...”).

24.2. If the person is using a video to help explain what happened, it must be a video they possess and have seen, unless the investigator has carefully planned and prepared to use other video footage (see Part (IV)(C.b.ii)(5) and subpoints above). Otherwise, they may also use a diagram or photo to help explain their account. For example, if the interviewee is trying to explain where they were standing in relation to another person, they may decide to show the interviewer a photo, or their cell phone video footage of the incident to explicitly show their positioning and distance.

- 24.3. The investigator shall mark whatever documents or photographs are used with an exhibit letter or number and ensure they are placed into the casebook and uploaded to IAPro after the interview.
- 24.4. The investigator must keep in mind that any person reviewing the investigation will need to understand the witness's testimony in relation to any tool or gesture used during the interview. For example, if the interviewee watches the BWC video of an event and makes a comment, the investigator should make a statement on the record of the point in the video that the comment was made. (e.g., "So we are pausing the video at 12:03:24. The screen shows three people in view. Can you identify them") Or, if the interviewee uses their hands to indicate the type of force used or size or distance, the investigator must verbally describe the gesture on the record, and should ask the interviewee what they mean by it.
25. If acronyms or special terminology are used, the interviewer shall ask the interviewee to explain. If the interviewee uses police terminology, ask them what they mean by that word or phrase.
26. The investigator shall maintain appropriate eye contact with the interviewee, engage in active listening, and observe interviewee's demeanor and non-verbal behavior.
27. Some investigators may find it useful to keep short notes during the interview.
28. The investigator shall ask the interviewee to provide any other information they may have describing the involved employee(s), whether there were witnesses who could be contacted, and any other evidence that might be helpful. The investigator shall inquire if the interviewee has photos, private video, text messages, electronic posting by anyone regarding the incident on Twitter, Facebook, or other social media platform, or other evidence. The investigator shall ask the interviewee to provide the evidence or a copy of the evidence. For electronic evidence, forwarding or sending screenshots by email (preferably) or text message are often a good way to transmit the evidence. The investigator shall ensure that all evidence is included in the investigative file and documented via an investigative report.
29. The investigator should seek to establish the relationships among any parties present at the incident as well as any other witnesses, with each other and with the named employee. Perceptions, statements and credibility may vary depending on the interviewee's relationship to others.
30. When interviewing non-police personnel, the investigator must avoid the use of police terminology. Use terms and concepts that are familiar to the public to ensure that the interviewees understand what is being asked of them.
31. If there was a possibility of injury, the investigator must ask if photos may be taken and whether they will sign a release to allow for medical records to be gathered detailing the injury (if medical treatment was sought).
32. It may be necessary to probe inconsistencies in answers that contradict previous statements made by the individual. Where there is a discrepancy between the interviewee's testimony and other testimony or evidence, the investigator should question the interviewee about the discrepancy without expressing judgment. For

example: “Can you clarify, because you said you returned to the district after the incident, but CAD indicates you were responding to another call at the time. Can you help me understand this?” or “We have some conflicting information between evidence X and evidence Y – can you clarify?”. This is something that will be important for investigators to discuss with their supervisors prior to conducting an interview.

32.1. This may be another place where it could be beneficial to show video, after careful planning and consideration on the part of the investigator, in consultation with the supervisor. See guidelines outlined in Part (IV)(C.b.ii)(5) and subpoints above.

33. Inconsistent statements concerning material issues and/or material facts must be analyzed. This analysis should be applied to both citizen and police witnesses/respondent officer statements.

33.1. Material issues or facts are those relevant to whether or not the misconduct occurred, and if it did occur, whether it was a policy violation. Thus, material issues are facts that assist the investigator in coming to the appropriate conclusion about whether the misconduct occurred or whether it constitutes a policy violation.

33.2. Examples of material issues or facts are the identity of complainant/witness/respondent, whether certain individuals were or were not witnesses to the event, the sequence of events that occurred, among others.

34. When an interviewee asks to take a bathroom break, the investigator should accommodate this request but attempt to find a natural pause in the questioning to take the break. The investigator should keep the recording running during the break.

C.b.v. Concluding the Interview

1. Before ending the interview, the investigator shall ask if the interviewee has any other information about the incident or complaint they would like to provide, including whether they are aware of other witnesses, or if they possess or are aware of any evidence or documentation that relates to the matter under investigation.
2. If the interviewee provides any further documentary evidence, the investigator shall mark the evidence with an exhibit letter or number and put it in the casebook. For physical evidence, such as clothing, be sure to follow the procedures for handling evidence, per Policy 1401, *Control of Evidence and Property*. The investigator should ask the interviewee to explain the evidence provided. The investigator may ask for a moment to review the new evidence, which may be done in front of the interviewee or outside of the room, if necessary. If the investigator steps out of the room, the investigator must keep the recording running.
3. The investigator must always make sure that they have current contact information for all witnesses, including the complainant. Let all individuals know that there may be a follow-up with them if necessary to clarify information gathered during their interview.

4. The investigator shall encourage interviewees to contact the investigator if they recall additional information, learn of new information or witnesses, or are contacted by anyone else about the matter under investigation.
5. The investigator should also remind the witness that retaliation for participating in the investigation process violates BPD policy and may be unlawful. They should encourage the witness to contact them if they feel they are facing any form of retaliation.
6. After all questions have been asked, the investigator should step out of the interview room to review the information provided, identify any open issues, and consult with the secondary investigator and/or Legal Affairs on any questions that need to be asked. The investigator should keep the recording equipment running. If any open issues or additional questions are identified, the investigator will return to the interview room and follow up with the interviewee on the recording.
7. The investigator should state to the interviewee the following: *In order to protect the integrity of the investigation, please do not discuss the facts of the case with anyone other than your lawyer. See below ("Interviewing Respondent Officer", paragraph 14) for confidentiality requirements for BPD employee interviewees.*
8. Upon completion of the interview, the investigator shall document the relevant facts from the witness's statement in the investigative file with an investigative report. Included in that report shall be a recount of the witness's recollection with respect to previous conversations between the witness and the investigator and/or other departmental members concerning the incident.
9. After each interview conducted, the investigator shall evaluate the statements for additional leads or a change in investigative strategy.

C.c. Specific Procedures for Interviews of Accused Sworn Non-Probationary Members

1. Most PIB complaints involve allegations against sworn police officers through the rank of Lieutenant, all of whom are members of the Baltimore Police Fraternal Order of Police (FOP) and are afforded certain protections under the Law Enforcement Officers Bill of Rights (LEOBR). Both the FOP Memorandum of Understanding (MOU) and the LEOBR provide for certain processes when interviewing a respondent officer. The below requirements are to ensure that investigators adhere to the requirements of LEOBR and the MOU, as well as BPD policy.
2. Whenever a Law Enforcement Officer is under investigation or subjected to interrogation by BPD for any reason which could lead to disciplinary action, demotion, or dismissal, pursuant to the Law Enforcement Officers' Bill of Rights, the investigation or interrogation shall be conducted under the below conditions.

C.c.i. Notice of Investigation for Respondent Officer

1. Before an officer can be interviewed about an allegation during an administrative investigation, a notice in writing must be provided to the officer.
2. The notice shall contain information about the general nature of the investigation so the officer is on notice about what will be the subject of the questions. The notice provided does not require it to be detailed and precise to cover every single specific allegation. The notice shall not contain any information that may unnecessarily jeopardize the investigation.
3. The notice must include:
 - 3.1. The date(s) and location(s) of the incident being investigated;
 - 3.2. The incident under investigation;
 - 3.3. The name of the investigator or investigating officer; and
 - 3.4. The name of the person supervising the investigation.
4. The notice must be specific enough so the officer understands what they are being investigated for (nature of the investigation), but it does not have to be so specific to mention the specifics of the incident.
 - 4.1. Example: if the officer is being investigated for an allegation of excessive force, the notice need simply state that the officer is being investigated “for the force used in the arrest of John Doe on X date around X time near X location”, but need not state the specifics of the alleged violation, e.g., the strikes, punches and kicks.
5. Additionally, the notice shall include language prohibiting officers under investigation from speaking to witnesses or complainants, reviewing police reports (other than reports about the incident authored by the officer) or body-worn camera footage, or taking other actions that could jeopardize the investigation, until notified by PIB that they are permitted to do so.
6. The Notice of Investigation should appear in the memo form, following the template provided in Appendix G.
7. Additionally, the accused officer must sign the Non-Disclosure, Non-Retaliation, and Confidentiality Order. See Appendix H.
8. If additional misconduct is identified during the course of the investigation after the Notice of Investigation has been served on the respondent officer, a second or supplemental Notice must be served on the accused officer prior to any interview about the additional misconduct.

C.c.ii. Notice of Interview Date

1. The PIB investigator shall notify the respondent/involved employee, or their attorney, of the interview date. Additionally, the respondent employee’s supervisor shall be notified in order to facilitate the officer’s appearance for the interview.

2. If a BPD member fails to appear, this must be documented in IAPro along with the reason given and whether PIB was notified in advance. A new interview date must be scheduled and new notice sent. Failure to appear for the interview could subject the member to additional disciplinary action.

C.c.iii. Interviewing Respondent Officer

1. The investigators shall follow the general procedures outlined in the interview section above. Additionally, the investigators shall ensure that the following provisions are followed:
2. The interview shall be at a reasonable hour, preferably while the respondent officer is on duty, unless the seriousness of the investigation is of such a degree that an immediate interview is required.
3. The interview shall take place either at PIB, or the District or Division where the alleged incident occurred, or any other reasonable and appropriate place.
4. The officer shall be informed of the name, rank, and command of the officer in charge of the investigation, the interviewing officer, and all persons present during the interview.
5. When a sworn member, covered by the MOU between the BPD and FOP Lodge 3, is required to submit to an interview as a respondent in reference to a complaint being investigated by the Department, the employee shall be given a copy of any prior statement or report which that employee wrote/authored relating to the complaint being investigation, before being interviewed. These reports shall be provided to the respondent immediately prior to the interview.
6. The investigator shall consult with Legal Affairs prior to conducting an interview with a respondent officer where the allegations, if true, would result in a Category E or F violation. For other cases, the investigator may consult Legal Affairs if any legal advice is needed prior to conducting any interviews.
 - 6.1. Whenever Legal Affairs is consulted by the investigator, the investigator must document the fact that the investigator consulted Legal Affairs as a "Task" in IAPro.
 - 6.2. For each legal consultation, the investigator must also create a memorandum to the file documenting the content of the communication, which shall include:
 - 6.2.1. The date the advice was sought
 - 6.2.2. The respondent member and case number of the case;
 - 6.2.3. The attorney that provided the advice;
 - 6.2.4. The legal advice that was sought;
 - 6.2.5. The legal advice that was given;
 - 6.2.6. The following notice shall be included: CONFIDENTIALITY NOTICE: This document contains confidential and privileged information. If you are not an intended recipient of this document, you are hereby notified

that any unauthorized use or distribution of this document is strictly prohibited and requested to return to this document to the Baltimore Police Department Public Integrity Bureau without making any copies thereof.

- 6.2.7. Ensure the file name for the memorandum includes “CONFIDENTIAL ATTORNEY-CLIENT” prior to being uploaded to IAPro.
7. All questions directed to the officer being interviewed shall be asked by and through one investigator during any one interview session. ¹ Notwithstanding, the secondary investigator should help identify areas where more probing is needed and consult with the primary investigator for follow-up questioning when needed. The secondary investigator should engage in active listening and observe the demeanor and non-verbal behavior of the respondent officer.
 8. The respondent officer may be questioned about *any matter relating to the misconduct in question* regardless of whether it is specified in the notice of investigation.
 9. Interview sessions shall be for reasonable periods and shall be timed to allow for any personal necessities and rest periods that are reasonably necessary.
 10. During the course of the interview, the respondent officer may not be threatened with transfer, dismissal, or disciplinary action.
 11. The respondent officer has the right to be represented by counsel or any other responsible representative of their choice during the interview unless waived in writing. The interview may be suspended for a period of time not to exceed 5 days until representation is obtained.
 12. If at the time of the interview the respondent member is under arrest, or is likely to be placed under arrest as a result of the interview, the investigator shall inform the respondent officer of their Miranda rights prior to the commencement of this interview.
 - xi. Interviewees should be asked about their understanding of the policy at issue and all related training.
 13. Employees shall not be permitted to have cell phones or other electronic devices with them during an interview.
 14. The investigator must give the respondent officers a specific order not to discuss the matter or their interview with any persons, aside from: the respondent officer’s commanding officers (except in those instances where the commanding officer may be involved in the incident in some manner), PIB investigators, and the respondent’s legal counsel.
 15. At the conclusion of the interview, the investigator should inform the respondent officer that they are under an on-going duty to disclose information to PIB at any point that it comes to light during the investigation. Explain to the respondent that the introduction of new and material evidence at a disciplinary hearing will cause the hearing to be suspended so that the new information can be investigated and evaluated. The investigator should inform the respondent officer that they can be disciplined if it is

¹ Section 3-104(h)(1), Law Enforcement Officer’s Bill of Right, Public Safety Article, Maryland Annotated Code

established that the respondent officer intentionally withheld the new and material evidence during the initial investigation.

C.c.iv. Role of the Representative in the Interview (for Respondent Officer)

1. The primary role of a representative during a PIB interview is to protect the contractual and statutory rights of the employee. Otherwise, the union representative must not be allowed to interrupt or otherwise disrupt an interview.
2. Employees covered by the LEOBR may be represented by the person of the officer's choice, even if the representative is not a lawyer, at any stage of the LEOBR process prior to court review². Therefore, the officer can request their supervisor, FOP representative, or Vanguard representative to accompany them to the interview instead of an attorney. Nevertheless, the accompanying individual cannot be a witness or otherwise involved in the case at hand. An officer may waive this right and speak without representation. If the officer elects to waive their rights under this section, the waiver must be documented in writing and noted on the record.
3. Prior to the start of the interview, but after the recording has begun, the investigator will inform the attorney or representative for the officer that they may make an objection for the record, meaning they can say, "I object to that question." However, they may not make a speaking objection.³
 - 3.1. A speaking objection is any objection or stated issue with an interviewer's questioning that goes beyond simply saying "objection," it suggests to the person being questioned an answer to the question. E.g., when questioning an officer as to whether they witnessed something, the attorney says, "objection, how is it possible for my client to have seen that when he already stated he was sitting in his cruiser." This objection is suggesting that the officer answer, "I couldn't possibly see that because I already told you I was sitting in my cruiser."
4. If an attorney makes a speaking objection during questioning, remind them of the statute. Advise the attorney (or representative) that if they have comments to make other than "I object to that question," the officer being questioned should be excused, and the attorney (or representative) can state their reason for the objection on the record.
5. The PIB investigator should invite the union representative to place any objections on the record before the investigator begins asking questions and at the end of the interview, if necessary.
6. Regardless of the objection, the respondent officer shall be compelled to answer the question.

² LEOBR § 3-104(j)(1) provides: "On request, the law enforcement officer under interrogation has the right to be represented by counsel or another responsible representative of the law enforcement officer's choice who shall be present and available for consultation at all times during the interrogation."

³ LEOBR § 3-104(j)(3) provides: "During the interrogation, the law enforcement officer's counsel or representative may: (i) request a recess at any time to consult with the law enforcement officer; (ii) object to any question posed; and (iii) state on the record outside the presence of the law enforcement officer the reason for the objection."

C.c.v. Compelled Statements

1. Absent a criminal investigation, all respondent officers shall be compelled to give a statement. If there is a criminal investigation, follow the procedures outlined in Section (V)(A) below.
2. A public safety statement is not a compelled statement. Therefore, even if a respondent has given a public safety statement, the officer shall still be obligated to give a compelled statement.

C.c.vi. Use of Polygraph Examination

1. The use of polygraph examinations requires deliberate planning and reasoning.
 - 1.1. Consult with your immediate supervisor and Legal Affairs to determine the investigative need for utilization of polygraph examination;
 - 1.2. The decision to utilize a polygraph will be made by the Deputy Commissioner of PIB; and
 - 1.3. If a polygraph examination has been approved for the respondent employee, it must be performed within the confines of the Law Enforcement Officer's Bill of Rights.
 - 1.4. Other limitations on the use of polygraphs are discussed in Part (D.b.ii.b.), "Physical Tests", below.

C.d. Procedures for Complainant and/or Witness Officer Interviews

1. Investigators shall follow all procedures outlined in "general interview" section above. Additionally, investigators shall follow the below procedures.
2. Attempts should be made to get BPD employees to voluntarily provide an interview. If they decline to provide a voluntary interview, they shall be compelled to participate in an interview. If they refuse to be interviewed or fail to appear, they may be subject to disciplinary action and should be so advised.
 - 2.1. If a BPD member fails to appear for a formal interview, the investigator must document the issue in the IAPro case file along with the reason given and whether PIB was notified in advance. A new interview date must be scheduled and new notice sent. Failure to appear for the interview could subject the member to additional disciplinary action.
3. Employees shall not be permitted to have cell phones or other electronic devices with them during an interview.
4. If anytime during an interview of a witness officer, the investigator believes that the interview could result in discipline of the interviewee, they should stop the interview and provide the officer with a notification of investigation and advisement of rights and shall suspend the interview for a period not exceeding 5 business days until representation is obtained, unless they waive their rights to representation in writing.

5. If anytime during an interview of a witness officer, the investigator believes that a crime may have occurred and the witness may incriminate themselves, the investigator should stop the interview and seek advice from the prosecutor's office.
6. Investigators shall remind employees that Departmental policy requires them to be truthful and to report all potential misconduct.
7. Witness officers are to be given a specific order not to discuss the matter or their interview with persons other than PIB investigators or the Department's representatives in disciplinary hearings.

C.e. Procedures for Civilian BPD Employee Interviews

1. When employees covered by Collective Bargaining Agreements are to be interviewed, investigators shall check the contract for notice requirements.
 - 1.1. For instance, CUB members who are respondents are entitled to have a union representative present and may be entitled to Weingarten rights. Additionally, they are allowed a reasonable time period to obtain representation – a reasonable period can be anywhere from two-hours to two-days, depending on the circumstances.
2. Civilian employee witnesses do not have any specific rights under Collective Bargaining Agreements but are required to provide a statement if requested. Visit the Labor Commissioner's website prior to conducting an interview of a civilian employee to review the applicable contract for full guidance, as labor contracts are regularly updated: <https://labor-commissioner.baltimorecity.gov/contract-agreements>.

C.f. Command Staff (Captain and above), Probationary Officers and Police Officer Trainees are not afforded the protections of the Law Enforcement Officer's Bill of Rights (LEOBR).

1. The above-listed members are not entitled to have an attorney present for administrative investigations. An attorney or representative will only be present when required by law or a contract.
2. There is no requirement to provide them with a Notice of Investigation.
 - 2.1. This is strictly a LEOBR protection. A simple phone call or email directing the person to respond to the office for an interview is sufficient.
 - 2.2. There is no 5-day waiting period to obtain representation.
 - 2.3. A respondent member in this category can be compelled to submit to an interview immediately. If they request an attorney or other representative, see bullet number one of this section.
3. More than one investigator can question the respondent member.
 - 3.1. Both investigators can question the accused during the interview, though this is not be the preferred interview method. As in all investigations, the member

should prepare for the interview beforehand to establish the best interview method.

4. There is no requirement to provide the preamble regarding speaking objections, etc.
 - 4.1. There are no pre-interview warnings or protections that need to be read to the respondent member.
5. Exception to the above: The only exception is when a Probationary Officer is being investigated for Excessive Force. In those instances, the same LEOBR rights are applicable to the respondent member, and the investigation is handled the same way as any other sworn officer.

D. Other Investigative Techniques

D.a. Responding to the Scene

1. Any time a PIB investigator, sergeant and/or lieutenant responds to a scene or conducts an area canvass, they must have their digital recorder with them.
2. The PIB Duty Sergeant and Lieutenant should respond to the scene to any criminal complaint involving a Baltimore Police Officer. There may be other times when an investigator responds to a scene. This will be determined on a case-by-case basis. On scene responses will typically be required when evidence may be lost (whether physical or a complainant or witness statement), or an administrative action needs to occur immediately (e.g., the suspension of an officer).
3. If evidence could be present at the incident scene, response is required. During business hours, two investigators will respond in these instances, and a supervisor may respond. A supervisor will determine if response to the scene is necessary. Investigators may also determine that specialized response is necessary to collect evidence, and may summon other units/crime scene to the incident location.
4. During evenings and weekends, if scene response is required, the Duty Sergeant and Duty Lieutenant will respond to the scene. They may determine that other personnel are required for response to the scene also.
5. When responding out to a scene of an event, recorded field investigative interviews of any civilians or sworn witnesses should be conducted as soon as practical. Notwithstanding, the investigator will evaluate whether it is the right time to interview a complainant and/or witness. Consider whether the person requires medical attention, is impaired, or is extremely distraught.
6. If the location of the event affords a quiet/controlled space for obtaining a recorded statement, (for example a spare office, a person's home, the investigator's vehicle, or a quieter area on the street) then the investigator should attempt to conduct a field investigative interview.
7. If the investigator does not have their digital recorder available, they must use their BPD issued cell phone to record the field investigative interview.

8. Whichever PIB-assigned members respond to the scene, those responding will attempt to take as many preliminary investigative steps as possible (especially obtaining perishable evidence) by themselves or with the aid of crime lab technicians, as appropriate.

D.b. Evidence and Related Materials Collection

The investigator must promptly identify, collect, and consider all relevant evidence, including any audio or video recordings.

D.b.i. Reports, Records and Other Documents

1. All relevant reports should be obtained and preserved as expeditiously as possible.
2. Internal department reports relating to the incident or the respondent officer's duties should be obtained and examined. Examples of such reports include arrest and investigative reports, radio, patrol, vehicle and evidence logs pertaining to or completed by the officer.
3. The investigator should also examine and retrieve all electronic, computer, digital and video records. These may include analog and digital records created by radio and telephone recorders, computer aided dispatch systems, mobile data terminals, in-car video systems, video surveillance systems and other forms of audio and video recording. In these cases, relevant data should be copied to an appropriate medium - for example, a flash drive, CD, DVD, etc. - as soon as possible and retained by PIB. What evidence is not able to be stored in IAPro directly will be saved maintained with the hardcopy case file.
4. Records and documents of any other individual or entity that could prove helpful in the investigation should be examined. These may include reports from other law enforcement agencies, hospital records, doctors' reports, jail records, court transcripts, F.B.I. records, motor vehicle abstracts and telephone and cellular phone records.
5. In some instances, a search or communications data warrant or a subpoena may be necessary to obtain the information. Because PIB cannot issue administrative subpoenas, these may need to be prepared to be issued by the trial board or via the grand jury in criminal matters.
 - 5.1. Maryland Public Information Act Requests may also be used to obtain records from other government agencies.
 - 5.2. For noncriminal investigations, the investigator should identify any evidence that may require a subpoena and consult with Legal Affairs about whether there is a way to obtain the evidence without a subpoena, or whether to wait until administrative charges have been lodged.
6. Below is a list of example documents that may be relevant to an investigation:
 - 6.1. BPD incident reports including the CAD reports; daily activity sheets ("run sheets")(BPD, BCFD, Medic); Event reports; DV reports; Use of Force reports including the Supervisor's Summary, SIRT reports, Command Review, and

documentation from the Use of Force Review Board; Statement of Probable Cause and Charges; District Logs; Parking Citations; copies of Traffic Infractions, etc.

- 6.2. Property or evidence reports
- 6.3. Booking reports and photos
- 6.4. Consent to search form or other evidence of consent
- 6.5. Secondary employment permits
- 6.6. Work Assignments
- 6.7. Notes, correspondence, and memoranda, including electronic communications, whether stored on a device accessible to BPD or stored on remote computer servers (e.g., Internet Service Provider servers, social media platforms, or cloud-based storage).
- 6.8. Metadata (*i.e.*, data that describes other data, such as author, creation date, file name, data type, etc.)
- 6.9. Training protocols or records
- 6.10. Operational or unit manuals
- 6.11. Payroll or financial records
- 6.12. Fire Department or Medical records, (obtain medical examiner's opinion regarding the mechanism of injury, if applicable)
- 6.13. Unit logs, officer run sheets, or CAD for Unit daily activity report, Central Booking Intake Facility prisoner intake information, booking photos, jail booking records
- 6.14. Any other records (whether departmental or otherwise) of potential relevance
- 6.15. Personnel file of respondent officers, which includes the past disciplinary history and related case files, in order to determine patterns of past behavior.

D.b.ii. Physical Evidence

1. Investigators should obtain all relevant physical evidence. Some physical evidence may have been gathered during intake.
2. All evidence, such as fingerprints, clothing, hair or fabric fibers, bodily fluids, stains and weapons should be handled according to established evidence procedures.

D.b.ii.a. Photographs and Audio and/or Video Recordings

Photographs, audio and/or video recordings can be useful tools if relevant to the investigation. The following considerations should be taken into account when obtaining and using such evidence.

1. With respect to radio and telephone recordings, the recording is the best evidence and should be secured at the investigation's outset.

2. Transcripts or copies of the original recordings can be used as investigative leads.
3. Entire tapes or transmissions should be reviewed to reveal the totality of the circumstances.
4. If a complaint involves use of force, photographs of the complainant and the officer should be taken as close as possible to the time of the incident.
5. Photographs also can be used to create a record of any other matter the investigator believes is necessary. Whenever possible, digital color photography should be used.
6. The following is a list of Photographs, and audio or video records that might be relevant to an investigation:
 - 6.1. Evidence of injuries and damage (photograph with ruler to scale)
 - 6.2. Body Worn Camera Video
 - 6.3. In-car video systems
 - 6.4. Holding Cell Video, Transport Van Video
 - 6.5. 911 recordings
 - 6.6. Citiwatch footage – the investigator should contact Citiwatch to determine if there are any cameras located in close proximity to the location of the incident. If so, the investigator should arrange to retrieve footage as soon as possible.
 - 6.7. BPD Communications recordings
 - 6.8. Video and/or audio from the scene (e.g., security systems from nearby businesses) or taken by witnesses. Many businesses, government buildings and other public areas, have video surveillance for security reasons. Video obtained from these sources may be extremely helpful to internal investigations.
 - 6.9. Photographs
 - 6.10. Texts
 - 6.11. Social media posts
 - 6.12. phone records
 - 6.13. Maps
 - 6.14. GPS devices
 - 6.14.1. Some BPD vehicles and departmental phones are equipped with GPS devices. These devices can locate a vehicle or cell phone with great accuracy. Phones with GPS inactivated may nonetheless be tracked by cell tower pings. See *Carpenter v. U.S.* Information gleaned from these devices may be used in PIB investigations because the respondent officer has no expectation of privacy in their whereabouts when performing police duties.
 - 6.14.2. A different standard may apply, however, when the officer is off-duty, even if they leave their City-issued phones on. If the investigator

believes information from a member's City-issued phone from when they are off-duty may assist in the investigation, the investigator must consult Legal Affairs.

- 6.15. Additionally, air bag control modules record information on crashes and near crash deployments with great accuracy and may also be useful in internal investigations.

D.b.ii.b. Physical Tests

1. Police officers, and other employees, who are the subjects of internal investigations may be compelled to submit to various physical tests or procedures to gather evidence.
2. An employee may be ordered to submit to physical tests including but not limited to blood alcohol tests, blood, breath, or urine tests for controlled dangerous substances, or polygraph examinations that specifically relate to the subject matter of the investigation. The order must be reasonable and relevant to the investigation at hand. Additional tests include:
 - 2.1. Buccal swab
 - 2.2. Requiring suspect to speak
 - 2.3. Voice recordings
 - 2.4. Handwriting samples
 - 2.5. Hair and saliva samples
 - 2.6. Urine specimens
 - 2.7. Video taping
 - 2.8. Field sobriety tests

NOTE: If an employee is charged with a DUI/DWI, the investigator that responds to the scene should always compel a breath test for alcohol if the officer has refused to submit voluntarily. This result may be used for the administrative disciplinary hearing, only.

NOTE: Refusal to submit to such a test or adherence to such an order may lead to disciplinary action taken against the officer that refuses. Any employee that refuses to submit to testing described above, should be advised of the employment consequences for his refusal.

3. The result of such tests is not admissible in any criminal proceeding against the officer, however it is admissible in the administrative hearing. The results of a polygraph examination may not be used as evidence against an officer in an administrative hearing, unless both the Officer and the Department agree to the admission of the results.
4. Under no circumstances should polygraph examinations be used to discourage or dissuade citizen complainants.

D.b.iii. Search and Seizure of Persons, Places and Things for Administrative Investigations (Not Criminal)

1. PIB investigators should document their reasons for conducting any search and limit its intrusiveness. If any doubts or concerns exist about the propriety or legality of a search, the investigator should seek advice from Legal Affairs before proceeding with the search.
2. All individuals in the United States, including police officers, have a Fourth Amendment right to be free from unreasonable searches and seizures. In a PIB investigation, the Fourth Amendment applies to any search the employing agency undertakes where the employee has a reasonable expectation of privacy. The PIB investigator must be cognizant of the various principles governing search and seizure, particularly where the investigator will search personal property belonging to the respondent officer. Any searches related to a criminal investigation should be conducted pursuant to Policy 1007, *Search and Seizure Warrants* and Policy, 1109, *Warrantless Searches*.
3. The investigator should exercise great care before determining whether to search property or items in which the respondent officer may have a reasonable expectation of privacy.
4. BPD issued equipment and devices are permitted to be searched for the purpose of an administrative investigation. This includes BPD issued phones, computers, email systems, and take-home cars. Departmental policy and the Department's computer log in makes clear that the Department has the right to enter and review the contents of any department-issued computer at any time. (See policies 1017, *Mobile Device Searches*; 1303, *Departmental Email Usage*; 1305, *Use of Departmental PC Systems*; 1509, *Take-Home Vehicles*).
5. There are some areas in a person's workplace where this privacy expectation can exist just as there are some where it does not.
 - 5.1. Generally, areas that several employees share or where numerous employees go to utilize files or equipment would present no expectation, or a diminished expectation, of privacy. Included here would be roll call rooms, lobby areas, dispatch areas, government provided vehicles (patrol cars), general filing cabinets, etc.
 - 5.2. However, employees may have a greater expectation of privacy in their own lockers, assigned desks, locked duffel bags, personal electronic devices. For such searches, investigators must consult Legal Affairs.
6. Searches of BPD-issued electronic devices may require the assistance of the Computer Crimes Unit or the City's IT department.
7. A voluntary consent to a search may preclude some Fourth Amendment problems. A consent search eliminates the need to determine what threshold standard must be met before conducting the search or seizure. If a consent search is undertaken, the PIB investigator should consult Legal Affairs, and shall follow the procedure for such

a search outlined in Policy 1109, *Warrantless Searches*, and have the respondent officer sign a consent form.

D.b.iv. Lineups and Photo Arrays

1. A law enforcement officer may be ordered to stand in a lineup to be viewed by witnesses or complainants or their photo can be used in a photo array. The Investigator should follow Policy 1009, *Double-Blind/Sequential Photographic Array Procedures*.
2. Probable cause need not exist, and the officer may be disciplined for refusal to participate in a lineup or refusing to be photographed for a photo array. The lineup or photo array must be constructed so as not to be unfairly suggestive.

D.b.v. Covert Surveillance

1. In public areas, video surveillance may be used. Video surveillance, especially covert surveillance, shall not be used in areas where employees have a high expectation of privacy, such as locker rooms and bathrooms.
2. Questions about the specific application of video surveillance, especially covert surveillance, should be addressed to Legal Affairs. It must be emphasized that this refers to video surveillance with no sound recording component.
3. Surveillance targeted at complainants or other non-BPD persons is not permitted without written authorization from the Deputy Commissioner for PIB.
4. Generally, the use of evidence derived from an authorized wiretap is limited to criminal investigations and prosecutions and are not permitted for administrative investigations.
5. If an investigator wishes to use wiretap information previously gathered in the administrative investigation, they should consult with the prosecutor who oversaw the wiretap because it will be necessary to obtain a court order to obtain and use it.

V. INVESTIGATIONS INVOLVING CRIMINAL MISCONDUCT

A. Procedures Pursuant to Garrity

1. For the PIB investigator, it is critical to distinguish between those Investigations involving potential criminal conduct and those limited to administrative disciplinary infractions. The investigator also must be able to identify and apply the appropriate procedures to be utilized during the interview process in either a criminal or an administrative investigation.
2. Failure to identify and apply the appropriate procedures can compromise and render inadmissible evidence gathered during the interview process in a criminal investigation or needlessly complicate the interview process during an administrative investigation.
3. The vast majority of PIB investigations will be limited to alleged administrative disciplinary infractions and the vast majority of law enforcement officer interviews

conducted during a PIB investigation will be limited to gathering evidence of administrative disciplinary infractions. But in cases of a potential criminal violation, it is absolutely necessary that the PIB investigator coordinate officer interviews with the prosecutor's office.

4. All decisions to take a compelled statement while a criminal investigation is ongoing must be approved by the Police Commissioner or their designee. Because the prosecutor is ultimately responsible for prosecuting criminal cases, the PIB investigator shall consult with the prosecutor prior to initiating an officer interview in matters that include a criminal investigation and shall consider the prosecutor's input concerning the types of interviews to be conducted and procedures to be utilized (e.g., Miranda warning, Garrity warning , etc.). The general practice is for administrative investigators to not pursue a compelled statement while the criminal case is still under investigation. Nevertheless, if it seems appropriate to obtain a compelled statement prior to the close of the criminal investigation, the investigator must consult the prosecutor and get the approval of the Police Commissioner or designee. Additionally, all decisions regarding compelling an interview, holding any aspect of an administrative investigation in abeyance, and all consultations with the criminal investigator and prosecuting authority must be documented in IAPro.
5. Interviews of officers under criminal investigation and administrative investigation are often complex because the officer has the constitutional right to avoid self-incrimination in a criminal interview, but the obligation to answer questions truthfully during an administrative interview. So, while an agency may compel an officer to answer questions posed during the course of an administrative investigation, an officer cannot be forced to give answers that could be used against them in a criminal prosecution.
6. Officers who have been compelled by Departmental order to produce incriminating information, with the belief that a failure to do so will result in disciplinary action, cannot have that evidence used against them in a criminal prosecution. However, an officer can be compelled to provide answers during a PIB investigation if those answers are to be used as evidence only in a disciplinary proceeding.
7. An accused officer who reasonably believes that what they might say during a PIB interview could be used against them in a criminal case cannot ordinarily be disciplined for exercising their privilege against self-incrimination. However, an officer can be disciplined for refusing to answer questions during a PIB interview if they have been told that whatever they say during the interview will not be used in a criminal case. Informing an officer that their statement will not be used against them in a criminal case is called a Garrity warning. See Appendix N. This warning informs the officer being interviewed that they must cooperate with the investigation and can be disciplined for failing to do so because the prosecutor has decided to provide the officer with "use immunity."
8. It is for this reason that the PIB investigator in consultation with their supervisor (and Legal Affairs, when appropriate) must continually reassess the nature of a PIB investigation as evidence is being gathered. Having initially determined that a particular allegation is criminal or administrative in nature, it is important for the PIB

investigator to revisit that decision during the course of an investigation to determine whether any of the evidence gathered following the initial determination changes the investigation's nature and scope. If the nature and scope of an investigation change, the investigator must be prepared to change the methods and procedures they utilize to reflect the new focus.

9. For example, if an investigator initially determines that an allegation appears to be a disciplinary matter, but later evidence leads the investigator to conclude that criminal conduct may have occurred, they must cease using the methods and procedures appropriate for an administrative investigation and notify the prosecutor immediately before proceeding further.
10. Serious allegations of officer misconduct may implicate both a violation of a criminal statute and BPD's rules and regulations. As a result, a criminal investigation and an administrative disciplinary investigation may be needed to properly resolve a misconduct complaint. Where both a criminal and an administrative disciplinary investigation are needed, the PIB investigator is often expected to conduct both.
11. As already explained, a respondent officer has the right to remain silent during a criminal investigative interview. But the same officer must cooperate and answer questions posed by their employer during an administrative disciplinary interview. So while the PIB investigator cannot require a subject officer to answer questions during a criminal interview, they can require that officer to answer questions during an administrative disciplinary interview.
12. The confusion caused by these issues can be alleviated several ways. One way is to separate the investigations by time - - the criminal investigation is completed first and then the administrative investigation may follow. Where the administrative investigation is postponed to allow for the criminal investigation to proceed first, the decision to postpone the administrative investigation and the rationale for doing so will be documented in writing and reviewed by the Police Commissioner or designee, and the Administrator of the CRB, if applicable. See PIB/CRB Protocol for Intake and Classification, Section 1.C., above.
13. Another way is to conduct parallel investigations. In this situation, the responsibility for a criminal investigation is separated from that for an administrative investigation. Thus, one investigator (typically from the criminal investigative division) is assigned the responsibility of gathering evidence of criminal wrongdoing while a second (typically the PIB investigator) is assigned the responsibility of gathering evidence of a disciplinary infraction. The investigation may proceed jointly up and until the decision is made on the administrative investigation side to compel an officer to give a statement or compel the officer to provide other evidence (*e.g.*, submit to a drug test, administrative searches or seizures as permitted by the following policies: 1017, *Mobile Device Searches*; 1303, *Departmental Email Usage*; 1305, *Use of Departmental PC Systems*; 1509, *Take-Home Vehicles*; and 1720, *Drug Urinalysis Testing Programs*.. Once this occurs the administrative investigator cannot share the statement or any evidence subsequently obtained with the criminal investigator but may continue to receive updates and evidence from the criminal investigation, as long

as they refrain from sharing any subsequent information identified in the administrative investigation.

14. The preference for PIB is that the administrative investigation and the criminal investigation are conducted in parallel.
15. If there is a criminal investigation, the determination about when to compel an interview of the respondent officer is a decision that will require the approval of the Police Commissioner or their designee, who will consult the appropriate prosecuting authority. When criminal misconduct is alleged, the investigator must maintain regular contact with the prosecutor to ensure there is agreement on the investigative strategy.

B. Procedures for Misconduct Investigations Related to Criminal Conduct

1. When PIB receives notice that an employee is the subject of a criminal process, is a respondent of a Protective Order, a Peace Order, or an employee's driver's license is expired, suspended, or revoked, or if they obtain an ignition interlock driver license, a PIB administrative investigation is generated pursuant to the PIB Classification Protocol.
2. Similarly, any allegation of criminal misconduct made by a civilian will generate a PIB administrative investigation.
3. When an officer is accused of criminal conduct within BPD's jurisdiction, the PIB will be contacted immediately and will have oversight over the investigation.
 - 3.1. In cases where PIB determines that there is no specialty unit at BPD that should handle the case, PIB will assume all investigative responsibility for the case.
 - 3.1.1. The PIB investigator must contact the relevant prosecutor as soon as possible to notify them about the investigation.
 - 3.1.2. The PIB investigator is responsible for coordinating the investigative steps with the prosecuting authority, conducting the investigative steps, and keeping the prosecutors aware of the progress of the investigation.
 - 3.1.3. Searches for criminal investigations generally require the investigator to obtain a search warrant to conduct a search. Search warrants require probable cause to believe that the search will reveal evidence of a crime. Prior to conducting a search or seizure beyond what is described in Part (IV)(D)(3) above, you must consult your supervisor, Legal Affairs, and the prosecutor. Additionally, refer to Policy 1007, *Search and Seizure Warrants* and Policy 1011, *Electronic Surveillance Procedures*.
 - 3.2. PIB may determine that it is appropriate to refer such criminal matters to specialized units within the Department. Any such decision will require approval, in writing, by the Deputy Commissioner of PIB. As well, in such cases, PIB will still maintain the ultimate authority over the investigation. For cases that require the expertise of a specialized BPD unit, for example, Sex Offense, Child Abuse, or Family Crimes, the specialized BPD unit will generally serve as the lead investigative unit and the PIB investigator will work in tandem

with them to provide consultation. In such cases, the assigned PIB investigator will continue to brief their PIB supervisors on the progress of the case.

- 3.2.1. The lead investigative unit will communicate with the relevant prosecuting authority as they normally would. The PIB Investigator must contact the SAO Police Integrity Unit or the corresponding unit at the relevant prosecuting authority as early as possible to ensure they are aware of the criminal investigation.
- 3.2.2. The PIB investigator may observe any interviews conducted by the specialized unit. Since interviews will be recorded, the PIB investigator will be able to review the recording.
- 3.2.3. An interview of a non-member witness should not be delayed due to the unavailability of a PIB investigator. PIB investigators must be consulted prior to any interview of a BPD accused member.
- 3.3. If the criminal matter is outside of BPD's jurisdiction, the PIB investigator shall contact the investigating agency to obtain relevant information and report as needed.
4. No matter who the complaining party is, whether a civilian, entity without law enforcement powers, law enforcement agency, or prosecutor's office:
 - 4.1. The State's Attorney's Office (SAO) or relevant prosecuting agency must be contacted immediately by phone for consultation on the apparent criminal allegations. This early notice allows for regular contact and sharing of information, as well as consultation on investigative steps to take.
 - 4.2. The case is assigned for an administrative investigation, per the PIB Classification Protocol.
 - 4.2.1. All Allegations will be applied to the case, including all applicable Allegations of criminal Misconduct and non-criminal Misconduct.
5. If an outside agency notifies PIB of possible criminal Misconduct but either (1) has no law enforcement powers (e.g., an unarmed security firm) or (2) does not have jurisdiction over the incident (e.g., a complaint was made to Baltimore County police, but the incident actually occurred in Baltimore City), then BPD will conduct the criminal investigation.
 - 5.1. PIB Command, in consultation with the SAO, will determine the appropriate unit to conduct the criminal investigation. This could be a unit within PIB or another investigative unit within BPD. PIB Command may deem it necessary to refer the case to an outside law enforcement agency or qualified outside investigator to conduct the criminal investigation.
 - 5.2. Notwithstanding, the case will also be assigned for an administrative investigation within the appropriate PIB unit, unless PIB Command determines that the administrative investigation should also be referred to an outside law enforcement agency or qualified outside investigator.

6. If the result of the criminal investigation is that no charges will be brought against the BPD member, the case will still be thoroughly administratively investigated to determine whether the evidence supports the allegations by a preponderance of the evidence.
 - 6.1. Since the standard of proof in criminal cases is different from that of administrative investigations, the administrative investigator shall not recommend any findings solely based on the outcome of the criminal matter. The investigator is required to consider all evidence pursuant to Part (VIII)(A-C) below in order to recommend findings for the administrative investigation.
 - 6.1.1. If there is a criminal conviction for criminal misconduct, the investigator can rely on the criminal conviction to make a finding of sustained for the criminal misconduct.
 - 6.1.2. If there is an acquittal, the investigator shall not solely rely on that conclusion, given the different standards of proof required for criminal cases and administrative cases.
7. See Part (V)(D) below for the procedure for determining when cases will be investigated by an outside entity.

C. Procedures for Maintaining Contact with the Prosecuting Authority

1. PIB personnel may contact a prosecuting authority to monitor the status of criminal charges pending against an employee, or to clarify the status of criminal charges against a complainant, to determine if there is information relevant to the PIB investigation. However, PIB personnel must avoid attempts to influence or even the appearance of influencing the criminal case when contacting a prosecuting authority. When contacting a prosecuting authority, PIB personnel should always identify themselves as being with PIB and shall not request or attempt to influence the filing of criminal charges or in any way attempt to influence the criminal prosecution of a person who has or may file a complainant with PIB.
2. When a PIB investigator submits a criminal investigation to any prosecuting authority for consultation on a possible criminal charge, it shall be the assigned investigator's responsibility to maintain contact with the prosecutor to ensure ongoing awareness of the current status. The investigator shall record date of every verbal and/or written consultation and the results into IAPro on the day of the consultation and shall also ensure their supervisor is apprised of the case status.
3. The investigator shall follow the procedures outlined in Part (V)(A)(4) regarding Garrity related procedures and communicating with the prosecuting authority.
4. On or before DAY 30 from the date of submission to the respective prosecuting authority, the PIB investigator must contact the prosecutor (by email, with Legal Affairs cc'd) to request an update on the case status.
5. On or before DAY 45 with no prosecutorial resolution, the investigator must contact the prosecutor (by email, cc Legal Affairs) to request a status conference to occur with SAO regarding the case status.

6. On or before DAY 60, a status conference with SAO, Legal Affairs, and the PIB investigator shall occur to discuss the case status. IA and Legal Affairs, based on that conference, will determine whether to continue to wait for the criminal case to be resolved before compelling the respondent's statement, or whether to bifurcate the administrative investigation from the criminal investigation and proceed with the respondent interview immediately. The investigator must document the reasoning behind whichever decision is made.
7. If a decision is made to bifurcate, IA will attempt to complete the administrative investigation within the 90-day deadline. If the investigator cannot complete the investigation by day 90, the IA investigator will make the extension request, which must be approved in writing by the Deputy Commissioner of PIB. The investigator will also seek to obtain an extension from the CRB. See Part (I)(F), above.
8. If the investigator is waiting on the criminal matter to be resolved and the criminal case is not resolved by day 90, they must request the extension of the 90-day deadline.
9. Every thirty (30) days thereafter, the investigator must contact the prosecutor (by email, with Legal Affairs cc'd) to request an update on the case status.
10. Copies of all emails and attachments, and all mailed letters sent and received, shall be made a part of the investigation as exhibits.

D. Procedures for When Outside Entities Conduct the Criminal Investigation

1. The Deputy Commissioner of PIB will determine whether an investigation will be referred to an outside agency or body for investigation.
 - 1.1. A referral to an outside agency shall occur when BPD is unable to meet the requirement that no employee shall be involved in an investigation with respect to any person who they directly report to in their chain of command (to include a case involving an employee assigned to PIB).
 - 1.2. Such a determination will be also made where there is compelling public or Departmental interest for the case to be investigated by an outside agency.
 - 1.3. The Police Commissioner shall select to which outside agency or investigator to refer the case. A letter of request, signed by the Police Commissioner, must be sent to the outside agency or investigator to make the official request for investigation.
2. If an outside law enforcement agency is conducting the criminal investigation, PIB will still classify and assign the case, applying all applicable Allegations of criminal and non-criminal Misconduct, for an administrative investigation to occur.
3. For all investigations that the Department is aware of that are being conducted by an outside agency which involves possible misconduct of any BPD member, PIB has a duty to review the outside investigation as part of PIB's inquiry, to ensure the investigation is of satisfactory quality, and is thorough and complete.
 - 3.1. If PIB determines that the investigation is not thorough and complete, or that there appears to be additional relevant evidence that may improve the reliability

or credibility of the investigation, PIB must request that the outside agency conduct additional investigative steps to complete the investigation. If they refuse to take additional investigative steps, the Deputy Commissioner of PIB shall identify an alternative avenue for the investigation to be completed.

3.2. Should the outside entity conducting the investigation decide to close the investigation without referring it to a prosecuting authority, PIB must obtain this decision in writing. In such cases, PIB shall separately consider whether to refer the matter to a prosecuting authority and shall document this decision in writing. If referring to the prosecutor, refer to the above guidelines (Part (V)(C)) regarding communication with the prosecuting authority.

3.2.1. If the prosecuting authority declines to prosecute or dismisses the case at a later date, PIB shall request a written explanation for the decision (i.e. a declination letter), which will be attached to the criminal investigation report.

4. PIB must maintain all criminal and administrative investigation reports and files of the outside entities performing the investigation after reports and files are completed.

VI. CONFLICT INVESTIGATIONS

A. Procedures for Misconduct Investigations Related to the Police Commissioner or PIB Personnel

1. For cases involving PIB Personnel, the complaint must be immediately forwarded to the Deputy Commissioner of PIB to determine the nature and the extent of the conflict.

1.1. Based on their review, the Deputy Commissioner of PIB must evaluate the conflict and make a recommendation to include a justification of whether or not it can be handled by any investigative group in PIB.

1.1.1. If the allegation involves a member of the PIB, typically the Ethics Section will handle the investigation (unless the conflict was discovered under the rules above (see Part (V)(D)(1)).

1.1.2. If the allegation involves a member of the Ethics Section, the investigation must be handled by an officer of the rank of Lieutenant or above who is not assigned to Ethics, (compliant with conflicts procedure, see Part (I)(4) above)

1.1.3. If the Deputy Commissioner of PIB determines that no one at PIB can investigate the matter without an actual or apparent conflict of interest, the Deputy Commissioner of PIB shall refer the case to an outside investigative agency or the Office of the Inspector General.

1.2. The Deputy Commissioner of PIB will review the subject matter of the complaint and the persons involved. If the complaint involves any PIB Commander, no PIB personnel can be de-conflicted, and the matter must be referred to an outside investigative agency.

- 1.3. Decisions will be documented in writing, to include the reason for the decision, when it was decided, and who made the decision.
2. When the case involves a PIB related topic or PIB supervision, the Deputy Commissioner of PIB will forward the case to the Police Commissioner with a recommendation that he assign it to an outside agency. Additionally, if the Deputy Commissioner of PIB otherwise believes that it cannot be investigated by any PIB investigator without an actual or apparent conflict of interest, the Deputy Commissioner of PIB will forward the complaint to the Police Commissioner, recommending it be assigned to an outside agency or investigator.
3. A case referred to an outside agency or investigator may be referred to an agency such as the Office of the Inspector General for Baltimore City, and/or an internal investigative police misconduct unit for a law enforcement agency in Maryland, which can include the Maryland State Police.
4. When an outside agency conducts an investigation, the Deputy Commissioner of PIB shall request that the agency adhere to PIB's Investigations Manual to the extent possible. PIB shall request that the outside entity document if there are any steps that they cannot conduct and the reason why they cannot be taken.
5. Upon review of an outside agency's investigation, if there are any investigative steps that have not been taken, the Deputy Commissioner of PIB shall request that the outside investigator perform additional investigative steps needed, to ensure a thorough and complete investigation, consistent with the requirements of this manual.
6. If the outside agency states that they are unable to follow PIB's Investigations Manual, the Deputy Commissioner of PIB shall consider whether another outside agency is able to conduct the investigation according to the PIB Investigations Manual requirements. If unable to find such an investigator, the Deputy Commissioner of PIB must balance the need to have the outside investigation due conducted to conflict versus the need to adhere to PIB's Investigative Manual.
7. If the subject of the complaint is the Deputy Commissioner of PIB, the complaint shall be forwarded to the Police Commissioner, who will assign it to an outside agency for investigation.
8. Where the Police Commissioner is named in a complaint filed with PIB, the Deputy Commissioner of PIB will refer the investigation to the Office of the Inspector General for Baltimore City.

VII. PROCEDURES FOR CASEBOOK ORGANIZATION AND DOCUMENTING INVESTIGATIONS IN IAPRO

1. Case books and IAPro electronic case files shall include all records, evidence, investigative reports and notes pertaining to the case. The case book shall be organized in a uniform fashion by the case investigator prior to submission to their supervisor. The hard copy of the case book will include colored paper used as a divider to divide the investigation and make it easy to locate documents quickly. In addition, after the final case book and investigative summary have been approved by PIB

supervisors, each page of the case book shall be number-stamped in sequence to ensure document control. Each addition made thereafter needs to be included as an addendum.

2. Investigators are required to document all case work in the IAPro case file.
3. Any and all investigative work conducted by an investigator must be documented in the IAPro case file. This includes all communications and attempts to contact the complainant, accused, and witnesses. It also includes uploading all information received, including reports, texts, photos, video, evidence.com links, emails discussing the case (including with CRB personnel), handwritten notes and voicemails. It also includes case discussions with PIB staff or supervisors (e.g. discussion of case progress, investigative planning, or resource needs).
4. All documentation must include the date and time that the evidence, information or statement was obtained.
5. All investigative work must be documented in IAPro in one of two ways:
 - 5.1. **Investigative Reports** (see Appendix I): For investigative steps that generate substantive information relative to the case (e.g., complainant or witness interview), the investigator must memorialize it in an investigative report. Investigative reports are a record of the investigative steps taken and the information gathered.
 - 5.1.1. These reports must be detailed by naming all persons spoken to, all information said or provided (or, if certain information was or appeared to be omitted from the exchange).
 - 5.1.2. Upon completing an investigative report, the investigator must submit it to their supervisor. Once approved by the supervisor, the investigator must upload the investigative report to IAPro and place the original report in the case book.
 - 5.1.3. Investigative reports shall be submitted to the investigator's supervisor within 48 hours of completing the related investigative step.
 - 5.1.4. Examples of when an Investigative Report must be written include, but are not limited to:
 - 5.1.4.1. After a complainant or witness interview
 - 5.1.4.2. After the investigator reviews the BWC footage, in order to document the parts relevant to the investigation
 - 5.1.4.3. After having reviewed phone records and emails to document a timeline of events discovered through such a review
 - 5.1.4.4. Documenting the relevant information gleaned from medical records
 - 5.1.4.5. Documenting when the State's Attorney's Office reports to the investigator regarding their prosecutorial decision
 - 5.1.4.6. Documenting the suspension of an officer

5.2. **Tasks:** For investigative steps that are completed but do not generate substantive information, these must be documented as a “task” in IAPro. Tasks must still be memorialized with enough information to account for an investigator’s work.

5.2.1. Examples of appropriate IAPro “task” entries include:

5.2.1.1. I called the complainant and left a voicemail asking for a call back.

5.2.1.2. I visited the home of witness [name], and left my business card when no one responded.

5.2.1.3. This morning, I mailed a request for medical records to Records Administrator John Smith at Johns Hopkins Bayview (see attachment).

5.2.1.4. At 1400 hrs, I responded to the 2000 block of Monument Street to conduct an area canvass (the details of the area canvass – addresses knocked, photos or video taken, persons contacted, statements obtained, follow up required,– must be included in an investigative report).

5.2.2. All tasks must be entered into IAPro by the end of the investigator’s tour of duty on the day that the task occurred.

5.3. Additionally, whenever Legal Affairs is consulted by the investigator, the investigator must document the fact that the investigator consulted Legal Affairs as a “Task” in IAPro.

5.3.1. For each legal consultation, the investigator must also create a memorandum to the file documenting the content of the communication, which shall include:

5.3.1.1. The date the advice was sought;

5.3.1.2. The respondent member and case number of the case;

5.3.1.3. The attorney that provided the advice;

5.3.1.4. The legal advice that was sought;

5.3.1.5. The legal advice that was given;

5.3.1.6. The following notice shall be included: CONFIDENTIALITY NOTICE: This document contains confidential and privileged information. If you are not an intended recipient of this document, you are hereby notified that any unauthorized use or distribution of this document is strictly prohibited and requested to return to this document to the Baltimore Police Department Public Integrity Bureau without making any copies thereof.

5.3.1.7. Ensure the file name for the memorandum includes “CONFIDENTIAL ATTORNEY-CLIENT” prior to being uploaded to IAPro.

VIII. PROCEDURES FOR REVIEW AND EVALUATION OF EVIDENCE

As evidence is obtained during the investigation, it should be carefully and thoroughly catalogued in the case file (source, date obtained, etc.), examined and described in the case notes, and tangible evidence logged in the Evidence Control Unit. At the conclusion of the investigation, the value and importance of each piece of evidence must be weighed and described in the investigative summary.

A. Evaluating Statements

1. Statements made by involved parties and witnesses must be carefully evaluated as to relevance and credibility.
2. Care should be taken to mitigate the effects of bias (conscious or unconscious) on the part of the investigator. For example, the investigator must avoid giving any greater or lesser weight or credence to an individual's testimony because of that person's position (including employment by BPD or another City entity), race, ethnicity, gender identity, economic status, sexual orientation, etc.
3. In all investigations, investigators shall make credibility assessments when reviewing the statements/allegations of complainants, accused employees, and witnesses in accordance with the nature of the statements/allegations and the issues of the case.
 - 3.1. Credibility determinations about civilian, officer and witness statements must be based on independent, unbiased, and credible evidence.
 - 3.2. An officer's statement must be critically evaluated like any other evidence. Misconduct investigators shall not disregard a witness's statement solely because the witness has some connection to either the complainant or the officer or because the witness or complainant has a criminal history, but those factors should be considered along with other indicia of credibility;
 - 3.3. Investigators shall use a preponderance of the evidence standard when making credibility determinations. Investigators shall not give automatic preference to a member's statement over a complainant's statement or vice-versa.
 - 3.4. Factors to consider when making a credibility assessment include, but are not limited to:
 - 3.4.1. The person's opportunity to see or hear the things that the person claims to have seen or heard;
 - 3.4.2. Any motive the person has to lie;
 - 3.4.3. Any interest the person may have in the outcome of the case;
 - 3.4.4. Any expressed bias of the person;
 - 3.4.5. The person's memory and ability to recall events;
 - 3.4.6. Any inconsistencies in the person's statement and whether they are supported or contradicted by evidence;

- 3.4.6.1. When inconsistencies occur, investigators and reviewing supervisors should not automatically disbelieve the person who made an inconsistent statement.
 - 3.4.6.2. The investigator should consider whether the inconsistencies relate to significant or insignificant matters and whether the inconsistency is reasonable in light of the circumstances.
 - 3.4.6.3. For example, a witness motorist may inconsistently state which lane their vehicle occupied but nonetheless provide details about the incident that correspond closely to video footage of the incident. The inconsistencies may be the natural consequence of the witness's focus on the incident, rather than an indicator of untruthfulness or generally faulty memory.
 - 3.4.6.4. On the other hand, a different motorist claiming to have witnessed the same incident may present reliability issues if their account includes material inconsistencies (e.g., describing the incident occurring in a different neighborhood, alleging the presence of officers known to have been at other locations, etc.).
 - 3.4.6.5. In evaluating potential inconsistencies, investigators must be mindful that minor inconsistencies may arise from a variety of factors other than dishonesty, (e.g., stress from the event or the interview, fatigue, passage of time, etc.).
 - 3.4.7. Information reflecting an individual's habit, routine, or modus operandi. (Subject to the limitations stated in paragraph 3.5. of this section, this may include in some circumstances the individual's criminal or disciplinary record.)
 - 3.4.7.1. However, information about a person's character or reputation alone, without more, shall not be considered.
 - 3.4.7.2. See Part (C), *Evaluating whether a pattern of behavior exists*, below for additional details regarding pattern analysis.
- 3.5. Only objective criteria relating directly to the truthfulness or credibility of the person should be used in deciding what weight is to be given to their testimony. Some examples may include: if their statements are not corroborated by other evidence, if their statements are not consistent with established facts or are consistent with established facts, and a past history of untruthfulness. Existence of a criminal record or a witness's connection to a complainant or officer should not alone be determining factors in establishing credibility.
- 3.6. Note that the manual *Investigating Workplace Harassment: how to be Fair, Thorough, and Legal*, published by the Society for Human Resource Management advises that, despite what many people think, it is very difficult to make credibility determinations on the basis of peoples' demeanor. The truthful witness may exhibit great nervousness, whereas someone lying may exude extreme confidence and composure. For this reason, **corroborating evidence**

is extremely important, which in turn heightens the importance of locating and interviewing potential witnesses and gathering medical evidence where the complainant was injured.

4. In conducting the investigation, misconduct investigators may take into account the record of any witness, complainant, or officer who has been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation.
5. Investigators must recognize that even truthful, accurate narratives of events may contain some inconsistencies and contradictions.

B. Authenticating and Evaluating Documentary Evidence

1. The investigator must make assessments as to the authenticity and probative value of documents that are offered as evidence during an investigation. The first step is to determine whether a given document is authentic – i.e., that it is what it purports to be. Some documents are self-authenticating (e.g., certified public records, books, newspaper articles). Other documents have inherent indicia of reliability (e.g., letters on a doctor’s letterhead or with a company logo, a company’s security video). To authenticate a document, an investigator may need to take additional steps to verify the facts that are asserted in the document or the electronic evidence. When documents cannot be authenticated, the investigator should consult with a supervisor and/or Legal Affairs to discuss what additional steps can be taken to confirm or dispel the assertions presented, and to evaluate the weight given to the evidence in reference to the overall investigation.
2. The second step is to assess whether or to what extent statements or information contained in an authentic document shed light on issues relevant to the investigation. For example, some authentic documents may offer only conclusory opinions without evidentiary support. When finding evidence relevant and probative, it is important for an investigator to be able to justify their decision.
 - 2.1. For instance, if an investigator determines that a statement in an incident report is accurate, she should be able to explain her decision, such as that the statement is consistent with the other evidence or statements taken in the investigation. The statements contained in a document cannot be judged to be truthful simply because they are contained in an official report; corroboration of those statements must be established.
3. An investigator’s determination of authenticity and probative value should be unbiased. The same standards should be applied to determine the authenticity and probative value of documents offered by external and internal sources.

C. Evaluating Whether a Pattern of Behavior Exists

1. The Public Integrity Bureau shall review past case reports and specific allegations and dispositions to determine whether there is commonality or a pattern similar to the allegations in the case at hand, considering the time between complaints and their similarity to the subject case. When a member’s disciplinary history includes

Unfounded, Exonerated, or Not Sustained cases, these cases cannot be used in a credibility determination unless there is a clear pattern or relevancy to the subject case.

2. The Public Integrity Bureau may contact the respondent member's supervisor and ask that supervisor to provide his or her observations and assessment of the accused employee.

D. Supervision of the Investigation

D.a. Sergeant Duties

1. Upon permanent assignment as direct supervisor of an investigation, the sergeant must promptly meet with the assigned primary investigator (if the secondary investigator is available, they should participate) to discuss the case, identify steps already taken and the investigative plan going forward by close of business the day of the assignment.
2. Each sergeant must meet with each investigator under their command at a minimum once per week to review their progress on every case and identify next steps, roadblocks and additional resources needed.
3. All weekly case reviews between the sergeant and investigator must be memorialized in IAPro by the sergeant.
4. During the weekly case review, the sergeant and investigator will review progress on each case, referring to the investigative checklist to guide this discussion.
 - 4.1. The sergeant must consider whether the investigation is being conducted in a *thorough, fair, and timely* manner.
 - 4.2. Sergeants must ensure that investigators are prepared to discuss the status of their investigations by keeping their investigative checklists updated, ensuring investigative steps have been documented, and addressing any questions/concerns the investigator has regarding the case.
 - 4.3. Upon noticing any gaps in investigation, legal or policy concerns, delay in investigatory actions, insufficient documentation, or missing items on the checklist, the sergeant must promptly alert the investigator about the issues and then work with the investigator to remedy the concerns. The plan will be memorialized by the sergeant as a task in the IAPro case file.
 - 4.4. If the sergeant notes continued problems or deficiencies on the part of an investigator, the sergeant shall consult with their lieutenant to discuss the best way to address the issues with the investigator.
5. Sergeant timeline expectations:
 - 5.1. Once the investigation has been open for 30 days, the sergeant must perform a complete review of the investigator's case file. They must ensure all necessary investigative steps have been taken, identify any gaps or steps that

need to be taken, and ensure that the investigator is on schedule to complete the investigation in 90 days.

- 5.2. The sergeant may determine that the investigator needs to readjust their resources to complete the investigation in 90 days and/or the investigator may need to begin documenting reasons why more time might be needed beyond 90 days.
- 5.3. After the Lieutenant conducts a 60 day review of the investigator's case file (see following section, "Lieutenant Duties"), if the investigation is not on track to be completed by day 90, then the lieutenant must attend the next two weekly meetings between the investigator and the sergeant to help the investigator identify the concrete steps they need to take and to determine whether an extension request will be needed.
 - 5.3.1. If after the two weekly meetings it is clear that an extension will be required, the investigator must complete an administrative report requesting an extension of no more than 30 days. This report must include a detailed justification for the extension and a plan of action for completing the investigation within 120 days. This report must be submitted to the investigator's sergeant by day 75. Additionally, for CRB-eligible cases, the investigator will submit the same request to CRB through the Administrative Unit by day 75.
 - 5.3.2. All requests for extension must be forwarded, via chain of command, to the Deputy Commissioner of PIB, who must approve all extensions in writing.
6. Sergeants must be available to their investigators to discuss questions or concerns that the investigators may have pertaining to their investigations, to include, but not limited to:
 - 6.1. The investigator's investigative plan or strategy
 - 6.2. The investigator's request for coaching or guidance
 - 6.3. The investigator's concerns about remaining neutral with any witness, officer or complainant
 - 6.4. Legal issues that may arise during the course of an investigation (e.g., discovery of evidence through subpoena or search warrant)
7. Sergeants are also responsible for promptly reviewing all investigative reports within 48 hours of receiving the report from the investigator, and either approve the investigative report or return it to the investigator for corrections. If this timeline requires extension, it may be done so for an additional 24 hours only with approval by the Lieutenant. If another 24 hour extension is required, it may only be taken with approval by the Captain, or the Major, if Captain is unavailable. Any extension request must be documented immediately in the IAPro case file.
8. In accordance with Part (D.d) of this section, "IASat", below, sergeants must attend every IASat meeting, unless on approved leave or other priority duty related absence, and must follow up with the investigators on any items brought up during IASat that

require follow up. This follow up will occur during the weekly meeting between the investigator and the sergeant, and will be documented in the IAPro case file.

D.b. Lieutenant Duties

1. Lieutenants must meet with all sergeants under their command on a weekly basis.
2. At these weekly meetings, Lieutenants and Sergeants must discuss:
 - 2.1. The status of all cases under their supervision
 - 2.2. Determine which cases should be prioritized (based on factors such as severity of the allegations, availability of perishable evidence, availability of witnesses, referrals to the SAO, suspension status of officers, how close the case is to the expiration date, among other factors). Ensure immediate investigative steps are identified in priority cases and communicated to the investigators responsible for those cases.
 - 2.3. Identify investigative steps that need to be taken on all cases.
 - 2.4. Any concerns that either has about specific cases or specific investigators
 - 2.5. Administrative issues or concerns within their command
 - 2.6. Legal issues, such as search warrants, subpoenas, or parallel criminal proceedings.
3. Lieutenant timeline expectations:
 - 3.1. Once an investigation has been open for 60 days, the lieutenant must perform a complete review of the investigator's case file to see whether the case is fully investigated, identify any gaps in investigative steps, and ensure that the investigation is on schedule to be completed within 90 days.
 - 3.2. The Lieutenant must assist the investigator in creating a detailed plan of action in order to successfully conclude the investigation by day 90.
 - 3.3. If the investigation is not on track to be completed by day 90, then the lieutenant must attend the next two weekly meetings between the investigator and the sergeant to help the investigator identify the concrete steps they need to take and to determine whether an extension request will be needed.
 - 3.3.1. If after the two weekly meetings it is clear that an extension will be required, the investigator must complete an administrative report requesting an extension of no more than 30 days. This report must include a detailed justification for the extension and a plan of action for completing the investigation within 120 days. This report must be submitted to the investigator's sergeant by day 75. Additionally, for CRB-eligible cases, the investigator will submit the same request to CRB through the Administrative Unit by day 75.
 - 3.3.2. All requests for extension must be forwarded, via chain of command, to the Deputy Commissioner of PIB, who must approve all extensions in writing.

4. Lieutenants must be available to their sergeants to discuss questions or concerns that they have pertaining to specific investigations or investigators under their supervision.
5. Lieutenants must attend every IAStat meeting, unless on approved leave or other priority duty related absence and ensure that sergeants follow up with the investigators on any items brought up during IAStat that require follow up.
6. Lieutenants are responsible for managing caseloads within their command by reviewing the caseloads of each investigator in their command and ensuring caseloads are generally evenly distributed.
7. Manage command resources, for example staffing required on particular investigations.

D.c. Considerations for Supervising a Thorough, Fair and Timely Investigation

On-going supervision of an investigation will consider criteria that include, but are not limited to, the following:

1. Was the investigation adequate, reasonable, thorough, timely and conducted to determine the truth?
 - 1.1. Were all reasonable efforts made to identify, locate, and interview potential witnesses?
 - 1.2. Was an area canvass conducted to locate witnesses and evidence?
 - 1.3. Was the incident scene inspected and documented?
 - 1.4. Was evidence identified, secured, inspected, and maintained appropriately?
 - 1.5. Was electronic evidence, including social media or online evidence identified and secured by appropriate legal means?
 - 1.6. Were all witnesses and subject officers interviewed?
 - 1.7. Were all reasonable leads followed to their logical conclusion?
 - 1.8. Were witnesses asked to identify other potential witnesses?
 - 1.9. Did the investigator assign priority to the most important issues of the investigation, or did they focus on minor concerns?
2. Were the interviews conducted appropriately?
 - 2.1. Did the investigator ask open-ended questions?
 - 2.2. Did the investigators ask appropriate follow-up questions and complete follow-up investigation when warranted?
 - 2.3. Did the investigator use leading questions only when appropriate?
 - 2.4. Were the interviews recorded?
 - 2.5. Were the interviews conducted in person at a convenient location for civilian witnesses?

- 2.6. Were the witnesses separated and interviewed individually?
- 2.7. Did the investigator make proper use of the interview environment under their control?
- 2.8. Were all witnesses and subject officers treated with dignity and respect?
3. Was the investigation conducted fairly?
 - 3.1. Was there evidence of bias against the complainant?
 - 3.2. Was there evidence of bias against the officer?
 - 3.3. Did the investigator suppress or minimize statements unfavorable to the subject officer?
 - 3.4. Did the investigator selectively interview only witnesses who favored the officer(s)?
 - 3.5. Were the subject officers allowed representation during interview and advised of applicable rights?
 - 3.6. Did the investigators allow the subject officers to review evidence or witness statements prior to the subject officer's interview?
 - 3.7. Was there evidence that the investigator pressured the complainant to withdraw or minimize their complaint?
 - 3.8. Was there evidence that the investigator conspired with the subject officer to lessen the subject officer's culpability?
4. Was the investigation properly and timely documented?
 - 4.1. Was the report well written and generally free of grammatical errors?
 - 4.2. Did the report detail a chronological account of events?
 - 4.3. Was the report prepared in a logical format?
 - 4.4. Was the report factual, or did it contain statements that jumped to conclusions?
 - 4.5. Did the report clearly identify what facts were not disputed and what factual claims were disputed?
 - 4.6. Did the report clearly identify inconsistencies in the factual accounts and evidence?
 - 4.7. Is there documentation of which accounts are corroborated by independent evidence obtained in the investigation?
 - 4.8. Were all reference documents included in the case file?
 - 4.9. Were all witnesses, officers, and involved parties identified (names, addresses and phone numbers?)
 - 4.10. Was there evidence of bias, embellishments, exaggerations or false statements, and is there an analysis of how these affect the outcome the case?
 - 4.11. Were credibility assessments supported with evidence?

- 4.12. Did the report provide a clear, defensible basis for all conclusions?
- 4.13. Did the report provide alternative interpretations based on conflicting but credible evidence?
- 4.14. Ensure that any evidence collected was done so in accordance with Policy 1401, *Control of Property and Evidence*.
5. Was the investigation and report prepared in a timely manner?
 - 5.1. Was the investigation and report completed within 90 days?
 - 5.2. If not concluded in the required time period, was an extension requested, and was this extension request justified?
6. Review the core components of the investigation, including listening to the interviews of all material witnesses to the extent possible.
 - 6.1. Assess whether asked open-ended questions and used effective and appropriate follow up questions.
 - 6.2. Listen for leading questions or suggestions of defenses to subject officers.
 - 6.3. Provide the investigator timely feedback regarding interview techniques and the need for any follow-up questioning.
7. Determine whether or not all reasonable efforts were made to identify, locate, and interview witnesses, preserve and collect evidence, and follow reasonable leads.

D.d. IAStat

1. IAStat is a critically important internal PIB meeting PIB that occurs once per week and is convened by PIB Command. In the event a PIB Commander is unavailable to convene IAStat, an Administrative Lieutenant is able to convene the meeting.
2. IAStat must be attended by all scheduled Lieutenants, Investigative Sergeants, the Captain, Major, Deputy Commissioner, and a Legal Affairs representative, unless on approved leave or other priority duty related absence.
3. At each IAStat meeting, the lieutenant of one investigative team, its two investigative sergeants, and all of the team's investigators must be prepared to present the case progress on all of their cases.
4. Commanders will determine which specific cases will be presented during the meeting each week. Those chosen will include cases set to expire within 30 days, any noteworthy cases, and a selection of recently assigned new cases.
5. IA Stat meetings will rotate through each investigative team as follows: week 1, team 1; week 2, team 2; week 3, team 3; week 4, team 1; week 5, team 2; etc.
 - 5.1. The investigator must be prepared to walk through the progression of each case, noting all tasks assigned and completed. This allows supervisors to review steps, ask questions, asking follow up tasks, and ensure no investigative steps have been missed or overlooked

- 5.2. During the presentation, the investigator's sergeant or lieutenant will assign tasks as recommended by Command within IAPro and assign due dates for tasks to be completed.
 - 5.3. Detectives will be required to complete the assigned tasks and documents steps taken within IAPro and sergeants and lieutenants will ensure that tasks have been completed by the assigned due date.
6. IAStat also serves to identify training needs based on patterns and trends in the investigatory process. Over time PIB leadership will identify these trends across investigators and as part of a comprehensive continuous improvement culture, is to identify training needs as well as other corrective actions to address trends observed.

IX. COMPLETION OF THE INVESTIGATION

A. Investigative Summary

1. Upon completion of all investigative steps, the investigator is responsible for properly summarizing the facts of the case and recommending investigative findings. Each investigator will adhere to the following procedure when summarizing an investigation.
 - 1.1. Discuss the investigation and projected conclusion with their immediate supervisor.
 - 1.2. Organize the investigative case book into logical sequence, not chronological order.
 - 1.3. Request four sets of photographs for all sustained cases; one set in original case book, two sets in the case book to go to OAH, and the fourth set to go to CRB.
 - 1.4. Prepare an Investigative Summary Report of the investigation in numerical order. The summary is a consecutively numbered, step-by-step, neutral exposition of the investigative procedures and results in each case, i.e., complainant, corroborative witnesses, respondent, respondent's supporting witnesses, other police personnel, and other pertinent data. The purpose of the summary step is to outline the testimony, bringing out the critical issues and facts. It is to be presented without personal comment.
 - 1.5. The investigative summary will be organized by detailing the chronological order of events of how the investigation transpired and what information was learned at each step.
2. The investigative Summary Report shall include the following:
 - 2.1. A narrative description of the incident, including a precise description of the evidence that either justifies or fails to justify the officer's conduct based on the misconduct investigator's independent review of the facts and circumstances of the incident;
 - 2.2. Documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which

- there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but circumstances prevented the misconduct investigator from determining the identification, phone number, or address of those witnesses, the report will state the reasons why. The report also will include all available identifying information for anyone who refuses to provide a statement;
- 2.3. Documentation of whether officers or other BPD employees were interviewed, including audio and video and transcript of those interviews, if available;
 - 2.4. Interviewees listed in the Investigative Summary Report evidence section should be identified, i.e., as the named employee, witness employee, complainant, or subject
 - 2.5. The names of all other BPD employees who witnessed the incident;
 - 2.6. The investigator's evaluation of the incident, based on their review of the evidenced gathered, including a determination of whether the officer's actions appear to be within BPD policy, procedure, regulations, orders or other standards of conduct required of BPD officers;
 - 2.7. In cases where credibility determinations must be made, explicit credibility findings, including a precise description of the evidence that supports or detracts from the person's credibility;
 - 2.8. In cases where material inconsistencies must be resolved between complainant, officer, and witness statements, explicit resolution of the inconsistencies, including a precise description of the evidence relied upon to resolve the inconsistencies;
 - 2.9. If a weapon was used, documentation that the officer's certification and training for the weapon were current; and
 - 2.10. Documentation of recommendations for non-punitive corrective action or misconduct charges.
3. The investigator will make a recommendation regarding a disposition for each allegation but will not provide a finding; the Lieutenant is responsible for making the initial finding in each case. The final determination of the case finding will be made by PIB Command. See below for guidance around recommended dispositions.
 4. Additionally, the investigative summary will include the investigator's evaluation of policy, training, or equipment concerns and any recommendations for how to address these concerns. Specifically, the investigator will evaluate:
 - 4.1. Whether the law enforcement action was in compliance with training and legal standards;
 - 4.2. Whether other tactics were more appropriate under the circumstances;
 - 4.3. If the incident indicates a need for additional training, counseling, or other non-disciplinary corrective actions; and

- 4.4. If the incident suggests a need to revise BPD policies, strategies, tactics or training.
5. Upon concluding the investigation, each investigator shall:
 - 5.1. Prepare a table of contents for the case book;
 - 5.2. Deliver the entire investigation package to their immediate supervisor for review and approval;
 - 5.3. Insert numerical separators as required in the work booklet only;
 - 5.4. In cases recommended as “sustained” , insert a photograph of the respondent in the case book;
 - 5.5. In sustained cases, include forms reflecting prior sustained PIB cases and prior disciplinary action;
 - 5.6. Ensure that in instances wherein the complainant or witnesses are not contacted in a timely fashion that certified letters are promptly posted requesting their immediate assistance.

B. Investigative Summary Review

Once the Investigative Summary is prepared and the file is ready to submit to a PIB sergeant for review. The Investigative Summary review continues up to the Deputy Commissioner, or designee, for all cases. Once the case finding has been completed, a letter will be forwarded to the complainant and the respondent employee(s) indicating the investigative finding. The investigator will document this update, as with all other investigative milestone updates.

C. Disposition Recommendation

1. For each allegation of misconduct, investigators shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:
 - 1.1. “Unfounded,” means where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the accused officer;

EXAMPLES:

- Complainant alleges that the officer who responded to her call for assistance in the service of a protective order against her estranged spouse ripped up the paperwork, let the spouse leave the location without effecting service, and called her an idiot. The officer’s body worn camera footage, which was activated during the entire call for service, establishes that the officer reviewed the paperwork, served it upon the spouse, and spoke respectfully to the complainant.
- Complainant alleges that an officer used excessive force in arresting him. The officer named in the complaint is not the arresting officer, as

evidenced by the arrest paperwork and the arresting officer's body worn camera. At the time of the arrest, the accused officer and her sergeant were handling another call three blocks away from the arrest of the complainant and never responded to the complainant's arrest location.

- 1.1.1. Maryland law dictates that evidence that meets the clear and convincing burden of proof "should be 'clear' in the sense that it is certain, plain to the understanding, and unambiguous and 'convincing' in the sense that it is so reasonable and persuasive as to cause you to believe it." Maryland Civil Pattern Jury Instruction 1:15 (5th Ed., 2018). In order to meet the burden of proof known as by a preponderance of the evidence:

a party must prove that it is more likely so than not so. In other words, a preponderance of the evidence means such evidence which, when considered and compared with the evidence opposed to it, has more convincing force and produces in your minds a belief that it is more likely true than not true.

Maryland Civil Pattern Jury Instruction 1:14 (5th Ed., 2018).

- 1.2. "Sustained," means where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur;

EXAMPLES

- Complainant alleges that the officer who responded to her home for a domestic complaint failed to arrest her ex-boyfriend, who was present at the location and had assaulted her, causing a visible injury, and failed to write a report about the incident. The complainant and her teenage son gave consistent statements about the assault and the officer's response, and the complainant provided photographs of her injuries. The officer did not activate his body worn camera during the incident. CAD reflected the officer's response to the location. The officer coded the call as unfounded. No report was located in RMS.
- Complainant alleges that an off-duty police officer caused a minor car accident at an intersection. When they both pulled over, the officer got out of her car and approached the complainant with her badge in one hand and a firearm in the other hand. The officer yelled at the complainant and accused him of causing the accident, and stated that she was a police officer and she would have him arrested. She then got back into her car and fled the scene. The complainant obtained a partial tag number. An independent witness who was walking down the street made a complaint two days after the complainant, which was consistent with the complainant's account. The witness provided a description of the officer and her car, but no tag number. The investigator identified the officer's personal vehicle based on the tag number, located it parked on the lot of the district to which the officer was assigned, and observed damage and

paint transfer that were consistent with the complainant's account. A surveillance video from a business across the street from the scene of the accident captured the incident on video, but did not contain audio. The officer denied that she was involved in the accident and that she had a confrontation with the complainant.

- 1.3. "Not Sustained," means where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred;

EXAMPLE

- Complainant alleges that an officer failed to arrest his neighbor after the complainant called in a noise complaint on the neighbor and advised the officer that the neighbor was wanted on a warrant. The officer's body worn camera captured the interaction between the officer and the complainant, and the officer and the neighbor. None of the recordings captured the complainant saying anything about the open warrant to the officer. The officer asked dispatch to run a warrant check on the complainant and the neighbor, which came back as negative. According to departmental records, there were no open warrants for the neighbor on or prior to the date of the incident.

- 1.4. "Exonerated," means where the evidence determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate BPD policies, procedures, or training;

EXAMPLES

- Complainant alleges that officers illegally searched her home and falsely arrested her son. She was not at home at the time of the search or arrest. Officers had obtained a valid search and seizure warrant for the location, and upon their arrival, the complainant's son admitted that he had a handgun in his bedroom closet; the handgun had been reported stolen two weeks prior to the execution of the warrant. A copy of the search warrant was left at the location. All of the officers' actions were captured on body worn camera.

- 1.5. The investigator shall not use the disposition "administratively closed" or "tracking only". This disposition has been discontinued.

X. REVIEW OF THE INVESTIGATION

1. The investigator will submit the completed investigation to their PIB Sergeant for approval. The sergeant must complete the "Sergeant Review Checklist" (see Appendix J) to conduct a thorough review.
 - 1.1. All items on the checklist must be completed.
 - 1.2. For any item that the sergeant feels is insufficiently performed or documented, or for any part of the investigation that the sergeant determines needs further investigative work, the sergeant must document their observations and reasons for returning a case to the investigator.

- 1.3. If the sergeant does not agree with the investigator's recommended finding, the sergeant must document their reason for disagreement. This will be included as an addendum to the investigative report.
2. If the sergeant approves, it is then reviewed by the Investigative Lieutenant, who will review the investigation by completing the "Lieutenant Review Checklist" (see Appendix K) and either approve or disapprove of the investigator's recommended finding of sustained, not sustained, unfounded or exonerated.
 - 2.1. All items on the checklist must be completed.
 - 2.2. For any item that the Lieutenant feels is insufficiently performed or documented, or for any part of the investigation that the Lieutenant determines needs further investigative work, the Lieutenant must document their observations and reasons for returning a case to the investigator.
 - 2.3. If the Lieutenant does not agree with the investigator's recommended finding, the Lieutenant must document their reason for disagreement. This will be included as an addendum to the investigative report.
3. Each reviewer will review the report to ensure that the report is complete, that it meets the requirements of BPD policy and this manual, and that the findings are supported by the appropriate standard of proof. A reviewer shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings;
4. Whenever a superior officer orders additional investigation, they must document the actions it as a "task" in IAPro. Whenever a superior officer does not agree with the investigator's recommended findings, but does not order additional investigation, they must document their reasons for their conclusion in an addendum to the casebook, and forward it through their chain of Command.

NOTE: Refer to Part (VIII)(D.c) above for helpful considerations for assessing the thoroughness, fairness and timeliness of the investigation.

- 4.1. The case's Investigative Summary will be amended to reflect any additional steps taken as requested by any superior officer; the investigation will be re-submitted to PIB Command to review the additional investigative work conducted. It is important to keep in mind that there must be sufficient time available for any additional work, as well as review by PIB Command and those involved in the disciplinary process to be completed, prior to the statutory limitations.
5. All cases will be forwarded, through chain of Command, to the Deputy Commissioner of PIB or their designee to make the final determination as to findings in the case. The Deputy Commissioner of PIB or their designee shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings. If the Deputy Commissioner of PIB or their designee does not agree with the investigator's recommended findings, but does not order additional investigation, they may order the finding to be changed. This determination must be based solely on the Deputy Commissioner of PIB's or designee's (1) independent review of the investigative file;

(2) determination that there is not additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings; and
(3) determination that the evidence did not support the previous finding, based on the applicable standard of proof.

NOTE: For cases where the finding was changed by the Deputy Commissioner or designee, the addendum will be provided to the PIB Investigative Sergeant and Lieutenant for consideration in training of PIB investigators and debriefing the investigation.

XI. POST-FINDINGS PROCEDURES

A. Not Sustained/Unfounded/Exonerated

1. For cases where the final findings are not sustained, unfounded or exonerated, the case will be forwarded to PIB's Administrative Section, where the findings will be noted in IAPro, and the case file will be maintained.⁴ The last task that must be entered in IAPro should state that the case was forwarded to the Administrative Section.
2. The Administrative Section will ensure that a letter is forwarded to the complainant within 5 business days of receiving the final approved case file, advising them of the findings.
 - 2.1. The investigation will be closed out by the Administrative Section without further review.
 - 2.1.1. Select the finding in IAPro.
 - 2.1.2. If case is not sustained, ensure each allegation that applies is marked with the finding.
 - 2.1.3. If the case is anything but sustained, mark complete.
3. The Administrative Section will ensure that an email is sent to the respondent officer via their departmental email informing them of the outcome of the case.

B. Sustained Finding

1. For cases with a final finding of sustained, PIB will forward the sustained case file to the Office of Administrative Hearings (OAH) by the next business day in order for OAH to prepare the case presentation for the Disciplinary Review Committee (DRC). OAH will notify the member of the sustained finding.
2. The DRC will make a disciplinary recommendation on behalf of the Police Commissioner.
 - 2.1. The recommended discipline will be based on the totality of the investigation, and the respondent's disciplinary history, consistent with the Disciplinary Matrix⁵.

⁴ There will be no further investigation unless directed so by the Deputy Commissioner of PIB.

⁵ Policy 310

3. Upon DRC making their recommendation, the OAH will send the case file back to the PIB Administrative Section, where the findings will be noted in IAPro.
4. The Administrative Section will ensure that a letter is forwarded within five business days to the complainant advising them of the findings.
5. The investigation will be placed in “suspended” state by the Administrative Unit.
 - 5.1. Select the finding in IAPro.
 - 5.2. If the case is sustained, add all of the charges from the charging document and mark each allegation with its appropriate finding.
 - 5.2.1. If sustained, mark the charges as indicated above and then mark the case ‘suspended’, pending the officer’s acceptance of discipline or request of trial board.
 - 5.2.2. Stays suspended until the discipline has been completed.
 - 5.2.3. After the discipline has been completed, the Administrative Unit enters the discipline and it is marked as closed.

XII. APPENDICES

- A. IAS Recusal Form**
- B. Initial Checklist and 30-Day Checklist**
- C. Complainant 5-Day Letter**
- D. Request to Withdraw Complaint**
- E. Complainant Case Update Letter**
- F. PIB Interview Template**
- G. Notice of Investigation**
- H. Non-Disclosure, Non-Retaliation and Confidentiality Order**
- I. Investigative Report Template**
- J. Sergeant Review Checklist**
- K. Lieutenant Review Checklist**
- L. Investigative Plan Template**
- M. Miranda Warnings & Waiver**
- N. Sample Use Immunity Grant Advisement Form, “Garrity Warning”**
- O. Sample Response Letters to Complainant**
- P. Respondent Notification of Finding Template**

**APPENDIX A
IAS Recusal Form**



**Baltimore Police Department
IAS Recusal Form**

This form shall be completed and approved by OPR command prior to the permanent assignment of the investigation.

Case Number	Investigator's Name (Printed)	Seq. #	Investigator's Sergeant (Printed)	Seq. #
Accused BPD Member(s):				

BPD recognizes the negative impact of actual bias or the appearance of bias on the legitimacy of internal investigations. For that reason, conflicts of interest in misconduct investigations or in those assigned by BPD to recommend or make disciplinary decisions shall be prohibited. This provision requires BPD to ensure the following:

- a. No employee who was involved in or a witness to an incident shall conduct or review a misconduct investigation arising out of that incident;
- b. No employee who has an external business relationship or close personal relationship with a principal or witness in a misconduct investigation shall conduct or review the misconduct investigation. No such person may make any disciplinary decisions with respect to the misconduct including the determination of any applicable grievance or appeal arising from any discipline. A close personal relationship includes a personal friendship, a romantic or familial relationship.
- c. No employee shall be involved in an investigation or make any disciplinary decisions with respect to any person who they directly report to in their chain of command. In cases where BPD is unable to meet this requirement, the investigation must be referred to an outside authority. Any outside authority retained by BPD must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest;

OPR investigators will not be assigned to any assignments which could create a conflict of interest for their administrative investigations, including any assignment in which the investigator would report to or work with the subject of an open investigation. To ensure the above requirements, and in accordance with Policy 306, *Complaint Intake and Classification Process*, an investigator shall disclose the circumstances of any relationship with a BPD member accused in an investigation to ensure that the nature of the relationship could not be perceived to compromise the investigative process. An investigation shall be reassigned if any of the following conditions exist:

- Family relationship;
- Outside business relationship;
- Romantic relationship (current or past);
- Personal friendship; or
- Work relationship, including where the investigator would report to or work with the subject of the investigation.

Declaration:


Detective		Sergeant		Lieutenant	
<input type="checkbox"/> I was directly involved in the incident		<input type="checkbox"/> I was directly involved in the incident		<input type="checkbox"/> I was directly involved in the incident	
<input type="checkbox"/> I have a relationship with one or more of the parties accused which could be perceived as compromising to the investigative process		<input type="checkbox"/> I have a relationship with one or more of the parties accused which could be perceived as compromising to the investigative process		<input type="checkbox"/> I have a relationship with one or more of the parties accused which could be perceived as compromising to the investigative process	
<input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the accused parties which could be perceived as compromising to the investigation		<input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the accused parties which could be perceived as compromising to the investigation		<input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the accused parties which could be perceived as compromising to the investigation	
Detective's Signature:		Sergeant's Signature:		Lieutenant:	
Date:	Seq. #	Date:	Seq. #	Date:	Seq. #

Review:

Sergeant Review	Lieutenant Review	OPR Commander Review
I have met with the investigator and made the following determination: <input type="checkbox"/> Approved/No Conflict <input type="checkbox"/> Reassigned Signature: _____	I have reviewed this form and have made the following determination: <input type="checkbox"/> Approved/No Conflict <input type="checkbox"/> Reassigned Signature: _____	I have reviewed this form and have made the following determination: <input type="checkbox"/> Approved/No Conflict <input type="checkbox"/> Reassigned Signature: _____
Date: _____ Seq.: _____	Date: _____ Seq.: _____	Date: _____ Seq.: _____


APPENDIX B
Initial Investigative Checklist and 30-Day Checklist

Initial Investigative Checklist (first 48 hours)



The primary investigator must complete the below checklist and mark the date that each task is completed. Mark "N/A" when the task does not apply to the case and be prepared to explain why you marked "N/A" This checklist serves as a guidance tool. Investigators must follow all take all necessary steps to follow all investigative leads, even if a specific task is not outlined in the checklist.

Task	Date Completed or "N/A" if Not Applicable	Supervisor Approve Date & Initials
<input type="checkbox"/> Scene Response / Area Canvass		
<input type="checkbox"/> Complete Recusal Forms		
<input type="checkbox"/> Obtain BWC		
<input type="checkbox"/> Identify all officers involved (BWC, CAD, Incident Reports)		
<input type="checkbox"/> Supervisor Meeting		
<input type="checkbox"/> Schedule Complainant Interview		
<input type="checkbox"/> Citiwatch Cameras		
<input type="checkbox"/> Private Cameras (incl. cell phone video)		
<input type="checkbox"/> Identify all witnesses involved		
<input type="checkbox"/> Schedule Witness Interviews		
<input type="checkbox"/> Witness 1 (name) _____		
<input type="checkbox"/> Witness 2 _____		
<input type="checkbox"/> Witness 3 _____		
<input type="checkbox"/> Identify all forms of misconduct		
Was arrest lawful? <input type="checkbox"/> Y <input type="checkbox"/> N		
Abusive language? <input type="checkbox"/> Y <input type="checkbox"/> N		
Excessive force? <input type="checkbox"/> Y <input type="checkbox"/> N		
UOF report complete? <input type="checkbox"/> Y <input type="checkbox"/> N		
Harassment? <input type="checkbox"/> Y <input type="checkbox"/> N		
Criminal misconduct? <input type="checkbox"/> Y <input type="checkbox"/> N		
If criminal, SAO notified? <input type="checkbox"/> Y <input type="checkbox"/> N		
<input type="checkbox"/> Draft Investigative Plan		
<input type="checkbox"/> 5-Day Letter to Complainant		
<input type="checkbox"/> Preliminary review of written reports		
<input type="checkbox"/> KGA recording reviewed		



APPENDIX B, Continued
Initial Investigative Checklist and 30-Day Checklist

First 30 Day Investigative Checklist



The primary investigator must complete the below checklist and mark the date that each task is completed. Mark "N/A" when the task does not apply to the case and be prepared to explain why you marked "N/A" This checklist serves as a guidance tool. **Investigators must follow all take all necessary steps to follow all investigative leads, even if a specific task is not outlined in the checklist.**

Task	Date Completed or "N/A" if Not Applicable	Supervisor Approve Date & Initials
<input type="checkbox"/> Chronological account of events		
<input type="checkbox"/> Photographs of involved members		
<input type="checkbox"/> Other Evidence Obtained		
<input type="checkbox"/> Crime lab docs/reports		
<input type="checkbox"/> Run sheets		
<input type="checkbox"/> Photos		
<input type="checkbox"/> Text messages		
<input type="checkbox"/> 911 recordings		
<input type="checkbox"/> Social media posts		
<input type="checkbox"/> Property/Evidence Reports		
<input type="checkbox"/> Statement of Probable Cause		
<input type="checkbox"/> Medical evidence and/or records		
<input type="checkbox"/> Incident reports, UOF reports, CID investigative reports		
<input type="checkbox"/> Other _____		
<input type="checkbox"/> Other _____		
<input type="checkbox"/> Other _____		
<input type="checkbox"/> Policies identified & reviewed		
<input type="checkbox"/> Review of member's complaint history, personnel file & attendance		
<input type="checkbox"/> Complainant Interview		
<input type="checkbox"/> Respondent Served		
<input type="checkbox"/> Respondent Interview Scheduled		

Complaint XXXXXXXXXXXX

APPENDIX C
Complainant 5-Day Letter

DATE

Mr. _____
ADDRESS
Baltimore, MD ZIP

Notice of Receipt of Complaint

Dear Mr. _____:

The Public Integrity Bureau (Internal Affairs) of the Baltimore Police Department has opened an investigation into your complaint against an officer of the Baltimore Police Department, filed on DATE, alleging [allegations]. The initial number assigned to this case is [WRITE CC NUMBER HERE], and the PIB case number is **PIB NUMBER**. The assigned investigator is Detective NAME.

[Detective NAME will contact you within the next five (5) days to schedule an interview,] [Your interview with Detective NAME is scheduled for DAY, DATE at TIME.] The interview will take place at the Public Integrity Bureau, located at 2524 Kirk Avenue, Baltimore, Maryland 21218 [or other location, if applies].

The Baltimore Police Department takes all complaints against our members seriously. We appreciate your participation in the process, although it is not required. Please be advised that the Department will investigate the complaint, regardless of your participation.

Please contact Detective NAME at 410-396-2300, which is a recorded line, if you need to reschedule the interview or if your address, telephone number, or e-mail address changes. You may also contact [him or her] any time you have questions about the investigation or to request an update on the status of your complaint. Our business hours are 8:30am to 4:30pm, Monday through Friday.

[INSERT THE FOLLOWING IF CRB-ELIGIBLE] You may also file a complaint against a police officer in person or by calling the following organization:

Civilian Review Board
7 E. Redwood St., 9th Floor
Baltimore, Maryland 21202
(410) 396-3141

Sincerely,

Major S. C. Lansey-Delgado
Major Stephanie Lansey-Delgado
Public Integrity Bureau

APPENDIX D
Request to Withdraw Complaint

POLICE DEPARTMENT
BALTIMORE MARYLAND

STATEMENT OF WITHDRAWAL

PIB Case Number:

I hereby withdraw my complaint being investigated in Public Integrity Bureau (Internal Affairs) case number 2019-xxxx. I voluntarily withdraw this complaint without coercion, threats, promises of reward, or immunity of any kind by anyone.

I understand that while this is a formal record of my desire to withdraw the complaint, BPD will not stop its investigation based on my desire to withdraw the complaint.

REASON FOR WITHDRAWAL:

Complainant Name: _____

Signed: _____

Today's Date: _____

Witness Name: _____

Witness Signature: _____

APPENDIX E
Complainant Case Update Letter

DATE

Mr. _____
ADDRESS
Baltimore, MD ZIP

Update Regarding Your Complaint

Dear Mr. _____:

The Public Integrity Bureau of the Baltimore Police Department is reaching out to let you know that we continue to investigate your complaint filed on DATE (Case Number XXXX-XXXX).

Please contact Detective NAME at 410-396-2300, which is a recorded line, if you have questions about the investigation. In addition, please contact Detective NAME if your address, telephone number, or e-mail address changes. .

Thank you.

Sincerely,

Major S. C. Lansey-Delgado

Major Stephanie Lansey-Delgado
Professional Integrity Bureau

SLD/xxx

APPENDIX F

PIB Interview Template

*The follow is a general template for PIB interviews. All investigators **MUST** review their interview plan with their supervisor prior to conducting a formal interview, in order to ensure that you are prepared to cover all anticipated and appropriate topics.*

A. INTRODUCTION AND ADVISEMENTS

1. WITNESS OFFICER

This is the recorded statement of Police Officer _____ taken at the office of the Public Integrity Bureau on _____, 2019 at approximately _____ hours. This interview is being conducted by Detective _____ in the presence of Detective _____. This statement is in reference to PIB Case Number _____. For the record, this interview will be audio [and video, if applicable]-recorded.

Provide Applicable Adviselements (LEOBR, Miranda, and/or Garrity)

- Q: Please state your full name, rank, and current assignment.
- Q: What is your EOD?
- Q: What is your Sequence Number?
- Q: Officer _____ you are here to discuss an incident that occurred on _____ at _____ at approximately _____ hours. Other than with legal counsel, have you discussed this incident with anyone else? Who and when?
- Q: Did you write any report, 95, memorandum or any other written document pertaining to the incident that we are here for today?
- Q: Are you aware of any report, 95, memorandum or any other written document written by anyone else pertaining to the incident we are here for today?

GO TO SECTION B – INCIDENT FACTUAL BACKGROUND

APPENDIX F, Continued

2. ACCUSED OFFICER

This is the recorded statement of Police Officer _____ taken at the office of the Public Integrity Bureau on _____, 2019, at approximately _____ hours. This interview is being conducted by Detective _____ in the presence of Detective _____. Counsel for the accused is _____. This statement is in reference to PIB Control Number _____. For the record, this interview will be audio [and video, if applicable] recorded.

Provide Applicable Advisements (LEOBR, Miranda, and/or Garrity)

- Q: Officer _____, you were just provided with your Law Enforcement Officer's Bill of Rights. Do you understand those rights?
- Q: Have you received your written Notification to Accused of Complaint?
- Q: Please state your full name, rank, and current assignment.
- Q: What is your EOD?
- Q: What is your Sequence Number?
- Q: At this time, [NAME OF ATTORNEY], do you have any statements to add?
- Q: Officer _____ you are here to discuss an incident that occurred on [DATE] at [ADDRESS] at approximately [TIME] hours. Other than with legal counsel, have you discussed this incident with anyone else? Who and when?
- Q: Did you write any report, 95, memorandum or any other written document pertaining to the incident that we are here for today?
- Q: Are you aware of any report, 95, memorandum or any other written document written by anyone else pertaining to the incident we are here for today?

GO TO SECTION B – INCIDENT FACTUAL BACKGROUND

3. CIVILIAN WITNESS OR COMPLAINANT

Good Morning/ Good Afternoon, _____. This is the recorded statement of _____ taken at the office of the Public Integrity Bureau [OR STATE OTHER LOCATION] on _____, 2019, at approximately _____ hours. This interview is being conducted by Detective _____ in the presence of Detective _____. This statement is in reference to IAD Control Number _____. For the record, this interview will be audio [and video, if applicable] recorded.

APPENDIX F, Continued

Thank you for coming in today, the department takes misconduct of police officers very seriously and your participation is greatly appreciated. We know you have taken time out of your day to be here and we appreciate you doing so. You are here to discuss an incident that occurred on _____ at _____.

In order for us to do a complete investigation and make accurate findings in the case, we want everyone we interview to provide us a truthful, complete account of what they remember about this matter. We also want everyone to tell us about any other sources of evidence, such as other witnesses, or physical evidence. Does that sound fair to you? Are you fine with that?

Give a brief explanation about the purpose of the interview, and why they are being interviewed (be careful not to taint testimony). Also, explain the investigative process, including timeframes and dispositions, by stating something like the following:

I am the lead investigator tasked with collecting all of the evidence that exists and evaluating it to determine whether or not Officer _____ violated any BPD policies, rules or laws. I will send you a letter at least every 30-days to let you know the status of the case, and I will send you a letter at the conclusion of the investigation. You may reach out to me at any point by phone or email if you have questions or concerns, and I will answer them to the best of my ability. There may be certain pieces of information that I cannot share with you to preserve the integrity of the investigation, and I will let you know when that is the case. The investigation should be completed within 90 days, but it may be extended if needed. If the officer is found to have violated policy, he/she will be charged and face discipline as determined to be appropriate by commanders in the Department. If the Department seeks to discipline the officer, the officer may elect to take the case to trial.

- Q: Have you and I spoken before?
- Q: Did we talk about anything else?
- Q: Did you talk to anybody else in the agency about the case? If yes, with who and what did you discuss?
- Q: Did we review any video or evidence together prior to the recording?
- If yes, state: *Before starting this recording, please tell us what you reviewed. [Confirm whether it included BWC footage, your cell phone video, an email, a report, etc.] that was [recorded, written] on X date. Can you confirm that this is what you reviewed?*
- Q: What other sources of information about the matter have come to your attention?
- Q: Have you spoken to anyone else about the incident? If so, please state who you have spoken to about the incident.

GO TO SECTION B – INCIDENT FACTUAL BACKGROUND

APPENDIX F, Continued
B. INCIDENT FACTUAL BACKGROUND

Get a complete statement of facts including and any and all details.

Q: Can you tell me what happened or what you recall or know about that incident?

Make sure to drill down on details by asking follow up questions. If any BPD employee refuses to answer a question, instruct the interviewee that they must provide an answer. BPD policy requires them to cooperate fully with this investigation.

Generally, you want to ask the following questions:

- Q: What happened?
- Q: When did happen?
- Q: Where did happen?
- Q: Who was there?
- Q: Who did it? *Get a description.*
- Q: Why did it happen?
- Q: How did it happen?
- Q: Do you know why it happened?
- Q: What led up to the investigation?
- Q: What did you do afterwards?
- Q: Did you video record?
- Q: Did you audio record?
- Q: Did anyone else record it?
- Q: Did you take any photos?
- Q: Did you tell anyone about it?
- Q: Are there any text messages or social media posts about what happened?
- Q: Are there any witnesses?
- Q: Who are they and what contact information do have them?

APPENDIX F, Continued

- Q: Do you have any documents or evidence related to the event (ensure you get the documents or evidence and properly document the source)?
- Please explain the evidence that you have provided.
- Q: Are you aware of any other evidence or documentation related to the event?

The investigator must document the receipt of all evidence from witnesses contemporaneously with the receipt of it.

- Q: **[FOR ALL BPD OFFICERS]** What is your understanding of the policy at issue and all related training?

GO TO SECTION C FOR ALL INTERVIEWS

C. CLOSING QUESTIONS FOR ALL INTERVIEWS

- Q: Is there anything you care to add at this time that would clarify any of your responses to the questions asked of you, or that would aid in this investigation?
- Q: Have you had ample time and opportunity to answer all of the questions asked of you during this investigation?
- Q: Has what you've told me been the truth to the best of your knowledge and recollection?
- Q: Has this recorded interview been interrupted by me or any other investigator for the purpose of influencing your responses to any questions asked of you?

**FOR CIVILIAN WITNESS OR COMPLAINANT, GO TO SECTION D.
FOR WITNESS OFFICERS, GO TO SECTION E
FOR ACCUSED OFFICERS, GO TO SECTION F**

APPENDIX F, Continued

D. CONCLUDING CIVILIAN WITNESS OR COMPLAINANT INTERVIEW

In order to protect the integrity of the investigation, please do not discuss the facts of the case with anyone other than your lawyer.

Let me make sure I have your correct contact information [*CONFIRM INFORMATION*]. I may need to follow up with you to clarify information we spoke about today. Also, if you recall any additional information, learn of any new information or witnesses, or are contacted by anyone else about the matter, please contact me. If you change your address, phone number or email address, please contact me to let me know as well.

As a reminder, retaliation for participating in an investigation violates BPD policy and may be unlawful. Please contact me if you are facing any form of retaliation.

If the officer faces discipline in relation to this investigation, he or she may elect to take the case to trial. Are you willing to testify in an administrative disciplinary trial?

This statement is terminated on _____ at approximately _____ hours.

E. CONCLUDING WITNESS OFFICER INTERVIEW

You are not allowed to discuss this matter with anyone other than your attorney, FOP representative, PIB Investigator, or Commanding Officer (unless your Commanding Officer is involved in the incident).

This statement is terminated on _____ at approximately _____ hours.

F. CONCLUDING ACCUSED OFFICER INTERVIEW

You are under an on-going duty to disclose information to PIB at any point that it comes to light during the investigation. The introduction of new and material evidence at a disciplinary hearing, not previously disclosed, will cause the hearing to be suspended so that the new information can be investigated and evaluated. You may face additional discipline if it is established that the new and material evidence was intentionally withheld during the investigation.

Additionally, any intimidation of witnesses in this investigation is prohibited. Any allegations of threats, intimidation, or retaliation in connection to the complaint under investigation will

APPENDIX F, Continued

generate a new investigation that may subject you to further disciplinary action. You are not to have any contact with the witnesses in this case. If you encounter witnesses in this case, you are prohibited from discussing the investigation or the case with those individuals.

This statement is terminated on _____ at approximately _____ hours.

APPENDIX H
Non-Disclosure, Non-Retaliation and Confidentiality Order

TO BALTIMORE POLICE DEPARTMENT MEMBER [insert officer's name]:

The Police Commissioner for the Baltimore Police Department hereby ORDERS you:

1. To refrain from discussion, disclosure, or otherwise sharing of information related to the investigation regarding the alleged incident on January 1, 2019 at approximately --- hour at 123 ABC Street, Baltimore, MD --- and investigated under [IAD or SIRT] Case Number 2019-xxxx with anyone other than your legal representative, medical provider, investigative officer, supervising officer (unless they are involved in the incident in some manner), and other authorized command members (unless they are involved in the incident in some manner).
2. To refrain from contacting, attempting to contact, and/or harassing any complainant or witnesses involved in this investigation, whether in person, by e-mail, through social media, and/or by a third party.
3. To refrain from committing or threatening to commit any of the following acts against a complainant or witness: (i) an act that causes serious bodily harm, (ii) an act that places the petitioner in fear of imminent serious bodily harm; (iii) Assault in any degree, (iv) Rape or sexual offense, (v) False imprisonment, (vi) Harassment; (vi) Stalking, (viii) Trespass, (ix) Malicious destruction of property, (x) Misuse of telephone facilities and equipment, (xi) Misuse of electronic communication or interactive computer service, (xii) Revenge porn, or (xiii) Visual surveillance.
4. To stay away from complainants and witnesses, including from their place of employment, school, residence, and/or temporary residence.

In the event that a complainant or witness in this investigation is a family member, or resides with you, you are prohibited from discussing this investigation with that person. You are further prohibited from influencing or attempting to influence that person's interactions with investigators and counsel involved in this investigation. All other interactions with a complainant or witness who is a family member or resides with you must comply with Maryland law, Department policy, and any valid court orders.

Any violation of this Order will subject you to disciplinary action, up to and including termination, and may subject you to criminal prosecution. Additionally, this CONFIDENTIAL investigation relates to personnel records, and thus, dissemination of any information from the investigation may subject you to criminal penalties. Nothing herein shall preclude an employee from seeking appropriate representation or legal counsel or exercising grievance rights provided under the CBA.

I, _____, hereby acknowledge that I have received the above Non-Disclosure, Non-Retaliation, and Confidentiality Order, and fully understand the Order and the consequences should it be violated.

_____ Police Officer	_____ Sequence Number	_____ Date
_____ Serving Officer's Signature	_____ Sequence Number	_____ Date

APPENDIX I
Investigative Report Template

POLICE DEPARTMENT
BALTIMORE MARYLAND

DATE:

TO: Commanding Officer
Public Integrity Bureau

VIA: Official Channels

FROM: Lieutenant John Smith
Public Integrity Bureau

SUBJECT: PIB Control # **2019-0000**
Report of Interview
Officer John Doe

Provide a written synopsis and account of the statement provided and/or investigative steps taken.

Respectfully,

John Smith
Lieutenant
Public Integrity Bureau

APPENDIX J

Sergeant Review Checklist

Name of sergeant conducting review:

Date of Review:

- Was the investigation thorough, complete, and timely? Y N
- Did the investigation comply with the requirements of the PIB Investigations Manual? Y N
If not, provide explanation of what did not comply:
- Findings are or are not supported by appropriate standard of proof? Y N
If not provide explanation:

Does the casebook include:

- A narrative description of the incident, including a precise description of the evidence that either justifies or fails to justify the officer's conduct based on the misconduct investigator's independent review of the facts and circumstances of the incident? Y N
- Documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but circumstances prevented the misconduct investigator from determining the identification, phone number, or address of those witnesses, the report will state the reasons why. The report also will include all available identifying information for anyone who refuses to provide a statement? Y N
- Documentation of whether officers or other BPD employees were interviewed, including audio and video and a transcript of those interviews, if available? Y N
- The names of all other BPD employees who witnessed the incident? Y N
- The misconduct investigator's evaluation of the incident, based on their review of the evidence gathered, including a determination of whether the officer's actions appear to be within BPD policy, procedure, regulations, orders, or other standards of conduct required of BPD officers? Y N
- In cases where credibility determinations must be made, explicit credibility findings, including a precise description of the evidence that supports or detracts from the person's credibility? Y N
- In cases where material inconsistencies must be resolved between complainant, officer, and witness statements, explicit resolution of the inconsistencies, including a precise description of the evidence relied upon to resolve the inconsistencies? Y N
- If a weapon was used, documentation that the officer's certification and training for the weapon were current? Y N
- Documentation of recommendations for non-punitive corrective action or misconduct charges? Y N
- An evaluation of any policy, training, tactical or equipment concerns and recommendations to address these concerns? Y N

If the sergeant is returning the case to the investigator for any reason, the sergeant must state in writing why the case is being sent back and must state what other investigative steps the investigator must take. Y N

APPENDIX K

Lieutenant Review Checklist

Name of Lieutenant conducting review:

Date of Review:

- Did the sergeant complete their review checklist? Y N
- Did the sergeant adequately identify any issues of concern in the investigation?
Y N
- Was the sergeant's review thorough? Y N
- Does the Lieutenant agree with the recommended finding? Y N

If the Lieutenant is returning the case to the investigator for any reason, the Lieutenant must state in writing why the case is being sent back and must state what other investigative steps the investigator must take.

APPENDIX L
Investigative Plan Template

INVESTIGATOR/SUPERVISOR MEETING 1 DATE _____ COMPLETE? Y
N

To Do This Week

- _____
- _____
- _____
- _____
- _____

INVESTIGATOR/SUPERVISOR MEETING 2 DATE _____ COMPLETE? Y N

To Do This Week

- _____
- _____
- _____
- _____
- _____

INVESTIGATOR/SUPERVISOR MEETING 3 DATE _____ COMPLETE? Y N

To Do This Week

- _____
- _____
- _____
- _____
- _____

INVESTIGATOR/SUPERVISOR MEETING 4 DATE _____ COMPLETE? Y N

To Do This Week

- _____
- _____
- _____
- _____

APPENDIX M
Miranda Warnings & Waiver

1. You have the right to remain silent and refuse to answer any questions.
2. Anything you say may be used against you in a court of law.
3. You have the right to consult with an attorney at any time and have him present before and during questioning.
4. If you cannot afford an attorney one will be provided if you so desire prior to any questioning.
5. A decision to waive these rights is not final and you may withdraw your waiver whenever you wish either before or during questioning.

I acknowledge that I have been advised of my constitutional rights listed above.

Signature: -----

Date: _ Time: _

Do you understand each of these rights listed above? -----

Having these rights in mind, do you wish to talk to us now? -----

Signature: -----

Date: _ Time: _

Witnessed by:

Others Present:

APPENDIX N
Sample Use Immunity Grant Advisement Form

"Garrity Warning"

1. I am being questioned as part of an investigation by this agency into potential violations of department rules and regulations, or for my fitness for duty. This investigation concerns
2. I have invoked my Miranda rights on the grounds that I might incriminate myself in a criminal matter.
3. I have been granted use immunity. No answer given by me, nor evidence derived from the answer, may be used against me in any criminal proceeding, except for perjury or false swearing.
4. I understand that I must now answer questions specifically, directly and narrowly related to the performance of my official duties or my fitness for office.
5. If I refuse to answer, I may be subject to discipline for that refusal which can result in my dismissal from this agency.
6. Anything I say may be used against me in any subsequent departmental charges.
7. I have the right to consult with a representative of my collective bargaining unit, or another representative of my choice, and have him or her present during the interview.

Assistant State's Attorney or Assistant U.S. Attorney authorizing: -----

Signature: -----

Date: _ Time: _

Location: -----

Witnessed by:

APPENDIX O

Sample Response Letters to Complainant

Officer Exonerated

The Public Integrity Bureau (Internal Affairs) of this department has completed its investigation of your report concerning the conduct of {name of subject officer}. The investigation and a review of all information currently available to this office indicates that the officer followed the appropriate department policies and procedures. More specifically, department policies and procedures permit the officer to [give details of the policy or procedure] ...

If you have any additional information which you believe should be considered, please contact the Public Integrity Bureau at 410-396-2300.

Thank you for bringing this matter to our attention.

Not Sustained

The Public Integrity Bureau (Internal Affairs) of this department has completed its investigation of your report concerning the conduct of {name of subject officer}. The investigation and a review of all information failed to disclose sufficient evidence to clearly prove or disprove the allegation. More specifically, ...

- a. (witness could not be located)
- b. (document could not be located)
- c. (physical or forensic evidence could not be located)
- c. (witness did not support your complaint)
- d. (document did not support your complaint)
- e. (physical or forensic evidence did not support your complaint)
- f. (the investigation failed to yield enough evidence to support your complaint)
- g. (while some evidence supported your complaint there was not enough evidence to support your complaint)

If you have additional information which you believe should be considered, please contact the Public Integrity Bureau at 410-396-2300. If no additional information is received within ten days, this case will be considered closed.

Thank you for bringing this matter to our attention.

Unfounded

The Public Integrity Bureau (Internal Affairs) of this department has completed its investigation of your report concerning the conduct of [name of subject officer]. The investigation revealed that the alleged incident did not occur. If you have additional information which you believe should be considered, please contact the Public Integrity Bureau at 410-396-2300. If no additional information is received within ten days, this case will be considered closed.

Thank you for bringing this matter to our attention.

Sustained

The Public Integrity Bureau (Internal Affairs) of this department has completed its investigation of your report concerning the conduct of [name of subject officer]. The investigation revealed that the officer violated departmental rules and regulations. He/she will be subject to appropriate discipline under our agency's procedures.

If you have any questions, please feel free to contact the Public Integrity Bureau at 410-396-2300.

Thank you for bringing this matter to our attention

APPENDIX P
Respondent Notification of Finding Template



Bernard C. "Jack" Young
Mayor

BALTIMORE POLICE DEPARTMENT



Michael Harrison
Police Commissioner

[Date]

TO: [Respondent]
[Assignment]

FROM: *[Commanding Officer]*
Public Integrity Bureau

SUBJECT: Notification of Finding
PIB Case Number [Number]

You are hereby advised that a PIB finding has been rendered in reference to the captioned case number in which you were identified as an accused. The investigation has resulted in a PIB finding of [disposition] for the allegation(s) of [allegation(s)].

[Commanding Officer]
Public Integrity Bureau

c/o 242 West 29th Street ● Baltimore, Maryland 21211-2908 ● 410-396-XXXX

SECTION 2.B: PIB/CRB INVESTIGATIONS PROTOCOL

**Final court-filed version
Dated 17 August 2020**

This document, together with the PIB/CRB Protocol for Complaint Intake & Classification, describes the process for the Baltimore Police Department's (BPD) Public Integrity Bureau (PIB) and the City of Baltimore's Civilian Review Board (CRB) to:

- Notify each other of public complaint allegations that fall within CRB's statutory purview,
- Share certain information/evidence on the complaint, and
- Review the investigative findings.

I. INITIATION OF INVESTIGATIONS

A. PIB Weekly Intake Report

1. PIB shall notify CRB of every complaint which has been received and classified in the preceding week by sending CRB a Weekly Intake Report, via email.
2. The PIB Weekly Intake Report shall include in its summary description of each complaint:
 - 2.1. The date the case was received.
 - 2.2. The PIB case number.
 - 2.3. PIB's classification of the allegations contained in the complaint.
 - 2.4. Names and sequence numbers of the respondent/subject officers, if known.
 - 2.5. A brief description of the complaint.
3. For a complaint PIB classifies as not containing a CRB-eligible allegation, PIB shall redact from the Weekly Intake Report the names and Sequence Numbers of the respondents/subject officers.

B. CRB Notification of Investigation

1. CRB shall notify PIB, via email (with a copy of the email saved in the IAPro case file), of every complaint which it receives, within two (2) business days of receiving the complaint.
2. CRB shall include in its notification to PIB:
 - 2.1. A copy of the complaint form.
 - 2.2. The CRB case number of the complaint.
3. CRB's Board shall, for every CRB-eligible complaint which it receives (whether from PIB, the public, or another source):

- 3.1. Review the complaint at the next scheduled meeting, following receipt of the complaint, or within thirty (30) days of the receipt of the complaint.
- 3.2. Determine whether it wishes to open an investigation into the complaint.
4. CRB's Board shall provide notification to PIB, via email (with a copy of the email saved in the IAPro case file), of the decision of its Board to open an investigation into a complaint, including in its notification:
 - 4.1. The PIB and CRB case numbers of the complaint, if the PIB case number is available.
 - 4.2. CRB's classification of the allegations contained in the complaint.
 - 4.3. The date falling 90 days after the complaint was received by CRB for PIB to meet the statutory requirement for completed investigations (per PLL§16-45).
5. PIB shall create a duplicate IAPro case file accessible to CRB within two (2) business days of receiving notification that CRB is opening an investigation into a CRB-eligible complaint.

II. INTERACTION DURING INVESTIGATIONS

A. CRB Information Request Form

1. CRB shall request specific information about a case, which it is actively investigating, from PIB using the CRB Information Request Form (Request Form).
2. CRB shall include in each Request Form the CRB and PIB case numbers, if the PIB case number has been provided to CRB.
3. PIB shall review every Request Form which it receives, forward the Request Form to the assigned PIB Investigator for the case, and save a copy of the Request Form in the IAPro case file.
4. The PIB Investigator or a PIB Supervisor shall inform CRB via IAPro or email (with a copy of the email saved in the IAPro case file) within five (5) business days of the status of the requested information.

B. PIB Information Sharing Requirements

1. PIB shall notify CRB, via email, if a CRB-eligible investigation, which has been opened by CRB, shall not be completed within the ninety (90) day deadline (per PLL § 16–45) which was provided to PIB by CRB.
 - 1.1. PIB shall explain the deadline extension request and provide a new deadline. This extension request will be documented in the PIB and CRB case file.
2. PIB shall ensure that all new information is shared with CRB according to paragraphs (IV)(F)(4-5) of the PIB/CRB Classification and Intake Protocol. Among other things, these paragraphs require the assigned investigator to ensure that all new information which is uploaded to the PIB IAPro case file for a CRB-eligible complaint, be copied to the linked CRB IAPro case file no later than the end of his or her tour of duty.

3. PIB shall not copy evidence to the CRB case file which is restricted or sensitive (per Parts V and VI of the PIB/CRB Classification and Intake Protocol).
4. PIB shall further ensure that the case file includes Evidence.com links to such footage within five (5) business days after creating the CRB IAPro case file.
 - 4.1. When PIB must redact BWC footage to exclude information which is restricted or sensitive (per Parts V and VI of the PIB/CRB Classification and Intake Protocol), PIB will notify CRB of the need for additional time to complete the redaction and the parties will establish a mutually agreeable deadline for providing the redacted footage. This notification will be documented in the PIB and CRB case file.

C. PIB Receipt of Respondent/Subject Officer Interview Questions from CRB

1. For every case which CRB is also investigating, the PIB Investigator shall provide a notification to CRB, via email (with a copy of the email saved in the IAPro case file), as soon as that case has advanced to the point where PIB is prepared to interview the respondent/subject officer.
 - 1.1. PIB shall include in its notification the PIB and CRB case numbers for the investigation.
 - 1.2. PIB shall provide its notification to CRB as soon as PIB has notified the respondent's attorney of PIB's intention to conduct an administrative interview.
 - 1.3. PIB shall provide notification to CRB at least five (5) business days before the date of the scheduled interview.
2. CRB shall provide, via email, interview questions for PIB to ask the respondent/subject officer during the respondent/subject officer interview. PIB shall save a copy of the email in the IAPro case file.
3. PIB shall incorporate CRB's questions, or a form of their questions, into its interview of the respondent/subject officer, if these questions are received prior to the scheduled date of the interview and are in accordance with the requirements of the PIB Investigations Manual.
4. PIB shall not notify the respondent/subject officer which questions were provided by CRB.
5. PIB shall provide notification to CRB, via email (with a copy of the email saved in the IAPro case file), as soon as the respondent/subject officer interview has been concluded and the audio of the interview has been added to the IAPro case file.

III. REVIEW OF INVESTIGATIONS

A. PIB Notification of Completion of Investigation

1. A PIB Investigator shall notify CRB, via email (with a copy of the email saved in the IAPro case file), as soon as the investigation into an open CRB case is complete and submitted to PIB Command for review.

B. CRB Notification of Completion of Investigation

1. A CRB Investigator shall forward the completed casebook to CRB's Board as soon as the investigation is complete.
2. CRB's Board shall review the case at the next scheduled Board meeting, following the completion of investigation, or within thirty (30) days of the completion of the investigation.
3. Following its review of a completed investigation, CRB's Board shall share with PIB, via email:
 - 3.1. The Board's determination of findings for the allegations of the case, i.e., its determination letter.
 - 3.2. The executive summary of the CRB investigation (for cases which CRB's Board determines to be sustained) to be reviewed by PIB Command and the Disciplinary Review Committee (DRC).
 - 3.2.1. The executive summary shall be a summary of the salient points of the Board's deliberation.
 - 3.2.2. The final draft of the executive summary shall be written by a member of the Board.
 - 3.2.3. The Board shall exclude from its executive summary any information which it believes might expose the identity of a complainant or witness.
 - 3.3. The Board's disciplinary recommendations for the respondents (for cases which CRB's Board determines to be sustained).

C. DRC Review of CRB Disciplinary Recommendations

1. The DRC shall review CRB's disciplinary recommendations prior to their final determination of disciplinary actions for a case, provided that CRB has shared its disciplinary recommendations in a timeframe which allows the DRC to thoroughly examine CRB's disciplinary recommendations.
2. CRB shall provide its disciplinary recommendations to DRC no later than close of business on the third (3rd) Thursday following the conclusion of PIB's investigation.
3. If the DRC is to consider the case earlier than the third (3rd) Thursday following the conclusion of PIB's investigation, PIB shall:
 - 3.1. Provide CRB with notification, via email, of the scheduled date for the DRC to consider the case.
 - 3.2. State the reason why the DRC must occur prior to the third (3rd) Thursday following the conclusion of PIB's investigation.

IV. LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS AND MARYLAND STATE LAW

No provision of this Protocol shall require BPD to violate the Law Enforcement Officer's Bill of Rights (MD Pub Safety Code § 3-101 to § 3-113) or any Maryland state law.

V. DISPUTE RESOLUTION PROCEDURES

In the event that a dispute arises during any of the procedures outlined above, the following steps will be taken.

1. If the disagreement pertains to a matter that is not a Sensitive Case, the CRB designee will notify the Administrative Unit and request an opportunity to discuss the issue. The parties shall complete the discussions within 10 business days of the CRB request. If after the discussion the disagreement continues,
2. The Chief of PIB and Administrator of CRB (or designee) will communicate directly to attempt to resolve this difference of opinion. If the disagreement continues,
3. The Chief of PIB, Board Chair, and Administrator of CRB (or designee) will meet with the Director of the Mayor's Office on Criminal Justice to attempt to resolve the matter.
4. At all times, the CRB retains the option to exercise its statutory authority to subpoena materials from BPD. P.L.L. § 16-46(b)(1)(ii).
5. As part of their public reports, CRB and PIB shall present aggregate data about the invocation of the dispute resolution procedure under this Section.

VI. ASSOCIATED BPD POLICIES

Policy 306, *Complaint Intake and Classification Process*

Policy 1735, *Language Access Services for Limited English Proficient (LEP) Persons*