

La Plata Police Department – General Order

	Title: Internal Affairs		Order #: 635	
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Approved by: Chief Carl Schinner			CALEA 5 th Edition	
CALEA Standard: 52.1.1 52.1.2 52.1.3 52.1.4 52.1.5 52.2.1 52.2.2 52.2.3 52.2.4 52.2.5 52.2.6 52.2.7 52.2.8				Pages: 10

01 POLICY: The integrity of the La Plata Police Department depends on the personal integrity and discipline of each employee. It is the policy of the Department to investigate all complaints against the agency and its employees, to include anonymous complaints. (CALEA 52.1.1)

02 PLACEMENT OF INTERNAL AFFAIRS: The Internal Affairs function is part of the Investigations Division. The Investigative Commander while conducting internal affairs investigations reports directly to the Chief of Police. (CALEA 52.1.3)

03 DEFINITIONS:

A. Complaint: An allegation of misconduct, inappropriate performance, or violations of any law, Departmental policy, procedure or directive that is made against any employee of the Department.

B. Counseling: A written or verbal communication between a subordinate and a supervisor which involves performance-related issues. This is a non-disciplinary corrective action.

C. Dispositions Types:

1. **Administratively Closed/Sustained:** When investigations are completed and non-disciplinary actions, such as training or counseling, are provided.
2. **Exonerated:** When investigations determine that the incident did occur, but the actions of the accused were justified, lawful and proper.
3. **Not Sustained:** When an investigation fails to disclose sufficient evidence to prove or disprove an allegation.

4. **Sustained:** When the investigation discloses sufficient evidence to establish a prima facie case with respect to the allegations of misconduct.

5. **Unfounded:** When the investigation indicates that the alleged acts did not occur.

D. Excessive Force: The La Plata Police Department classifies complaints of force into three categories:

1. **Aggressive Force:** Force unreasonable in scope, duration, or severity under circumstances (continued use of force when resistance has ceased).
2. **Excessive Force:** Intentional malicious, unjustified use of force resulting in injury or potential for injury.
3. **Unnecessary Force:** Force inappropriate to affect arrest or control situations; includes use of force when none is necessary.

E. Final Order: The decision of the Chief of Police, after review of a hearing board's findings, conclusions and recommendations. In cases where the Hearing Board is waived, this decision will be rendered after review of the case.

F. Letter of Reprimand: A letter documenting a violation and a corrective action taken. The letter of reprimand will be placed in the employee's personnel file. This is the lowest form of formal discipline issued by the Department.

- G. Non-Punitive Transfer:** A transfer or reassignment, as determined by the Chief of Police, made in the best interest of the Department. This is a non-disciplinary personnel action.
- H. Official Leave:** Leave with pay (non-disciplinary) approved by the Chief of Police.
- I. Policy Failure:** When the investigation reveals that the incident did occur, the action of the Department or the officer was inconsistent with Department policy, and a need for a revision, change, or correction in Department policy/procedure is identified.
- J. Remedial Actions:** Non-punitive measures taken by a supervisor to improve an employee's performance (i.e., counseling, training, referral to professional services, transfer to other assignments).
- K. Summary Punishment:** Punishment imposed for minor infractions by the Chief of Police, when the facts constituting the offense are not in dispute. Summary punishment may not exceed the perimeters set forth in the LEOBR.
- L. Suspensions:**
 - 1. **Emergency Suspension:** Suspension from duty with pay imposed by the Chief of Police or his/her designee, upon a determination that the action is in the best interest of the public, employee or Department. A suspension from duty without pay may be imposed by the Chief or his/her designee when an employee has been charged with a felony.
 - 2. **Suspension of Police Powers:** Authorization for the suspension of an officer's police powers must come from the Chief of Police or his/her designee.
 - 3. **Suspension for Disciplinary Reasons:** A penalty imposed by the

Chief of Police, or his/her designee, for the violation of any Departmental rule, regulations, policy or any law. The suspension may include a prohibition against approved secondary employment and loss of police powers.

NOTE: During the period of the suspension, an officer is not eligible for overtime payments unless approved in advanced by the Chief or his/her designee. An officer on suspension is still required to report to court, pursuant to a subpoena, unless excused by the State's Attorney's Office. Any time used by an officer reporting to court shall not be included in the period of suspension. Upon completion of the period of suspension, the officer shall be restored to full authority and possess all police powers unless the chief directs otherwise.

04 LAW ENFORCEMENT OFFICERS

BILL OF RIGHTS: The Law Enforcement Officers Bill of Rights (LEOBR), Annotated Code of Maryland, will be complied with in all investigations of sworn officers. The LEOBR does not apply to the Chief of Police, nor does it apply to officers who are in probationary status on initial entry except if an allegation of aggressive, excessive or unnecessary force in the execution of the officer's duties is made.

05 RECEIVING INQUIRIES AND COMPLAINTS

- A. Investigative responsibility shall be assigned based on the following criteria:**
 - 1. Complaints of corruption, aggressive force or excessive force, breach of civil rights, untruthful statements, criminal conduct, or other violations of a serious nature will be investigated by the Internal Affairs function. (CALEA 52.2.1.b)

2. Complaints of unnecessary force and misconduct of a minor nature, such as allegations of rudeness, tardiness, etc., will be investigated by the employee's squad/unit supervisor. (CALEA 52.2.1.a)
 3. Complaints of misconduct of a minor nature, as described above, against a squad/unit supervisor shall be investigated by the supervisor's Division Commander
 4. Complaints lodged against a Division Commander shall be investigated at the direction of the Chief of Police.
- B.** All complaints, including those received alleging improper or inappropriate acts by individual employees are to be recorded on the Complaint Form (LPPD 634).
- C.** Inquiries relating to clarification of laws, procedures, and police practices that are general in nature need not be recorded on the Complaint Form (LPPD 634).
- D.** Complaints received against Department employees:
1. Complaints received of a serious nature (described in 6.A.1) shall be forwarded to the Office of the Chief of Police by the next business day on LPPD Form 634. The Investigative Commander shall log the complainants and ensure the Chief of Police is notified. The Chief or his/her designee shall route the complaint for appropriate investigation. (CALEA 52.2.2)
 2. Complaints received that are minor in nature (described in 6.A.2) shall be forwarded to the office of the Investigative Commander on LPPD Form 634. The Investigative Commander shall log the complaints and ensure the Chief of Police is notified. The Chief of Police or his/her designee shall route the complaint for appropriate investigation. (CALEA 52.2.2)
3. Quarterly the Investigative Commander shall forward a complaint log and to the Chief of Police to ensure he/she is informed of the status of all current investigations.
- E.** Complaints received during business hours:
1. A complaint received, whether by phone, mail or e-mail, will be referred to the on-duty Shift Supervisor. The Shift Supervisor will record reportable complaints on a Complaint Form (LPPD #634). The form will be forwarded to the Office of the Chief of Police.
 2. Complaints received in person will be referred to an on-duty Shift Supervisor. The Shift Supervisor will attempt to resolve the issue and ensure a Complaint Form (LPPD 634) is completed and forward it to the Office of the Chief of Police.
 - a. If the complaint meets the criteria for an internal affairs investigation, a copy of the Complaint Form will be forwarded for assignment and classified as "IAD-Confidential". Excessive force complaint shall be reviewed by the Internal Affairs investigator who will make the classification (i.e., unnecessary force, aggressive force, excessive force, See Order 402-Disciplinary Process). (CALEA 51.1.1.c)
 - b. If the complaint does not meet the criteria for investigation by the Internal Affairs Function, a copy of the Complaint Form will be immediately forwarded to involved employee's Division Commander for follow-up. The Chief of Police will maintain the original.
 - c. The Chief of Police or his/her designee will prepare a letter, notifying the complainant that

- the complaint has been received for processing. A copy of the letter will be filed with the investigative folder. (CALEA 52.2.4.a)
- d. During all complaint investigations, the investigating officer shall keep the complaining party updated on a schedule deemed appropriate by the investigator. (CALEA 52.2.4.b)
 - e. At the conclusion of an investigation the complaining party will be notified of the results of the investigation. (CALEA 52.2.4.c)
- F. Complaints received during non-business hours:**
- 1. All telephone and walk-in complaints will be referred to the on-duty Shift Supervisor who shall attempt to resolve the matter. The Shift Supervisor will record reportable complaints on a Complaint Form (LPPD 634) and forward it to the Office of the Chief of Police.
 - 2. If a complaint is made in the field, the on-duty Shift Supervisor will be notified to respond to the location of the complainant and, if appropriate, complete a Complaint Form (LPPD 634). The completed form will be forwarded to the Office of the Chief of Police.
 - 3. Immediate notification to the Chief of Police or his/her designee will be made when the allegations require immediate action or when early involvement by an Internal Affairs investigator would be beneficial to the investigation.
- G. Criminal Violations:**
- 1. Alleged minor traffic violations will be investigated by the appropriate Squad/Unit Supervisor or Division Commander.
- 2. The Chief of Police or his/her designee will be notified of any incidents involving alleged criminal conduct or serious traffic offenses and initiate an investigation.
- H. Employees with knowledge of any serious violations of civil or criminal laws or Department regulations, orders or policies will immediately report them to their supervisor or as otherwise dictated by the chain-of-command.**
- I. Any employee desiring to file a complaint against another employee will submit a completed Complaint Form directly to the Office of the Chief of Police.**
- J. All employees of the Department are also governed by the policies in La Plata Town Code.**
- K. Sexual Harassment Complaints: See Order 426-Sexual Harassment.**
- L. The Internal Affairs Function will maintain liaison with the State's Attorney's Office, Local Insurance Government Trust (LGIT) and the Town Solicitor as required by the nature of the investigation.**
- 06 EMERGENCY RELIEF AND SUSPENSIONS, AND ADMINISTRATIVE ASSIGNMENTS: (CALEA 52.2.7)**
- A. Emergency Relief from Duty:** Any officer involved or identified in a complaint or an internal investigation may be placed on emergency relief from duty, with pay, by a Sergeant/Corporal in accordance with the LEOBR and will cause an immediate notification, via the chain of command, to the Office of the Chief of Police. Emergency relief from duty is temporary in nature until the Chief of Police or his/her designee reviews the facts available.
 - B. Emergency Suspension with Pay:** Any officer involved or identified in a complaint or an internal investigation

- may be placed on emergency suspension, from duty, with pay by a Division Commander or the Chief of Police.
- C. Emergency Suspension without pay: Any officer charged with the commission of a felony may be placed on emergency suspension from duty, without pay, by the Chief of Police or his/her designee at his/her direction.
 - D. A Division Commander imposing a suspension must immediately notify the Chief of Police. The Division Commander will also provide a written notification to the Chief of Police and the suspended officer.
 - E. Any Division Commander may place an officer on administrative leave in emergency circumstances.
- 07 INTERNAL INVESTIGATION PROCEDURES:**
- A. All internal investigations of civilian employees will be conducted in compliance with the La Plata Town Code and Departmental Policies and Procedures.
 - B. Administrative charges may not be brought against a law enforcement officer unless filed within one year after the act that gives rise to the charges comes to the attention of the appropriate law enforcement official. The one year limitation does not apply to charges related to criminal activity or excessive force.
 - C. Nothing precludes the Department from conducting an investigation into any complaint whether it is notarized or not.
 - D. An employee may be required to be photographed. (CALEA 52.2.6.b)
 - E. Medical and Laboratory Examinations: The law enforcement agency may order the law enforcement officer under investigation to blood alcohol tests, blood, breath, or urine test for controlled dangerous substances, polygraph examinations, or interrogations that specifically relate to the subject matter of the investigation.” If the officer refuses to submit to the test the Department may commence an action that may lead to a punitive measure as a result of the refusal. (CALEA 52.2.6.a)
 - F. The La Plata Police Department does not use line-ups as part of any investigative process. (CALEA 52.2.4.c)
 - G. Polygraph: “If the law enforcement agency orders the law enforcement officer to submit to a polygraph examination, the results of the polygraph examination may not be used as evidence in an administrative hearing unless the law enforcement agency and the law enforcement officer agree to the admission of the results.” LEOBR-Maryland Annotated Code. (CALEA 52.2.4.e)
 - H. An employee may be required to submit a financial disclosure statement if probable cause exists to believe the employee has a possible conflict of interest with respect to the performance of his/her duties, allegedly committed a crime, or such disclosure is required by State or Federal law. (CALEA 52.2.4.d)
 - I. Whenever a sworn officer is under investigation by a law enforcement agency for any reason which could lead to disciplinary action, demotion or dismissal, the officer will be advised in writing (LPPD Form# 635E Notification of Investigation) prior to interrogation.
 - J. Prior to any interrogation, the employee under investigation shall be informed in writing of the nature of the investigation and the employee’s rights and responsibilities. If the employee is a sworn officer the Explanation of Law Enforcement Officers’ Bill of Rights Form (LPPD Form #635A) will be presented to the accused officer by the interrogating officer. -This will be documented on the record and made part of the investigative case file.

Whenever practical, all interviews shall be audio recorded and those tapes made part of the file. (CALEA 52.2.5)

- K.** When any officer is subject to an interview for an administrative or criminal violation, the officer may be prohibited from wearing or possessing a weapon during the interview. If the officer in charge of the interview wishes the officer to be unarmed, he/she shall notify the officer in advance of the requirement. This restriction does not apply to the officer conducting the interview.
- L.** The Chief of Police may, when he/she feels it would be prudent, request assistance in internal affairs investigations from an allied agency.

09 COMPLETED INTERNAL INVESTIGATIONS:

- A.** At the conclusion of each internal investigation, a written conclusion of fact for each allegation of misconduct will be prepared (LPPD 635D Complaint Resolution Form). This will include a recommendation of finding and one of the following five possible resolutions: unfounded, exonerated, not sustained, sustained and administratively closed. (CALEA 52.2.8)
- B.** The Office of Professional Standards may make a recommendation to the Chief of Police upon conclusion of the investigation.
 - 1. If the Recommendation of Finding is unfounded, administratively closed, exonerated or not sustained, the case will be forwarded to the Chief of Police for approval. If it determined that a policy failure has occurred the findings will be sent back to the Office of Professional Standards for research and policy adjustments.
 - 2. If the Recommendation of Finding is sustained, the case will be forwarded to the accused officer's Division Commander.

C. Investigations by other than the Internal Affairs function: The accused employee's Division Commander will make a Recommendation of Finding:

- 1. If the Recommendation of finding is unfounded, administratively closed, exonerated or not sustained, the case will be forwarded to the Chief of Police for approval. The Chief of Police will maintain all internal investigation files.
- 2. If the Recommendation of Finding is sustained, the appropriate Division Commander shall exercise one of the following options:
 - a. Sanctions such as training and counseling. If these options are used, the complete case file will be forwarded to the Chief of Police for approval. The Chief of Police will maintain all internal investigation files.
 - b. Summary Punishment: Consistent with the provisions in the LEOBR, summary punishment may be imposed for minor violations of the Department Rules and Regulations when:
 - i. The facts which constitute the minor violation are not in dispute.
 - ii. The officer waives the hearing provided under the LEOBR.
 - iii. The officer accepts the punishment imposed by the Office of the Chief of Police.
 - iv. Summary punishment may not exceed parameters in the LEOBR.
 - v. The offer of summary punishment will be presented to the officer in writing and they will have

the option of acceptance or rejection.

- c. If an officer is offered summary punishment imposed pursuant to the LEOBR and refuses, the Office of the Chief of Police may convene a one-member or more Hearing Board. The Hearing Board will have the authority to recommend the sanctions as provided by the Maryland Annotated Code for summary punishment.
- d. If a single member Hearing Board is convened, that officer need not be of the same rank as the officer for whom the Hearing Board was convened.
- e. The entire investigative file, for summary punishment or other charges, will be forwarded to the officer's Division Commander. The Division Commander will prepare a Departmental Charging Document-Notification of Charges (LPPD Form# 635B).
- f. The Division Commander will present the accused officer with the Departmental Charging Document and the Waiver of Right Form (LPPD Form# 635C).
- g. The officer may, in writing, waive his/her rights to a Hearing Board. The Chief of Police, upon review of the file, will issue a Final Order.

10 DISCIPLINARY HEARING BOARDS:

A. Hearing Board:

- 1. If the investigation or interrogation of an officer results in the recommendation of action considered as a punitive measure (except for convicted felons or

officers accepting summary punishment), the Office of the Chief of Police shall give notice to the officer that he/she is entitled to a hearing on the issues by a Hearing Board. The notice shall state the time and place of the hearing and the issues involved. An official record, including testimony and exhibits, shall be kept of the hearing.

- 2. The Hearing Board will be authorized by the Chief of Police to hold a hearing on a complaint against an officer and will consist of three officers, with at least one of equal rank of the accused officer.
- 3. The Chief of Police may request allied agencies provide officers to sit on the Hearing Board.
- 4. The Hearing Board chairperson will be of the rank of Sergeant or higher. The chairperson shall administer oaths or affirmations and examine any individual under oath. The chairperson will contact the other board members prior to the hearing, inform them of the name of the accused officer and the charge(s), ensure they are familiar with their responsibilities as Hearing Board members, and instruct them that all information obtained through their assignment on the Board shall be held strictly confidential. Additionally, the chairperson presides over the hearing and decides any issues of procedure and admissibility of evidence. Finally, the chairperson will, at the request of either the Department or the accused, issue summonses to compel the attendance and testimony of witnesses, and the production of books, papers, records, and documents as may be relevant or necessary.
- 5. The accused officer has the right to request that selected members be removed from the Board. The

written request, containing the reason(s) for the removal must be submitted directly to the Chief within five (5) days of the accused's receipt of the notice of selection of the Board members.

- B. Officer Counsel:** The accused officer may be represented by counsel.
- C. Prosecution of Officer:** The Maryland State Police Administrative Hearing Office or an individual designated by Chief of the Police.
- D. Hearing:**
 - i. All Hearing Boards shall be closed to the public, unless the accused officer submits a written request for an open hearing to the Chairman of the Hearing Board, at least seven days prior to the convening of the Hearing Board.
 - ii. No officers, except those designated by the Chief of Police may wear a weapon during the hearing.
 - iii. Presentation of evidence:
 - a. Brief opening statements first by the Department and then by the defense.
 - b. The Department will present its case. The defense may cross-examine each witness. The Board may then question each witness.
 - c. The defense will present its case. The Department may cross-examine each witness. The Board may then question each witness.
 - d. Rebuttal evidence by the Department may be presented.
 - e. Summation by the Department and by the defense, with concluding summation by the Department.

E. Decision:

1. A finding of guilty must be based on a preponderance of the evidence. The board must find that the evidence, as a whole, shows that fact or causation sought to be proved is more probable than not.
2. The decisions and recommendations of the Hearing Board shall be governed by majority vote of its members. Minority opinions may be written at the option of any dissenting member of the Board.
3. "Any decision, order, or action taken as a result of the hearing shall be in writing and shall be accompanied by findings of fact. The findings shall consist of a concise statement upon each issue in the case. A finding of not guilty terminates the action" LEOBR-Maryland Annotated Code.
4. "If a finding of guilt is made, the Hearing Board shall reconvene the Hearing, receive evidence, and consider the officer's past job performance and other relevant information as factors before making its recommendations to the Chief." LEOBR-Maryland Annotated Code.
5. "A copy of the decision or order and accompanying findings and conclusions, along with written recommendations for action, shall be delivered or mailed promptly to the officer or to his/her attorney or representative of record and to the Chief of Police." LEOBR-Maryland Annotated Code.
6. "The written recommendation as to punishment is not binding upon the Chief of Police. Within thirty (30) days of receipt of the Hearing Board's recommendations, the Chief shall review the findings, conclusions, and recommendations of the Hearing Board and then he shall issue his Final Order. The

Chief's Final Order and decision is binding and may be appealed in accordance with this subtitle.

Before the Chief may increase the recommended penalty of the Hearing Board, he personally shall review the entire record of the Hearing Board proceedings, shall permit the law enforcement officer to be heard and shall state the reason for increasing the recommended penalty." LEOBR-Maryland Annotated Code.

7. Appealing Disciplinary Actions: See Order 402-Disciplinary Process.

11. EMERGENCY SUSPENSION HEARING BOARD:

- A. "Any officer placed on either type of emergency suspension shall be entitled to a prompt suspension hearing." LEOBR-Maryland Annotated Code
- B. If the Chief or his/her designee imposes an emergency suspension, the suspended officer shall be notified in writing of that decision and informed that he/she is entitled to a prompt hearing.
- C. After the conclusion of the hearing, the Chief shall notify the officer in writing of the decision.

12. TIME CONSTRAINTS, FILING AND EXPUNGEMENT:

- A. All internal investigations should be completed within one-hundred-twenty (120) calendar days of the initiation of the investigation. (CALEA 52.2.3)
 1. Extensions beyond the one-hundred-twenty (120) days limit may be granted, when extenuating circumstances exist, upon the approval of the Chief of Police. (CALEA 52.2.3)
 2. The Criminal Investigations Commander must submit status reports on the investigation to the

Chief of Police every thirty (30) calendar days.

3. Notification will be made during the investigation to the complainant advising him/her of the progress of the case. The date and time of the notification will be documented in the case file.
4. All completed investigative files must be promptly forwarded to the Chief of Police for the Final Order.
5. Once a complaint or internal investigation has been closed and/or completed, the Office of the Chief will make written notification to each complainant, and to each officer involved, advising the outcome of the complaint.

B. Internal Affairs Files:

1. All Complaint Forms will be maintained in a secure, separate Internal Affairs Function file in the Office of the Chief of Police. The Complaint Forms remain confidential and will not become a part of an officer's Town or Departmental personnel file, except in cases of a sustained finding. (CALEA 52.1.2)
2. The Internal Affairs Function will ensure the retention of all of its investigative files for such a period of time as the Department may be subject to civil suit. Completed files will be kept by the Chief of Police.
3. No administratively closed investigative files will become part of an officer's City or Departmental personnel file. These files will be retained in the Office the Chief of Police.
4. All Internal Affairs files are confidential, and may not be released to anyone without the permission of the Chief of Police and/or pursuant to a court order.

- C. Squad/Unit Files:
 - 1. Squad/Unit Files will be maintained by the Squad/Unit Supervisor to track minor performance issues. Supervisors will ensure that all appropriate material is filed in the Squad/Unit Files and kept confidential.
 - 2. Squad/Unit Files will also contain past performance evaluations, personal notes about the employee's performance, positive letters and awards earned by the employee.

13. ANNUAL PUBLIC REPORT AND PUBLIC INFORMATION:

- A. The Chief of Police will prepare an annual statistical summary of all complaints and dispositions. In addition, Chief of Police will conduct a statistical review of use of force and other relative incidents occurring annually to reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications. Copies of the review will be sent to the Chief of Police and all Divisions Commanders for dissemination to officers.
- B. Annually, a statistical summary, based upon internal affairs records, will be prepared and made available to the public and agency employees. (CALEA 52.1.5)
- C. The Department will publish a brochure and publicize information on the Agencies website informing the public of the procedures to register a complaint against the Department or its employees. Copies of the brochure will be made available upon request, as well as kept in the lobby area of Headquarters. (CALEA 52.1.4)