



# HARFORD COUNTY SHERIFF'S OFFICE PERSONNEL POLICY

## Administrative Hearing Boards

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### 1. Purpose

To provide Harford County Sheriff's Office (HCSO) personnel with procedures that will be followed when conducting an Administrative Hearing Board.

### 2. Policy

The HCSO will ensure that all administrative hearings are conducted in a timely, consistent and fair manner, and in accordance with the Annotated Code of Maryland, Public Safety Article, Title 3 the Law Enforcement Officers' Bill of Rights (LEOBR) and the Correctional Services Article, Title 11 the Correctional Officers' Bill Rights (COBR).

### 3. Definitions

**AGENCY:** means the Office of the Sheriff of Harford County.

**COMMANDER:** the current Division Commander or the deputy's Division Commander at the date of the alleged complaint against the deputy. Commander also includes Bureau Commanders.

**DEPUTY:** for the purposes of this policy, this definition includes all sworn law enforcement and sworn correctional officers, Captain and below.

**MANAGING OFFICIAL:** as referred to within the COBR means the Sheriff of Harford County.

**REPRESENTATIVE:** the term includes attorney or any other representative the accused deputy chooses.

### 4. Procedures

A. Cases Referred to a Hearing Board (Board) result from the:

1. Refusal of a deputy to accept the Sheriff's Disciplinary Action or Summary Punishment; or
2. Failure of a deputy to acknowledge the Sheriff's Disciplinary Action or an offer of Summary Punishment within five working days after receiving the Notification of Charges (Form IA-009); or
3. Referral of cases where neither Summary Punishment nor Sheriff's Disciplinary Action were offered.
4. Hearings related to the emergency suspension of police/correctional officer's powers are addressed in HCSO policy PER 0205.

**B. Criminal Investigations**

1. In general, no administrative hearing, except an emergency suspension review hearing, will be held on any charges that relate to conduct which is also the subject of a pending criminal proceeding.
2. The Sheriff retains the discretion to make an exception to the general rule if the morale, operation or best interests of the HCSO would be adversely affected by the failure to hold a hearing.
3. The decision of the HCSO whether to hold a hearing while a related criminal proceeding is pending may not be the subject of a grievance.

**C. Type of Hearing Board**

1. The HCSO Office of Professional Standards (OPS) will coordinate and direct administrative hearings.
2. The Commander of OPS must:
  - a. coordinate with the Sheriff or designee to select a prosecutor;
  - b. determine whether a Hearing Board should be one-member or at least three voting members;
  - c. coordinate with the Sheriff or designee to select at least three voting members of the Board, none of whom have participated in the investigation of the deputy who is the subject of the hearing;
  - d. coordinate with the Sheriff or designee to select one member of the Board as Chairperson;
  - e. ensure at least one member of a three person board is the same rank as the deputy who is the subject of the hearing;
  - f. coordinate with the Sheriff or designee if it is decided to appoint a nonvoting member of the public who has received training administered by the Maryland Police Training and Standards Commission (MPTSC) in accordance with LEOBR;
  - g. issue a memorandum (Form SO-212) to the Board Chairperson indicating the composition of the board and will provide him with the Notification of Charges (Form IA-009).

**D. Administrative Procedures Prior to Hearing**

1. Board member(s) may NOT review the investigatory file and may only review the information contained in the Notification of Charges (Form IA-009) charging document.
2. The deputy is entitled to a copy of the investigatory file, not less than ten days before the hearing date.
3. The identity of confidential sources, non-exculpatory information, and recommendations as to charges, disposition, or punishment may be excluded from the case file.
4. The deputy will sign a Hearing Board Witness/Evidence/Document Receipt (Form IA-025) regarding use and disclosure of information from the case file prior to disclosure of the file being provided.

E. Pre-Hearing Procedures

1. The Chairperson will:
  - a. contact the deputy, the Prosecutor and the board members to arrange a mutually convenient date for the hearing.
  - b. prepare a Hearing Board Notification (Form IA-020) and a Hearing Board Witness/Evidence/Document Receipt (Form IA-025) and forward to the deputy's Commander, the Prosecutor and Board members.
2. The deputy's Commander will serve the Hearing Board Notification (Form IA-020) and Hearing Board Witness/Evidence/Document Receipt (Form IA-025) on the deputy and return a signed copy to the Chair.
3. If either the Prosecutor or the deputy's representative requires summonses, or if witnesses, evidence or items will be presented, this request will be provided in writing to the Board Chairperson at least ten calendar days before the hearing date.
4. All Hearing Board Witness/Evidence/Document Receipt (Form IA-025) forms will be returned to the Chair not less than ten calendar days prior to the hearing date.
5. Requests for postponements will be directed to the Chair and granted only for good cause.
6. Requests to amend charges will be directed to the Chair; an amended charge could result in a postponement of the hearing.

F. Conducting the Hearing

1. Hearings are conducted by the Chairperson as designated by the Sheriff or designee.
2. All weapons must be secured outside the hearing room.
3. Hearings must be recorded and a record maintained any time the recording is stopped and restarted.
4. Hearings shall be open to the public, unless closed for good cause.
5. Documents accepted into evidence will be marked for identification and retained as part of the record.
6. Motions and stipulations may be heard; the Chairperson may rule with or without a recess to discuss matters with the Board members.
7. The Chairperson administers oaths or affirmations and may examine any individual under oath.
8. Brief opening statements may be made.
9. The prosecutor for the HCSO will present its case-in-chief and bears the burden of proof.
10. The deputy may, but is not required to, present a case.

11. Each party has a right to cross-examine each witness who testifies for the other party.
12. Redirect and re-cross examination is limited to matters covered in a preceding examination.
13. The Board may question each witness.
14. Rebuttal evidence by both parties may be presented.
15. Closing Arguments may include a:
  - a. summation presented by the prosecutor;
  - b. summation presented by the deputy; and
  - c. rebuttal if the prosecutor chooses to present one.
16. The Board members will clear the hearing room to decide guilt or innocence on each charge.

G. Decision of the Hearing Board

1. The Board will reconvene the hearing.
2. The Chair will notify all interested parties of the finding for each charge.
3. A finding of not guilty terminates the action.

H. Penalty Phase

1. If the Board makes a finding of guilt, the Board shall:
  - a. reconvene the hearing;
  - b. receive evidence; and
  - c. consider the deputy's past job performance and other relevant information as factors before making recommendations to the Sheriff.

I. Hearing Board Decision

1. Within five days, the Board's written decision should be completed and submitted to the Board's Counsel so it may be reviewed for legal sufficiency.
2. Conclusions made by the Board will be explained in a concise written statement and must be supported by findings of fact. The Board may recommend the penalty it considers appropriate under the circumstances.
3. The Board's Counsel must acknowledge receipt of the report; review it within five working days, and return it to the Board.
4. The Hearing Board report must then be signed by the Board members.

J. Dissemination of the Report

1. A copy of the decision, findings of fact, conclusions, and written recommendations for action shall be delivered or mailed promptly to:
  - a. the deputy's counsel or representative of record (or the deputy if unrepresented);
  - b. the HCSO counsel; and
  - c. the Sheriff.
2. All evidence received during the Hearing must be submitted to the Sheriff by the Board Chairperson.

**K. Sheriff's Review**

1. Within 30 days of receipt of the Board report the Sheriff will:
  - a. review the findings, conclusions, and recommendations of the hearing board; and
  - b. issue a final order.
2. The Sheriff may increase or decrease a recommended penalty unless the Sheriff was an eyewitness to the incident under investigation, in which case the decision of the Board is final; If the Sheriff chooses to increase the penalty, the Sheriff must:
  - a. review the entire record of the proceedings of the Board;
  - b. consider the deputy's past job performance as a factor;
  - c. meet with the deputy and allow the deputy to be heard on the record;
  - d. disclose and provide in writing to the deputy, at least ten days before the meeting, any oral or written communication not included in the record of the Board on which the decision to consider increasing the penalty is wholly or partly based; and
  - e. state on the record the substantial evidence relied on to support the increase of the recommended penalty.
3. A copy of the Final Order will be forwarded to the deputy or his representative by the Sheriff.

**L. Appeal Process**

1. A deputy may appeal the Sheriff's decision to the Circuit Court in accordance with Maryland Rule 7-202.

**M. Post-Hearing Procedures**

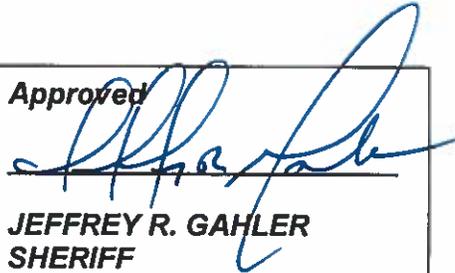
1. The Notification of Charges (Form IA-009), the case file provided by OPS to the prosecutor, the Board report with all exhibits, the recordings, and a copy of the final order will be returned to the Commander of OPS.
2. The OPS will maintain the Board report, related documents, and the recordings of the proceedings as described in the file retention schedule.

N. Fee Schedule

1. Costs associated with transcriptions, photocopying, and duplicating recordings will be charged according to the rates established by the Harford County Sheriff's Office.

O. Maryland Open Meetings Act

1. The Harford County Sheriff's Office follows the Maryland Open Meetings Act and the public will be provided with adequate notice of the time and location of hearings boards, which shall be held in places reasonably accessible to individuals who would like to attend these meetings.
2. The Office of Professional Standards will notify the Public Information Director of the dates of pending hearing boards.
3. Notification of hearing board dates will be posted by the Public Information Director on the Harford County Sheriff's Office official website to provide the public with reasonable advanced notice.

Approved   
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**JEFFREY R. GAHLER**  
**SHERIFF**  
DATE 12/21/17