

# OPR/CRB PROTOCOL FOR COMPLAINT INTAKE & CLASSIFICATION

**DRAFT**

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## **I. Introduction**

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

To accomplish this goal, OPR 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 OPR 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 OPR** – Division head that oversees BPD's Office of Professional Responsibility.

**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 OPR and CRB. It is also the place where all communications between OPR and CRB are documented.

**CRB Liaison** – OPR intends to hire a civilian employee as the OPR liaison to CRB. The CRB Liaison would act as the point person for all communications between OPR 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 OPR from the previous week.

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

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

**Sensitive Case Log** – A log internal to OPR where all activity involving a Sensitive Case is documented, as specified in Section VI(B)(3)(h) 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 Section V(B) below.

## **II. Communications with CRB**

OPR is committed to maintaining an on-going and cooperative relationship with CRB. Furthermore, OPR 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 OPR 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 OPR and the Administrator of CRB (who has signed the MOU mentioned in Section 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 Section VI below, there may be rare instances where OPR temporarily withholds from CRB a case it deems a Sensitive).
3. OPR will send a representative to every CRB monthly public meeting, absent exceptional circumstances.
4. OPR's Administrative Unit will be accessible and responsive to CRB's communications. In general, communications occur via departmental email between the OPR Administrative Unit Sergeant and/or Lieutenant [or CRB Liaison] and the CRB designee.
5. The Chief of OPR 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 Section IV below.

**NOTE:** IAPro will be used by OPR 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 Section 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 OPR Administrative Unit on cases under the CRB's jurisdiction must be noted in the specific CRB IAPro Case File in the "Tasks" section.
  - a. 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.
  - b. New evidence or information in OPR's investigative file, which must be entered into IAPro, should also be entered into the parallel CRB IAPro Case File.
  - c. 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.
  - d. Information regarding cases deemed as Sensitive Cases (see Section 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 Section VI below, and the non-Sensitive matter will be sent to CRB per the guidelines set forth in Section IV below.

#### **IV. General (Non-Sensitive) Procedures for Case Classification & Information Sharing**

OPR 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 Section V and Section VI, below.

## A. Classification

1. Every complaint against a BPD member received by OPR, no matter the method of receipt or the amount of information provided, will be forwarded to the OPR Classification Supervisor per the procedures outlined in Policy 306, *Complaint Intake and Classification Procedures* and OPR's Internal Operations and Training Manual.
2. The OPR Classification Supervisor will thoroughly review each complaint and will determine the proper classification category (or categories, if more than one are appropriate), per the OPR 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 (Section B), OPR will provide CRB with every complaint it receives that contains at least one CRB-eligible allegation.
  - a. If CRB has questions upon review of a Unified Complaint Form, the CRB designee will email the questions to the OPR 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 OPR with the additional information to ensure proper classification.

- b. If disagreement continues after the Classification Supervisor and the CRB designee communicate, the Chief of OPR and the Administrator of CRB will discuss the disagreement and attempt to resolve the matter.
- c. 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 OPR. 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 OPR to explain the reasoning for their determination.

- d. As part of their public reports, CRB and OPR shall present aggregate data concerning disputes about classification and the resolution of those disputes.
- e. If the disagreement about classification continues, the parties shall follow the steps outlined in Section VII below.

**B. Notification to CRB of Complaints Under CRB Jurisdiction**

OPR will provide CRB with every complaint received that contains at least one CRB-eligible allegation. OPR 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. OPR 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 OPR's Internal Operations and Training Manual.
2. The OPR Classification Supervisor will classify all cases per the OPR Classification Protocol.
3. The OPR's Administrative Unit [CRB Liaison] will complete the following within two business days:
  - a. 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.), OPR's initial classification of the complaint, and any documents (e.g. Unified Complaint Form, letters, officer reports), images, or recordings collected by OPR 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.
  - b. Inform the CRB designee about the new complaint by way of IAPro routing (the internal IAPro messaging system).
4. The OPR'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 IPro Case File has been created, the CRB designee will have full access to all materials within the file.

#### C. OPR Receipt of Complaints from CRB

1. The CRB designee will email OPR'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 OPR Classification Supervisor or designee will then conduct a duplication / associated case check, per the OPR Classification Protocol procedure.
3. If the duplication check results are negative, the Administrative Unit Intake Member will enter the complaint into IPro, and the Classification Supervisor will classify the complaint per the OPR 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, OPR 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 OPR 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 OPR's weekly IASat meeting, OPR 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 OPR Classification Protocol.
2. For cases that initially were not classified as CRB-eligible, but later are reclassified to fall under CRB jurisdiction:

- a. Within two business days of the reclassification, the OPR Classification Supervisor or designee will inform the CRB designee, via IAPro routing, that OPR has reclassified an OPR case as CRB-eligible.
- b. As with all other CRB-eligible complaints, all materials within OPR'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. OPR'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.
  - a. CRB will make requests of materials on Wednesdays, via IAPro routing. By Friday, OPR's Administrative Unit will respond to those requests, via IAPro routing, acknowledging receipt of the request and will provide a plan for fulfilling the request.
2. OPR'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, OPR'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).
  - a. Evidence that is part of the investigator's case file will be provided to the CRB designee, via the CRB IAPro Case File. OPR 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 Section V(A).

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

**Example:** OPR 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, OPR would utilize the process set forth in Section V(A) below.

4. The OPR'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 OPR and CRB share jurisdiction, the OPR investigator on the case has the duty to disclose all new materials developed or received.
  - a. As with any investigation, all new evidence or information for a case will be noted in the OPR's investigative file in IAPro. The OPR investigator will upload the new information in the case file before the end of their tour of duty.
  - b. 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:
    - i. When the investigator speaks to a complainant or witness on the phone,
    - ii. When an investigator conducts an area canvass, and
    - iii. When the investigator mails a letter.
  - c. The OPR's Administrative Unit [CRB Liaison] will review all OPR/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 OPR and CRB (through the CRB designee) will be recorded in the CRB IAPro Case File by OPR's Administrative Unit [CRB Liaison].
  - a. It is the responsibility of OPR'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.

- b. 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 OPR. 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.
- c. 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:
  - a. Juvenile arrest records (protected from disclosure pursuant to MD Code, Courts and Judicial Proceedings, § 3-8A-27).
  - b. Medical records obtained without the individual's consent to share with CRB.
  - c. 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.
  - d. 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:
  - a. 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.
  - b. 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, OPR 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, OPR 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 OPR Command to seek their approval prior to redacting or withholding any information.
5. If OPR 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.
  - a. 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. OPR 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 OPR 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, OPR 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 OPR 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. OPR 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 OPR 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 OPR, 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 OPR and CRB deviate from that general rule.

An MOU will be signed between the Chief of OPR 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. OPR 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 OPR of a Sensitive Case will only be utilized when one or more of the following circumstances apply:
  - a. There are pending criminal charges against the member pertaining to the complaint made,
  - b. BPD is conducting a criminal investigation into the allegations, which must remain confidential by statute, or,
  - c. 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, OPR 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 OPR, in consultation with the Law Department, if permissible.
4. If the Chief of OPR determines that an entire case is Sensitive, and there is a related misconduct complaint under the CRB’s jurisdiction, the Chief of OPR will consult the Police Commissioner or their designee within 10 business days to assess whether the OPR 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 OPR’s Sensitive Case Log and via an Administrative Report, Form 95, and saved in the OPR IAPro case file.
6. OPR 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. OPR/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 OPR 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 OPR is the point-person for OPR.

**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:
  - a. The Chief of OPR 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.
  - b. The Chief of OPR will inform the Administrator of CRB (either by phone or in-person) that the case has been designated as a Sensitive Case.
  - c. During this communication, the Chief of OPR will notify the Administrator of CRB that OPR has suspended its own administrative investigation into the complaint. The Chief of OPR 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 OPR recommences its administrative investigation.
  - d. The Chief of OPR 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).
  - e. 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, OPR shall and

CRB may continue with the administrative investigation. In such circumstances where OPR delays its administrative investigation, CRB will choose to also delay its administrative investigation until it can be conducted simultaneously with OPR. 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, OPR 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.

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

**NOTE:** OPR will designate one person within the agency to memorialize and track Sensitive Cases in OPR’s Sensitive Case Log. This designee is the only person, besides the Chief of OPR 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 OPR learns that there is a related case fitting the criteria in Section VI(A)(1)(a-c) above, the Chief of OPR will contact the Administrator of CRB by phone or in-person to

request that CRB pauses its investigation. OPR will also suspend its administrative investigation at the same time.

2. OPR will document the Sensitive Case designation and the communication(s) with the Administrator of CRB in OPR's Sensitive Case Log.

#### D. Review of Sensitive Case Designation

1. Every 60 days, OPR 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 OPR 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 OPR 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, OPR will document this in OPR's Internal Sensitive Case Log.
  - a. OPR will conduct its administrative investigation regarding the complaint received.
  - b. The Chief of OPR 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 Sections II-IV.
  - c. For cases referred to in Section VI(D) above, upon determination that the case is no longer a Sensitive Case, the Chief of OPR will inform the Administrator of CRB that OPR is resuming its administrative investigation, and that the CRB may also resume its investigation.

#### E. After-Action Review

1. The Chief of OPR 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 OPR 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 Section 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 OPR 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 OPR 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 OPR, 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 OPR 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.