

# Personnel Records

## 1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

## 1013.2 POLICY

It is the policy of this office to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of Maryland.

## 1013.3 OFFICE FILE

The office file shall be maintained as a record of a person's employment/appointment with this office. The office file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational, and employment history or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
- (f) Adverse comments such as supervisor notes or memos may be retained in the office file after the member has had the opportunity to read and initial the comment.
  - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.
  - 2. Any member response shall be attached to and retained with the original adverse comment.
  - 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.
- (i) Only information required to accomplish a necessary governmental purpose shall be kept on a member (Md. Code GP § 4-102).

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### **1013.4 DIVISION FILE**

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, and other materials that are intended to serve as a foundation for the completion of timely performance evaluations. After the completion of the performance evaluation, the information contained in the Division File should be purged.

### **1013.5 TRAINING FILE**

An individual training file shall be maintained by the Training Coordinator for each member. Training files will contain records of all training, original or photocopies of available certificates, transcripts, diplomas and other documentation, education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Power DMS, Blue Team).

- (a) The involved member is responsible for creating a training report via Blue Team with evidence of completed training/education in a timely manner.

### **1013.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Office of Professional Responsibilities in conjunction with the Office of the Sheriff. Access to these files may only be approved by the Sheriff, Assistant Sheriff or the Office of Professional Responsibilities supervisor.

### **1013.7 MEDICAL FILE**

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or material that reveals the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

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### **1013.8 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures (Md. Code GP § 4-311).

#### **1013.8.1 REQUESTS FOR DISCLOSURE**

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure, which result in access to a member's personnel records, shall be logged in the corresponding file.

#### **1013.8.2 RELEASE OF PERSONNEL INFORMATION**

The Office may not release personal information about a member unless allowed by law, regulation, or order (Md. Code GP § 4-311; Md. Code GP § 4-401; Md. Code GP § 4-351).

The Office may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement.

### **1013.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files (Md. Code GP § 4-311).

Any member seeking the removal of any item from his/her personnel records shall file a written request to the Sheriff through the chain of command. The Office shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Office shall be retained with the contested item in the member's corresponding personnel record.

Members may be restricted from accessing files containing any of the following information:

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- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Office for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for office planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Office and the member that may be discovered in a judicial proceeding.

#### **1013.10 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule (Md. Code SG § 10-615) and the Md. Public Safety Code Ann. § 3-110.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. The OPR supervisor will be responsible for determining whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Sheriff.
- (c) If, in the opinion of the Sheriff, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

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### 1013.10.1 RECORDS RELATED TO DEPUTY MISCONDUCT

A record relating to an administrative or criminal investigation of misconduct by a deputy, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, may not be expunged or destroyed (Md. Code PS § 3-112).