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### ISSUE PAPER

## Johns Hopkins Police Department Complaint & Disciplinary Process

*Johns Hopkins University & Medicine (“Johns Hopkins”) is exploring creating an independent, professional police department to augment its existing safety and security operation. Currently, the majority of our campus public safety contingent serves to help deter crime by observing and reporting urgent needs, but lacks the capacity to intervene in unfolding crimes.*

*Creating a Johns Hopkins Police Department (JHPD) would allow the university to build a campus public safety contingent that can provide more visible deterrence and respond more quickly and effectively to crimes and campus-specific threats like active shooter incidents. A sworn police department would be able to stop and arrest persons engaged in crimes on Johns Hopkins properties, use lights and sirens, access law enforcement data bases, and communicate with local law enforcement through shared radio frequencies. It would also afford Johns Hopkins a trained police contingent that is prepared to meet the unique needs of a university community, all in coordination with city, state and federal law enforcement partners.*

*We see this as a critical and unique opportunity to build a model university police department that reflects contemporary best practices in community policing, and upholds in every way the core values of our institution – including an unwavering commitment to equity and inclusion, a deep respect for freedom of expression, and a meaningful connection to our neighbors – undergirded by our commitment to transparency and accountability.*

### **Core Institutional Values Informing JHPD Administrative Approach to Complaints & Discipline**

A relationship of trust and confidence between the Johns Hopkins Police Department and the broader Johns Hopkins community – including residents of the neighborhoods around the university’s campuses – is essential for the JHPD to effectively serve and protect. At the heart of this relationship is accountability. As police are authorized to exercise certain powers – the powers to stop, search, detain, arrest, and use force – it is paramount that the Johns Hopkins and surrounding communities trust that JHPD officers will use those powers appropriately, and that they will be held properly accountable if those powers are abused or misused.

Johns Hopkins is also committed to procedural fairness. Complaints of JHPD officer misconduct must be fully investigated, with context properly examined, before discipline is determined. The institution will seek and obtain a full and impartial understanding of the facts in each case.

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Johns Hopkins' commitment to transparency is also vital to these considerations. The institution has an obligation to inform its community and the public about JHPD's administrative complaint and disciplinary process.

### **Rationale for Administrative Complaint and Disciplinary Process for JHPD Employees**

Although the university already has complaint and disciplinary processes for its employees, the powers of JHPD employees are unique, and so complaints about their conduct require special attention. For example, JHPD officers will interact with the wider Baltimore community and will be empowered by law to limit the freedoms of those community members when warranted. Accordingly, the university has an obligation to maintain an administrative complaint and disciplinary process for JHPD employees that enables anyone – Hopkins affiliate or not – to file a complaint, and that includes public reporting as permitted by law.

### **Limitations on Police Complaint and Disciplinary Processes under Maryland Law**

Maryland's [Law Enforcement Officers' Bill of Rights](#) (LEOBR), Md. Public Safety Code Ann., §§ 3-101 *et seq.*, applies to any individual who (1) in an official capacity is authorized by law to make arrests and (2) is a member of a listed law enforcement agency in the state (to include the Johns Hopkins Police Department). Below are some of the parameters that LEOBR places on complaint and disciplinary processes:

- **1-year time limit on police brutality complaints.** No investigation that may lead to disciplinary action for police brutality may be initiated, and no action may be taken, on any complaint filed after 366 days. § 3-104(c)(2)
- **Disclosure to officer of parties to the investigation.** The officer under investigation shall be informed of the name, rank, and command of all officers involved in the investigation. § 3-104(d)(1)
- **Advance disclosure to officer of nature of investigation.** Before an interrogation, the officer under investigation shall be informed in writing of the nature of the investigation. § 3-104(d)(2)
- **Right to counsel for officer.** The officer to be interrogated regarding a complaint 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. § 3-104(j)(1)
- **Up to 5 business days allowed before any interrogation of the accused.** The officer to be interrogated regarding a complaint has the right not to be interrogated for up to 5 business days until representation is obtained. § 3-104(j)(2)(i)
- **Discipline must be imposed by a hearing board, not a supervisor.** If the investigation or interrogation of an officer results in a recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive, the

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officer is entitled to a hearing on the issues by a hearing board before the law enforcement agency takes that action. § 3-107(a) With one exception, that hearing board must be comprised mainly of fellow officers. § 3-107(c)

- **If the hearing board finds an officer not guilty, that decision is final.** The head of the relevant law enforcement agency has no ability to review a finding of not guilty. § 3-108(a)(3)

### **Best Practices that Will Be Adopted by the Johns Hopkins Police Department**

The University has surveyed complaint and disciplinary processes at municipal police departments, county police departments, and peer university police departments across the country, and has also consulted the work of leading research and advocacy organizations involved in policing, both from the law enforcement perspective and the citizen perspective. It has also reviewed the provisions of LEOBR, which puts limits on how the conduct of officers may be investigated (see above). The following best practices are ones that both uphold Johns Hopkins' core institutional values and are consistent with LEOBR, and therefore will be incorporated into the JHPD administrative complaint and disciplinary processes:

#### **Complaint Intake Process**

- Implement a simple, user-friendly system for receiving complaints and enabling complainants to track the status of their complaints;
- Accept complaints through a wide variety of means, including in person, by phone, by email, through the JHPD website, by mail, and by internal memo;
- Accept complaints from all sources, including not just students, faculty, staff, and individual neighbors, but also community associations, advocacy and legal services organizations, local elected officials, and members of the JHPD;
- Accept anonymous complaints;
- Accept complaints regarding conduct by any JHPD employee, whether or not that employee is an officer;
- Accept complaints regarding conduct by a JHPD officer that allegedly happened while the officer was off duty;
- Accept complaints courteously and professionally, with disciplinary consequences for JHPD employees who either refuse to assist complainants or retaliate against them;
- Require JHPD employees to be trained on appropriate treatment of complainants who self-identify as victims of alleged JHPD misconduct;
- Process complaint intake in a timely fashion

#### **Complaint Investigation Process**

- Create an internal affairs unit (IAU) to investigate complaints that is housed in a different location from the rest of the JHPD and that reports directly to the Chief (LEOBR § 3-104(b) requires investigation be done by a sworn law enforcement officer in most cases);
- Ensure adequate staffing of the IAU;

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- Ensure that funding of the IAU is not determined by employees who may come under its investigation;
- Implement a body-worn camera program to help verify complaints and reduce the incidence of complaints;
- Train IAU investigators on courteous and professional treatment of victims of alleged JHPD misconduct;
- Retain ability to refer a complaint to an independent third party for investigation;
- Require that body to audio- and/or video-record its interrogations (LEOBR § 3-104(k)(2) requires there be a record of the interrogation that is written, taped, or transcribed);
- Render an investigative finding of rather sustained, unsustained, exonerated, or unfounded (LEOBR § 3-110 requires this)

### **Investigative Review & Disciplinary Recommendation Process**

- Establish a committee that reviews the complaint investigation and makes a disciplinary recommendation;
- Establish a hearing board for those officers who challenge the finding of the complaint investigation (LEOBR § 3-107(a) requires this for any investigation that results in a recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive);
- Allow up to two non-police individuals to serve on the hearing board (LEOBR §§ 3-107(c)(3) and 3-107(c)(5) allow this);
- Establish clear guidelines for the hearing board to use to determine disciplinary outcomes, for consistency;
- Resolve all complaints against police as soon as is practicable after the investigation commences
- Allow for broader community review through the JHPD Community Advisory Councils

### **Disciplinary Process**

- Ensure clarity and respect in the disciplinary process for all employees involved;
- Use progressive discipline, with disciplinary actions progressing in severity based on the nature and gravity of the offense at issue, its relationship to the employee's assigned duties and responsibilities, the employee's work record, and other relevant factors;
- Allow for expedited discipline, such as a Preliminary Discipline Officer (PDO) system, when it is evident that such discipline is necessary to maintain an orderly and productive work environment;
- Educate all new hires on conduct requirements and the disciplinary process

### **Transparency**

- Publish the complaint and disciplinary processes online;

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- Provide a formal complaint tracking mechanism (e.g., complaint number) that allows the complainant to inquire about the complaint's status, either online or over the phone;
- Include annual reporting of number and types of formal complaints received; number and types of complainants (e.g., faculty, student, staff, neighborhood resident); number and type of complaints resulting in JHPD discipline; and number and types of disciplinary actions taken

### **Works Consulted**

- ***Selected police departments whose policies/G.O.s were reviewed:***
  - Howard County Department of Police, Administrative Order on Internal Investigations (Nov. 2017)
  - Montgomery County Department of Police, Disciplinary Process for LEOBR-Covered Sworn Officers (Aug. 2002)
  - Baltimore Department of Police, Draft Policy on Complaint Intake and Classification Process (Mar. 2018; pending consent decree approval)
  - University of Texas – Austin Police, Blueprint for Campus Police: Responding to Sexual Assault (Mar. 2016)
  - Yale University Police Department, General Order on Civilian Complaints, Internal Investigations and Discipline (Feb 2016)
- ***Selected organizations consulted:***
  - ACLU of Connecticut, "[Earning Trust: Addressing Police Misconduct Complaints in Connecticut](#)" (Jan. 2017)
  - Campaign Zero, "[Community Oversight](#)"
  - International Association of Campus Law Enforcement Administrators, "[IACLEA Accreditation Standards Manual](#)" (May 2018)
  - International Association of Chiefs of Police (IACP), "[Internal Affairs: A Strategy for Smaller Departments](#)" (2001)
  - IACP, "[Testimony of the International Association of Chiefs of Police, Task Force on 21st Century Policing Listening Session on Police Oversight](#)," (Jan. 30, 2015)
  - U.S. Department of Justice, Community Oriented Policing Services (COPS), "[Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement](#)" (2007)
  - U.S. Department of Justice, COPS, "[Collaborative Reform Initiative: An Assessment of the San Francisco Police Department](#)" (Oct. 2016)
  - Yale Law School Justice Collaboratory, "[Principles of Procedurally Just Policing](#)" (Jan. 2018)
- ***Selected academic articles consulted:***

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- Haas, Nicole E., Maarten Van Craen, Wesley G. Skogan, and Diego M. Fleitas, "[Explaining officer compliance: The importance of procedural justice and trust inside a police organization](#)," *Criminology & Criminology Justice*, 15(4), 442-463 (Jan. 2015)
- Trinkner, R., Tom R. Tyler, and Phillip Atiba Goff, "[Justice from within: The relations between a procedurally just organizational climate and police organizational efficiency, endorsement of democratic policing, and officer well-being](#)," *Psychology, Public Policy, and Law*, 22(2), 158-172. (May 2016)
- Wolfe, Scott E. and Alex R. Piquero, "[Organizational Justice and Police Misconduct](#)," *Criminal Justice and Behavior*, 38(4), 332-353 (Feb. 2011)
- National Institute of Justice, "[Police Discipline: A Case for Change](#)," *New Perspectives in Policing* (June 2011)
- National Institute of Justice, "[Race and Policing: An Agenda for Action](#)," *New Perspectives in Policing* (June 2015)
- **Selected statutory and case references:**
  - Md. Code Ann., Public Safety §§ 3-101 *et seq.*, Law Enforcement Officers' Bill of Rights
  - *Calhoun v. Commissioner, Baltimore City Police Dep't*, 103 Md. App. 660 (1995)
  - *Maryland State Police v. Dashiell*, 443 Md. 435 (2015)
  - *Maryland State Police v. Resh*, 65 Md. App. 167 (1985)
  - *Meyers v. Montgomery County Police Dep't*, 96 Md. App. 668 (1993)
  - *Ocean City Police Dep't v. Marshall*, 158 Md. App. 115 (2004)