



County of Fairfax, Virginia

MEMORANDUM

DATE:

TO:

FROM:

FILE:

SUBJECT: Administrative Investigation

REF: Non-Sworn Employee Notice

The purpose of this memorandum is to inform you that the Police Department is conducting an administrative investigation to determine all information, facts and circumstances relevant to:

In addition to myself, the following person(s) will be present during the interview:

Relative to this investigation, your responsibilities are defined in General Order 301, Section V, paragraph D, and subparagraphs 1,2,3,4,5 and 6, which are:

1. Each employee of the Department shall cooperate fully with personnel of the Internal Affairs Bureau or any other member of the Department conducting an administrative investigation. Supervisory or command personnel will initiate investigations into observed infractions or complaints received which fall into the scope of their authority.
2. Employees shall answer fully and truthfully any question pertaining to the administrative investigation of an infraction of law or regulation which is asked by the investigating authority. Employees shall not knowingly mislead or omit information regarding the administrative investigation. **As described in General Order 001, Section VI, a sustained violation of truthfulness shall be subjected to the presumptive disciplinary action of termination.**

Fairfax County Police Department
4100 Chain Bridge Road
Fairfax, Virginia 22030



3. During the course of an administrative investigation, employees do not have the right to refuse to answer any questions concerning their performance of duty or their adherence to departmental rules and regulations. However, those statements cannot be used against employees in a criminal prosecution except as provided by law.
4. An officer will be required to disclose financial information only when such information is necessary during the course of an administrative investigation and in accordance with Code of Virginia Section 9.1-503, "Law Enforcement Officers' Procedural Guarantee Act; Personal Assets."
5. If, during the course of an administrative investigation, the investigating authority determines reasonable suspicion exists to justify an employee's submission to a medical, physical, psychiatric, or laboratory examination, the employee shall submit to such test or exam. The tests and exams may include, but are not limited to, Breathalyzer, blood and urine tests, photograph and physical lineups, voice and handwriting exemplars. Tests and exams will be performed in a reasonable manner.

The commander of the Internal Affairs Bureau will be responsible for consulting with the Chief of Police for approval of such tests or exams, except in those circumstances outlined in Section V. paragraph C, 7. If the Chief of Police is unavailable, the next ranking staff officer shall be consulted.

6. A polygraph examination may be used in an effort to confirm or disprove inconsistencies after all other reasonable methods have been exhausted. No employee shall be required to submit to a polygraph examination unless ordered, in writing, by the Chief of Police as part of an administrative investigation concerning allegations of misconduct. The polygraph will not be the sole basis for a disciplinary determination or establishing the elements of an allegation.

The analysis of any required polygraph examination will not be admissible in any disciplinary proceeding under General Order 310.3, over the objection of the employee or county.

The provisions of General Order 301 cited in this memorandum also apply to participants in the Volunteers in Police Service Program (VIPS).

As with other provisions of the Manual of General Orders and Regulations of the Fairfax County Police Department, your failure to meet these responsibilities may result in disciplinary action.

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You are further advised that statements obtained from you during the course of this administrative investigation are compelled as a condition of your employment. As such, these statements cannot be used against you in a criminal prosecution (Garrity v. New Jersey, 385 U.S. 493 (1967)).

If your statement is transcribed to written form, you will be provided with an opportunity to review and sign the transcript. If you so desire, a copy of the statement containing your signature will be provided to you at the time of your review.

A copy of General Order 001, Ethics and Integrity, shall be provided to the employee prior to the administrative interview.

Notice Received – Employee's Signature

Date

GENERAL ORDER

FAIRFAX COUNTY POLICE DEPARTMENT



SUBJECT: ETHICS AND INTEGRITY

NUMBER: 001

CANCELS ORDER DATED:

DATE: 10-3-13

I. PURPOSE

This policy establishes the standards of truthfulness, ethics, and integrity by which all officers, employees and volunteers of the Department shall abide by at all times.

II. POLICY

The Department has established hiring standards for all positions to ensure all members possess the highest level of truthfulness, ethics, and integrity in order to gain the trust of the communities we serve. This General Order describes the standards of truthfulness, ethics, and integrity to which we all shall be held accountable.

Every action of the Department shall reflect the highest standards of truthfulness, ethics, and integrity. All dealings, whether with the public, other members of the justice system or with each other shall require strict adherence to the standards set forth within this General Order. All members of the Department shall be responsible for reporting violations of Regulations, General Orders, and laws committed by other members to a competent authority. We all have an obligation to report those members who violate the public trust.

III. DEFINITIONS

- A. Authority: The legally conveyed right to issue commands and/or take action to control the actions of members of the community. Our law enforcement authority is conveyed to us by the Clerk of the Court through the administration of the Oath of Office.
- B. Competent Authority: Authority rightfully belonging to or exercised by a person or group.
- C. Corruption: Acts involving the misuse of authority by a Department member in a manner designed to produce personal gain for him/her or others.
- D. Discretion: The capacity of a sworn law enforcement officer to make a reasoned and informed judgment regarding their authority to exercise the

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application of certain laws and policies to resolve problems in the community. Officers should note that certain laws specifically prohibit the use of discretion when probable cause has been established.

- E. Ethics: Standards or principles of conduct governing a profession; the rules of conduct or duty.
- F. Integrity: Soundness of moral principles; the character of uncorrupted virtue; uprightness, honesty, self-control, courage, compassion.
- G. Moral Turpitude: Any act involving lying, stealing or cheating.
- H. Public Trust: Exercising public authority within the legal limits and according to the ends for which it was created, i.e., to serve the public interest.

IV. CANON OF ETHICS

The Canons of Ethics to which members of the Department are held accountable to are set forth below. Both the Standards of Conduct and Code of Ethics sections are taken verbatim from the County's Personnel Regulations and each contains a link to the Department of Human Resources web site to ensure all members have access to the most current version of the Personnel Regulations as they are subject to periodic change. In addition, sworn members of the Department take an oath of office prior to assuming the duties of their specific law enforcement position. Finally, in order to achieve and maintain the trust of the communities we serve, we are all required to be truthful as set forth below.

1. Truthfulness

When questioned by competent authority, employees shall give complete and honest answers to any question related to the performance of their official duties or their fitness to hold public office.

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2. Standards of Conduct

All employees, regardless of grade, title or length of county service **are expected to adhere to the following Standards of Conduct**. Violation of the Standards of Conduct is grounds for disciplinary action up to and including dismissal.

Leave and Attendance

Employees are expected to:

- Comply with rules and regulations governing hours of work, absences, use of leave.

Employees are prohibited from:

- Failing to report to work as scheduled without proper notice to supervisor;
- Leaving work without permission;
- Arriving late for work on a consistent basis.

Personal Behavior and Conduct

Employees are expected to:

- Demonstrate professionalism and support the county's commitment to excellent customer service at all times.
- Exercise courtesy, respect and tact when dealing with fellow employees and the public regardless of age, race, color, religion, sex, national origin, marital status, disability, sexual orientation, genetic information, union or political affiliation, veterans' status, disabled veterans' status, or any other factor unrelated to the impartial conduct of county business.
- Comply with a proper order of an authorized supervisor.

Employees are prohibited from:

- Harassing fellow employees, county vendors, or members of the public on the basis of race, color, religion, sex, sexual orientation, national origin, age, marital status, disability, genetic information, or any other characteristic now or hereafter protected by federal, state or county law. This prohibition includes, but is not limited to, sexual harassment;

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- Engaging in rude or unprofessional behavior or disorderly conduct even if the behavior is not expressly forbidden by regulation or law;
- Using racial, sexist or ethnic slurs or other language that disparages any person on the basis of age, race, color, religion, sex, national origin, marital status, disability, sexual orientation, creed, genetic information, union or political affiliation, veterans' status, or disabled veterans' status;
- Being convicted of a crime that is committed on the job or a felony in Virginia of such nature that the public or other employees may be endangered if the employee remains in his or her position or of such nature that reasonably undermines the public trust in the employee's ability to perform his or her duties.
- Engaging in conduct on or off duty that violates federal or state law, county ordinances or policies when the violation is related to the employee's activity as a county employee or to county business or when it undermines public trust in the county or the employee's ability to perform his or her duties.
- Manufacturing, distributing, possessing, using or being under the influence of alcohol or illegal drugs while at work or on county premises with the exception of attendance at events where alcohol is permitted during off duty hours;
- Threatening, assaulting, intimidating, or harassing another employee or a member of the public;
- Using obscene language toward fellow employees, supervisors, subordinates and/or members of the public;
- Abusing supervisory authority through favoritism, harassment, discrimination or mistreatment of employees.

Protection and Proper Use of County Data, Property, Funds and Records

Employees are expected to:

- Use public property, resources, and funds in accordance with the established procedures;

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- Maintain confidentiality with regard to client or customer information in accordance with state and federal law, county ordinance and county policy;
- Maintain employee confidentiality by preventing the disclosure of personal information to any unauthorized party.

Employees are prohibited from:

- Using county data, facilities, equipment, property or employees for other than officially approved activities, except as permitted under county policy or procedure;
- Engaging in any action prohibited by county information technology policy or procedure;
- Carelessly or willfully causing destruction of county property;
- Knowingly falsifying or conspiring to falsify any county record or report whether paper or electronic, (e.g., resume, time and attendance reports, workers' compensation claims, travel and/or expense vouchers).

Driving

Employees are expected to:

- Operate all county vehicles in accordance with federal, state and local driving laws;
- Operate privately owned vehicles being used in the performance of county business in accordance with state and local driving laws;
- Remain aware of status of operator's license and report any suspension or revocation of driving privileges to their supervisor immediately if job duties require the operation of a vehicle for county business.

Employees are prohibited from:

- Knowingly operating a vehicle on county business without a valid operator's license;
- Possessing, using, or being under the influence of alcohol, illegal drugs, or prescription drugs that might adversely affect one's ability to drive, while

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driving a county vehicle or while driving a personal vehicle on county business.

Safety

Employees are expected to:

- Promote safe and healthy working environment by complying with all appropriate safety and health regulations;
- Promptly report safety and health hazards so that they can be corrected before injuries result;
- Dress in appropriate attire, uniform or safety equipment as specified by the standards and work rules for the agency and position;
- Immediately report workplace violence to your supervisor or appropriate authority.

Employees are prohibited from:

- Bringing a gun, either concealed or displayed, to work or onto county premises, with the exception that employees of county agencies may store a lawfully possessed firearm and ammunition in a locked motor vehicle on county premises. This prohibition shall apply to all employees, except those authorized to carry a firearm at work or onto county premises based on the nature of their work. Such employees may do so only if specifically authorized by their appointing authority.
- Bringing any weapon (except a gun as expressly permitted above), either concealed or displayed, to work or onto county premises, unless specifically authorized to do so by the appointing authority. For the purposes of this standard of conduct, the term weapon includes instruments of combat, or any object carried for the purpose of inflicting or threatening bodily injury.

Outside Employment/Conflict of Interest

Employees are expected to:

- Disqualify themselves in any decision where a conflict of interest may be presumed to exist;

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- Obtain permission from their appointing authority prior to engaging in any private business activity, employment or other activity outside of work that conflicts or interferes with full discharge of their official duties or the work they perform as a county employee.

Employees are prohibited from:

- Accepting anything of value for performing, or refraining from performing, an official job-related act; or accepting anything of value in order to assist another person in obtaining a county job, promotion, or contract;
- Using information obtained in connection with county employment in order to obtain financial gain for the employee or others;
- Accepting anything that might tend to influence the manner of performance of county employment or that might be intended to influence the manner in which a county employee performs his or her job;
- Having a personal interest in any contract with the county;
- Participating in matters related to their employment in which the interests of the county employee, or the interests of the county employee's family members or business associates, might be affected.
- Using their official authority to coerce or attempt to coerce a subordinate employee to pay, lend, or contribute anything of value to a political party, candidate, or campaign or to discriminate against any employee or applicant for employment because of that person's political affiliations or participation in permitted political activities or failure to participate in political activities, whether permitted or not.
- Discriminating in the provision of public services, including, but not limited to, firefighting, emergency medical, or law enforcement services, or responding to requests for such services, on the basis of the political affiliation or political activities of the person or organization for which such services are provided or requested.
- Suggesting or implying that the County has officially endorsed a political party, candidate, or campaign.

NOTE: The Standards of Conduct can also be found as Addendum Number 1



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to Chapter 16 in the County's Personnel Regulations.

3. Fairfax County Code of Ethics

Fairfax County Code of Ethics is intended to inspire a superior level of conduct, sensitivity and sound judgment for all employees.⁽¹⁾ The code is intended to complement, not replace all professional codes of ethics. Employees should be aware of and abide by their respective professional values and requirements. All employees must perform their designated function in a manner that reflects the highest standards of ethical behavior. All employees must uphold their responsibility as trusted public servants. All employees are obligated to respect, honor and uphold the Constitution, laws and legal regulations, policies and procedures of the United States, the Commonwealth of Virginia, and the County of Fairfax.

⁽¹⁾ The term employee includes all personnel, volunteers and all elected and appointed officials working on behalf of Fairfax County.

The Code of Ethics is supported by six core principles that form the ethical foundation of the organization: Honesty, Public Service, Respect, Responsibility, Stewardship and Trust.

I. Honesty: Be truthful in all endeavors; be honest and forthright with each other and the general public.

II. Public Service: Ensure all actions taken and decisions made are in the best interest of the general public, and enrich and protect quality of life.

III. Respect: Treat all individuals with dignity; be fair and impartial; affirm the value of diversity in the workplace and in Fairfax County; appreciate the uniqueness of each individual; create a work environment that enables all individuals to perform to the best of their abilities.

IV. Responsibility: Take responsibility for actions; work a full day; conduct all workplace actions with impartiality and fairness; report concerns in the workplace, including violations of laws, policies and procedures; seek clarification when in doubt; ensure that all decisions are unbiased.

V. Stewardship: Exercise financial discipline with assets and resources; make accurate, clear and timely disclosures to the public; maintain accurate and complete records; demonstrate commitment to protecting entrusted resources.

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VI. Trust: Build regard for one another through teamwork and open communication; develop confidence with the public by fulfilling commitments and delivering on promises.

NOTE: The Code of Ethics can also be found as Addendum Number 2 to Chapter 16 in the County's Personnel Regulations.

4. Fairfax County Law Enforcement Oath of Office

I do solemnly swear or affirm that I am duly qualified, according to the constitution of this Commonwealth, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect, and defend the Constitution of this State and of the United States of America.

I further swear or affirm that I will enforce the ordinances of the County of Fairfax and the State of Virginia, protect the life and property of its citizens, that I will diligently seek to detect crime and to apprehend the perpetrators or crime, that I will be ever mindful of the trust that has been placed in me by the officials and citizens of the County of Fairfax, and will make every effort to live up to that trust, so help me God.

V. INVESTIGATIONS of ALLEGATIONS RELATED TO TRUTHFULNESS, ETHICS, AND INTEGRITY VIOLATIONS

To ensure consistency in the application of this policy, all allegations of ethics, integrity and truthfulness violations shall initially be assigned to the Internal Affairs Bureau for investigation.

VI. DISCIPLINARY ACTIONS FOR TRUTHFULNESS, ETHICS, INTEGRITY and MORAL TURPITUDE VIOLATIONS

The United States Supreme Court decisions in **Brady v. Maryland**, 373 U.S. 83 (1963) and **Giglio v. United States**, 405 U. S. 150 (1972), hold that exculpatory evidence in a criminal case must be given to the defense during discovery. Exculpatory evidence includes information that can be used to impeach a witness' credibility. Because an employee's sustained truthfulness, ethics, or integrity violations can be used to impeach an employee's credibility, these classes of sustained violations must be given to the defense during discovery and may be used to discredit the employee's testimony thereby his/her testimony may be

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entitled to less credibility by the fact-finder (i.e., the judge or jury).

The Commonwealth's Attorney has an obligation under Brady and Giglio to provide the defense with exculpatory evidence which includes an employee's sustained truthfulness, ethics, and /or integrity violation(s). One of the paramount obligations the Department has to the community we serve is that of maintaining the highest level of truthfulness, ethics, and integrity, and to hold ourselves accountable to each member of the community in order to efficiently carry out our mission.

Sustained truthfulness, ethics, integrity, or moral turpitude violations erode the public trust and shall not be tolerated.

The core job tasks of sworn officer positions require the employee to maintain the highest levels of truthfulness, ethics, and integrity at all times. A sustained truthfulness, ethics, integrity, or moral turpitude violation will discredit an officer and impair his/her ability to testify in a court of law. In order for an officer to maintain employment, he/she shall have the ability to perform all required job tasks. The Department does not possess positions to accommodate continued employment as a sworn officer when a job task can no longer be performed.

In accordance with our Canons of Ethics, officers have sworn to be ever mindful of the trust that has been placed in them by the officials and citizens of the County of Fairfax, and they must make every effort to live up to that trust. When an officer commits a violation of truthfulness, ethics, integrity, or moral turpitude, they have also violated the standard of trust they have been sworn to uphold. Additionally, non-sworn employees are required by the County's Standards of Conduct and the Code of Ethics to maintain the public trust. Therefore, sustained violations of truthfulness, ethics, integrity, or moral turpitude are violations that no longer afford an employee any level of trust with fellow employees and the public we serve.

Upon the effective date of this General Order, any Department employee who receives a **sustained truthfulness, ethics, integrity or moral turpitude violation shall be subjected to the presumptive disciplinary action of dismissal or unsatisfactory service separation.** Such a presumption shall be rebuttable. Officers and employees not in their probationary year who receive a presumptive disciplinary action of dismissal or unsatisfactory service separation are entitled to appeal rights as described in the County Personnel Regulations and the Manual of General Orders.

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VII. PROMOTION of EMPLOYEES WITH LEGACY ETHICS AND INTEGRITY SUSTAINED VIOLATIONS

The United States Supreme Court decisions in **Brady v. Maryland**, 373 U.S. 83 (1963) and **Giglio v. United States**, 405 U. S. 150 (1972), hold that exculpatory evidence in a criminal case must be given to the defense during discovery. Exculpatory evidence includes information that can be used to impeach a witness' credibility. Because an employee's sustained truthfulness, ethics, or integrity violations can be used to impeach an employee's credibility, these classes of sustained violations must be given to the defense during discovery and may be used to discredit the employee's testimony thereby his/her testimony may be entitled to less credibility by the fact-finder (i.e., the judge or jury).

The Commonwealth's Attorney has an obligation under **Brady** and **Giglio** to provide the defense with exculpatory evidence which includes an employee's sustained truthfulness, ethics, and /or integrity violation(s) and this is the current practice of the Commonwealth's Attorney. This is likely to subject the employee to impeachment as a witness in every case in which they testify, and could, in fact, jeopardize criminal prosecutions since credibility is called into question.

Character and integrity are core values required of all sworn officers, and those entering our supervisory ranks must be held to an even higher standard as they lead the men and women of this Department. Additionally, the Fairfax County Police Department has an obligation to uphold the public's trust at all times.

Employees who are still employed who possess sustained ethics and integrity violations that were adjudicated under prior policies are still subjected to **Brady** and **Giglio** implications. Any employee still employed who possesses a sustained ethics and integrity violation shall not be eligible for further promotions and may, on a case-by-case basis, not be eligible for certain assignments of higher sensitivity or those that require additional clearances. Additionally, sustained violations related to ethics and integrity as defined by this policy can be grounds for a decision for removal from a promotional list.

VIII. ACCREDITATION STANDARDS REFERENCE

VLEPSC
ADM.01.01

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ADM.01.02
ADM.18.03

IX. LEGAL REFERENCES

Brady v. Maryland, 373 U.S. 83 (1963)
Giglio v. United States, 405 U. S. 150 (1972)

This General Order becomes effective October 3, 2013, and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:

Chief of Police

County Executive