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| FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER | SUBJECT: INTERNAL INVESTIGATIONS | | NUMBER: 301 |
| | EFFECTIVE DATE: June 17, 2024 | REVIEW: June 2027 | |
| RESPONSIBLE ENTITY: INTERNAL AFFAIRS BUREAU | | | <input type="checkbox"/> New Directive <input type="checkbox"/> Replaces: <input checked="" type="checkbox"/> Revised 06-17-24 |
| ACCREDITATION STANDARDS: | CALEA 4.2.2, 26.2.1, 26.2.3, 26.3.1, 26.3.2, 26.3.4, 26.3.6, 26.3.8 VLEPSC ADM.18.02, ADM.18.03, ADM.18.04, ADM.18.05, PER.02.02 | | |

I. PURPOSE

The purpose of this General Order is to establish guidelines and procedures for supervisors and commanders for all Department internal investigations of employee actions and conduct.

II. POLICY

It is the policy of the Fairfax County Police Department (FCPD) that all investigations of alleged employee misconduct be performed in a complete, thorough, and objective manner that seeks to safeguard the rights of all involved individuals and to ensure a complete examination of all facts and circumstances relevant to the allegation is performed in a timely and objective manner. Alleged or suspected acts of employee misconduct, notices of civil claims filed against the Department or its member(s) as a result of actions performed in their official capacity, violations of Department rules or regulations, and expressions of dissatisfaction with policy, procedure, or practice shall be impartially and thoroughly investigated and documented by all investigating and reviewing authorities. All General Orders pertaining to the administrative investigation process shall be accessible to all FCPD employees and any changes shall be disseminated in a timely manner. The disciplinary process shall steadfastly ensure equality and due process are afforded to all individuals, and involved parties shall be afforded all rights and protections provided to them by the United States Constitution, the Commonwealth of Virginia, and Fairfax County. The Department shall constantly seek to uphold the public trust, and require all employees to routinely demonstrate the virtues of integrity, honesty and professionalism in all law enforcement actions performed on behalf of the general public. Per the terms of the [Collective Bargaining Agreement](#), the Chief of Police and the FCPD Internal Affairs Bureau (IAB) reporting directly to the Chief shall be the only authority authorized by the Fairfax County Government to direct or conduct administrative investigations for bargaining unit employees, except

under a proper Office of Human Rights and Equity Program (OHREP) or Internal Audit Office fraud audit.

III. DEFINITIONS

- A. **Administrative Inquiry:** An inquiry into the actions of an employee, in which there is neither an allegation of wrongdoing nor any determined violation of law or Department policy. This includes actions of employees or allegations of misconduct wherein the employee is unable to be identified.
- B. **Administrative Investigation:** A non-criminal investigation conducted for the purpose of documenting the conduct, action(s), or performance of an employee and to determine whether such conduct, action(s), or performance is in compliance with Department policy or orders.
- C. **Administrative Leave:** A paid leave status as defined in Fairfax County [Personnel Regulation 10.36](#). Administrative leave will be used to support employees when necessary and in compliance with both Fairfax County [Personnel Regulation 10.36](#) and Article 65 of the [Collective Bargaining Agreement](#).
- D. **Civilian Review Panel (CRP):** Consists of nine (9) community members appointed by the Board of Supervisors who review completed FCPD administrative investigations involving complaints containing allegations of abuse of authority or serious misconduct to ensure accuracy, completeness, thoroughness, objectivity, and impartiality. The CRP also provides an accessible, independent, impartial, and responsive intake venue for complaints against the Department and its employees.
- E. **Competent Authority:** Authority rightfully belonging to or exercised by an individual or group.
- F. **Complaint:** An allegation of specific act(s) or omission(s) which, if proven true, would amount to employee misconduct; or an expression of dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the Department.
- G. **Day:** As used herein, shall mean any day that falls between Monday and Friday of a calendar week and is not a County holiday.
- H. **Dissatisfaction of Service:** Notification to the Department of a situation or incident where an individual feels they were unfairly impacted, or where they

are displeased with a Department policy or action, and there is no allegation of misconduct.

- I. **Domestic Violence**: An assault and battery committed against a family or household member as defined by [Va. Code Ann. § 16.1-228](#).
- J. **Independent Police Auditor (IPA)**: An auditor appointed by the Board of Supervisors who monitors and reviews internal investigations of FCPD officer involved shootings, in-custody deaths, use of force cases resulting in serious injury or death, and other use of force cases when a public complaint is received. Serves as an independent intake venue for complaints against the Department.
- K. **Initial Review**: Actions taken by command or supervisory personnel to gather sufficient facts regarding an incident involving an employee, to determine if an administrative investigation is warranted.
- L. **Internal Affairs Bureau (IAB)**: Department Bureau that oversees administrative investigations related to the conduct of Department personnel and inspections of organizational components.
- M. **Misconduct**: A behavior, action, or omission which, if proven to be true, would constitute or be considered (1) a violation of departmental policy, procedure, or training procedure; that does not constitute a policy infraction, or (2) conduct which may reflect unfavorably upon the employee or Department, or adversely affect the efficiency or morale within the workplace (e.g., rudeness, use of inappropriate language in public, discourteous operation of police vehicles).
- N. **Office of Human Rights and Equity Programs (OHREP)**: A County agency that seeks to promote justice, equal opportunity, diversity, and inclusiveness by protecting the civil rights of all in Fairfax County. OHREP is comprised of the [Human Rights Division](#) (HRD) and the [Equity Programs Division](#) (EPD).
- O. **Policy Infraction**: A behavior, action, or omission that does not fully comply with Department policy, procedure, or training which in nature has minimal impact on other individuals or on the Department's operations or mission. Examples of such actions or behaviors include, but are not limited to, (1) actions made in error but for which the Department member believed they were either complying with policy or they were acting in the best interest of the Department's mission, vision, or values; or (2) deficient performance of an action or duty that had minimal impact on any community members or

Department operations and does not constitute an act of misconduct or serious misconduct.

- P. **Preponderance of the Evidence**: Amount of proof that would lead a reasonable individual to believe the occurrence of an alleged fact is more probable than not.
- Q. **Serious Misconduct**: A behavior, action, or omission which, if proven to be true, would constitute or be considered:
1. A violation of [FCPD General Order 001](#) (Truthfulness).
 2. Certain criminal offense(s) as outlined per the [Code of Virginia](#).
 3. Violation(s) of an individual's constitutional rights.
 4. Unlawful discrimination, racial profiling, or bias-based policing.
 5. Improper use of deadly or excessive force.
 6. Neglect of duty or actions interfering with proper administration of justice.
 7. Actions that tarnish the reputation of the Department.
 8. Corruption.

IV. TYPES OF INCIDENTS TO BE INVESTIGATED

- A. The Department shall internally investigate the following incidents:
1. Community member complaints regarding alleged employee misconduct or anonymous complaints from any source deemed credible after initial review.
 2. Notices of civil claims filed against the FCPD or its employees as a result of actions taken within their official capacity.
 3. Alleged violations of laws, Department rules, regulations, or policies that are reported to supervisory or command personnel by members of the Department, or actions observed by a supervisor or commander which appear to constitute violations of either law or Department policy.
 4. Incidents not constituting reasonable suspicion of misconduct by an employee, however, the nature of the allegation merits investigation in order to document all relevant facts, to include notices or expression of dissatisfaction with a Department policy, procedure, practice, philosophy, service level, or legal standard of the Department.
 5. Complaints received from the [Independent Police Auditor](#) and/or the [Civilian Review Panel](#).

6. Any other matter or incident as directed by the Chief of Police.

V. INITIAL COMPLAINTS

- A. **Complaint Sources:** Complaints may originate from any individual, to include but not be limited to, juveniles, internal and external sources, Government and other law enforcement agencies, media and social media reports, FCPD employees, notice of civil claim or civil litigation, and notices of complaints filed with the United States Department of Justice, Office of Equity Programs, or similar investigative agency.
- B. **Receipt of Complaints:** Complaints may be presented to any Department member by telephone, in person, electronically, or by letter. No employee shall attempt to discourage, interfere, or delay any individual from making a complaint. Reasonable efforts shall be made at all times to ensure the filing of any complaint is timely, courteous, and expedient.
- C. **Complaints Received In-Person or via Telephone:** Complaints received either in-person or via telephone shall be immediately referred to an on-duty supervisor. If requested, supervisors should respond to the complainant's location if they are located in Fairfax County absent unusual circumstances.
1. **Acknowledgement of Complaint:** Employees receiving complaints shall acknowledge the complaint and offer the complainant a [Community Member Complaint Form](#) (PD 28) and if necessary, assist the complainant with completing the form. Where a PD 28 is not readily accessible, the employee shall immediately refer the complaint to the attention of an on-duty supervisor.
 2. **Supervisor Unavailable:** Where an on-duty supervisor is unavailable and the complainant cannot wait, contact information shall be requested from the complainant and the name of the on-duty supervisor shall be provided to them for follow-up. Supervisors shall contact the complainant in a timely manner once they are available and make command notifications as required.
 3. **Acceptance of Complaints:** Complaints shall be accepted at any police facility and by any supervisor regardless of the involved employee's current assignment. Receiving supervisors shall obtain preliminary facts, any proffered evidence, and contact information of the complainant, and forward all information to the involved employee's direct supervisor.

4. **Prohibitions:** Complainants **shall not** be required to:
 - a. Appear in person.
 - b. Go to another station or police facility.
 - c. Return at another time.
 - d. Complete the [Community Member Complaint Form](#) (PD 28).
 - e. Swear under oath to the truthfulness of their complaint.
 - f. Agree to certain investigative techniques, such as a polygraph.
 - g. Acknowledge that making a false complaint may constitute a crime.
 5. **Incapacitated Complainants:** Where a complainant appears to be intoxicated, under the influence of drugs, or suffering a mental health crisis, the complaint shall be accepted and documented. The determination of whether to proceed further shall be assessed by the investigating supervisor based upon the nature of the complaint and totality of the circumstances. Later attempts to re-interview the complainant shall be made whenever necessary to further the investigation.
 6. **Contact Information:** Complainants shall be provided with contact information of the appropriate supervisor.
- D. **Complaints Received in Writing or Electronically:** All complaints received by mail, in writing, or electronically shall be forwarded to the appropriate investigative authority. Where the investigative authority cannot be determined based upon the nature of the allegation(s), the complaint shall be forwarded to the IAB for review and assignment.
1. **Acknowledgement:** Station/Division commanders or their designee shall ensure that acknowledgement is made to the complainant in a timely manner to confirm their complaint has been received, which Department entity will be conducting the investigation, and confirm that an investigating supervisor will contact them in a timely manner. Any communication(s) with a complainant shall be documented and included with the investigative file.
- E. **Mandatory IAB Notifications:** The on-duty or on-call IAB Commander shall be **immediately** notified of any incident or complaint involving:
1. Death or serious injury arising from any police action.
 2. Any use of force incident necessitating IAB notification as required in [FCPD General Order 540](#), Use of Force.

3. Use of the Precision Immobilization Technique (PIT) within Fairfax County that involves death or serious injury, **or** use of PIT outside the boundaries of Fairfax County.
4. Criminal arrest of any Department employee, along with the Major Crimes Bureau Commander.
5. Acts of serious misconduct as defined in this General Order or acts necessitating immediate relief of duty.

Note: Receiving supervisors shall confer with and seek direction from the appropriate station or division commander (or acting Duty Officer) in determining the severity of injuries and/or level of misconduct.

VI. WITHDRAWAL OF THE COMPLAINT

- A. **Withdrawal Requests or Refusals to Cooperate:** Where any complainant requests to withdraw their complaint or refuses to cooperate, the request or refusal shall be documented in the investigative file. The investigating supervisor shall continue with the investigation until all evidence is obtained and the case can be properly concluded. Complainants shall neither be forced to participate nor informed their case will not be investigated absent their cooperation.

VII. INITIAL REVIEW OF THE COMPLAINT

- A. **Preliminary Supervisor Review of the Complaint:** The receiving or assigned supervisor to an initial complaint shall conduct a preliminary review of the complaint to establish the nature of the allegation(s) made.
- B. **Commander Review of the Complaint:** Reviewing commanders shall determine the appropriate course of action based upon the complaint as follows:
 1. **Administrative Investigations:** Where the review determines that a specific allegation exists which, if true, would involve employee misconduct or involve conduct or actions that require investigation, an administrative investigation shall be initiated.
 2. **Administrative Inquiries:** Where the complaint involves an allegation of misconduct but the involved employee cannot be positively identified, or where there is no allegation of wrongdoing nor any determined violation of law or Department policy, an administrative inquiry shall be conducted.

3. **Exonerated by Technology:** Where an initial review reveals that an allegation can be quickly dispelled by available technology, to include Body-Worn Camera (BWC), In-Car Video (ICV), or other available audio/visual recording(s), an administrative investigation shall be conducted, and the detailed complaint and findings of the review shall be documented in the current IAB Records Management System (RMS). Investigating supervisors should refer to the [Supervisor's Handbook for the Conduct of Administrative Investigations](#) for details on the investigative process for these allegations.
 4. **Dissatisfaction of Service:** Where a complaint does not constitute an allegation of misconduct by an employee, but rather an expression of dissatisfaction with a FCPD policy, procedure, practice, philosophy, service level, or legal standard, it shall be handled as a dissatisfaction of service.
 5. **Traffic Summons or Parking Ticket Disputes:** Where the initial review determines that a complaint is neither an allegation of misconduct nor an expression of dissatisfaction of service, but rather constitutes a disagreement over the validity of a traffic summons or parking ticket, the complainant shall be advised that the matter shall be adjudicated by the appropriate court system. These complaints require no further action or documentation.
- C. Where any uncertainty exists as to proper categorization of a particular complaint, reviewing supervisors shall seek guidance from their station/division commander, or where the commander is unavailable, the acting Duty Officer.
- D. Upon assessment, any supervisor who determines that a complaint merits either an administrative investigation, inquiry, or dissatisfaction of service shall promptly notify their immediate commander. The notified commander shall be responsible for assigning or properly forwarding the investigation of the complaint to the appropriate investigative authority.
- E. **Acts of Harassment, Discrimination, or Retaliation:** Any supervisor or commander who learns that an alleged act of harassment, discrimination, or retaliation has purportedly been committed by any Department employee, or has personally observed the act taking place, shall route the complaint directly through the chain of command to the IAB. The IAB shall then coordinate investigative efforts with OHREP accordingly.

VIII. INVESTIGATIVE RESPONSIBILITIES

A. **IAB Investigations**: The IAB shall be responsible for review and management of the acceptance, investigatory, and adjudication processes for all complaints of police performance and conduct. The IAB Commander reports directly to the Chief of Police, and shall be primarily responsible for the following administrative investigations:

1. Allegations of untruthfulness, as outlined in [FCPD General Order 001](#) (Truthfulness).
2. Certain criminal offenses per the [Code of Virginia](#).
3. Use of Force as specified in [FCPD General Order 540](#) (Use of Force).
4. Allegations of criminal misconduct by employees.
5. Use of the Precision Immobilization Technique (PIT) within Fairfax County that involves death or serious injury **or** any use of PIT that occurs outside the boundaries of Fairfax County.
6. Allegations of racial profiling, bias-based policing, or unlawful discrimination.
7. Alleged harassment, discrimination, and/or retaliation. Allegations of this nature shall be referred to OHREP for concurrent investigation, and a separate IAB investigation shall be conducted to determine whether any Department regulations were violated, regardless of OHREP's findings.
8. Alleged sexual misconduct of employees.
9. Allegations of misconduct by supervisors or other complaints/incidents as approved by IAB Commanders. Supervisor investigations of a more routine nature, such as missed assignments, damage to County property, or dissatisfaction of service shall be investigated at the station/division level as directed by the appropriate commander.
10. Allegations of corruption.
11. Complex and time-consuming investigations.
12. On-duty incidents involving employees of the Department that may result in the filing of civil action.

13. Allegations of workplace violence.
 14. Any other complaint or incident as directed by the Chief of Police or the IAB Commander.
- B. **Division, Bureau, and Station Investigations:** Affected division, bureau, and station commanders shall be responsible for investigations of the following complaints unless otherwise directed by the Chief of Police or IAB Commander:
1. Complaints that involve allegations of minor infractions of regulations and/or the manner in which an employee performs their respective duties.
 2. Complaints regarding differences of opinion between an employee and community member that arises from the performance of duty.
 3. Complaints concerning the manner in which an employee investigated a crime, accident, or other call for service.
 4. Complaints concerning an officer's authority to arrest or the appropriateness of a particular criminal charge.
 5. Complaints pertaining to dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the Department.
 6. Traffic camera violations by Department operators of county-owned or leased vehicles (e.g., traffic, speed, or red-light camera violations).
- C. **Other Complaints:** All other complaints not listed above shall be investigated by the IAB, unless extenuating circumstances exist, under which the division, bureau, or station commander in consultation with the IAB Commander shall determine the most appropriate investigating authority. If necessary, a final determination of the investigating authority shall rest with the Chief of Police.
- D. **Other Criminal Complaints:** Investigations of alleged acts of employee criminal violence or misconduct occurring within the boundaries of Fairfax County, the Towns of Vienna and/or Herndon, and all County-owned properties located outside the territorial limits of Fairfax County shall be investigated in accordance with FCPD General Order 303, Criminal Investigations of Department Employees.

IX. DISSATISFACTION OF SERVICE

- A. Complainants shall be permitted to voice their dissatisfaction with the Department and be provided with a complete and objective explanation or response to their complaint. Commanders should use the provided information to assist in ascertaining the overall level of community satisfaction within their command or identify a need to review and/or amend current FCPD policies, practices, and procedures. Where an allegation of misconduct is alleged, regardless of perceived veracity, an administrative investigation shall be conducted in a timely manner.
- B. **Review of Dissatisfaction of Service:** Assigned supervisors shall record all relevant information pertaining to the complaint and, whenever possible, provide an explanation to remediate the complaint. The complaint and any action taken shall be documented in the current IAB RMS and forwarded through the supervisor's chain of command. Copies of dissatisfaction of service complaints and relevant attachments shall be forwarded by affected commanders to the IAB.
1. **Commander Review:** Affected commanders shall review dissatisfaction complaints and determine whether any actions are required to be taken. Whenever possible, commanders shall attempt to resolve or clarify complaints, and document their actions in the review and action section of the current IAB RMS. Commanders shall also ensure that the complainant was properly contacted, and the complaint was properly addressed. A letter from the Chief of Police or IAB Commander with the findings and conclusions of the investigation shall be attached to the investigative file and sent to the complaining party once the investigation has been concluded.

X. ADMINISTRATIVE INQUIRY

- A. Administrative inquiries shall be initiated whenever review of an employee's action(s) is warranted, even though there may be no allegation of wrongdoing nor any determined violation of law or Department policy. Under these circumstances, employee action(s) may necessitate further investigation to document all relevant facts and circumstances surrounding an event. All completed inquiries shall be forwarded to IAB through the chain of command.
1. **Commander Responsibilities:** Affected bureau, division, or station commanders shall be responsible for directing any administrative inquiry concerning an employee within their command, unless the inquiry has been referred to the IAB or MCB. Affected commanders shall ensure a

complete and expeditious investigation is conducted for all inquiries directed to their attention. Station/Division-level inquiries should be completed within thirty (30) days of receipt, unless circumstances emerge that require additional time to ensure a thorough inquiry is conducted.

2. **Employee Procedures:** Any employee questioned during an administrative inquiry shall be advised of the nature of the inquiry and informed that the inquiry is not tantamount to an administrative investigation into the matter. Employees shall be advised that they are being questioned by competent authority and are expected to provide complete and truthful answers to any question(s) related to the performance of their official duties or fitness to hold public office.
3. **Documentation:** Administrative inquiries are documented in the current IAB RMS and shall include a narrative of the findings. The concluding statement of the narrative shall indicate that the investigation is being documented as an administrative inquiry only, and that there are no allegations of misconduct or violations of law or Department policy.
4. **Unknown Employees:** Administrative inquiries may be used to document allegations of misconduct where the identity of an employee is unknown. (Ex: complaint that an officer was speeding through a parking lot but there is no record of any employee being in that specific location at that time). The purpose of the inquiry in these instances shall be to document the facts and circumstances of the incident to establish a record of the complaint in the event the employee's identity is later established. Where the employee is subsequently identified, an administrative investigation shall be initiated.
5. **Substantiated Allegations of Misconduct:** If, during the course of an administrative inquiry, information is developed to substantiate an allegation of misconduct against any employee(s), investigating supervisors shall immediately serve the employee with an Advanced Notice of Administrative Investigation prior to resuming any further questioning. The employee shall be advised at that time that the scope of the investigation has progressed from an administrative inquiry into an administrative investigation.
6. **Re-Opening of Administrative Inquiries:** With the approval of the IAB Commander, a completed administrative inquiry may be re-opened at any time and re-classified as an administrative investigation in the event additional information is received that substantiates an allegation of

misconduct. Inquiries re-classified under these circumstances shall be investigated as allegations of misconduct.

XI. ADMINISTRATIVE INVESTIGATIONS

- A. An administrative investigation shall be conducted whenever the Department is made aware of any allegation against an employee that, if proven true, would constitute an act of misconduct or violation of law or Department policy. Assigned supervisors shall ensure that investigations set forth detailed and complete examinations of any aspect of an allegation made against an employee. Procedures for completing administrative investigations can be found in the [Supervisor's Handbook for the Conduct of Administrative Investigations](#).
- B. **Exonerated By Technology:** Where an allegation can be quickly disproven by a review of available technology such as BWC, ICV, or other audio/visual recording, the complaint shall be documented in the current IAB RMS utilizing the current [Supervisor's Handbook for the Conduct of Administrative Investigations](#).
- C. **Commander Responsibilities:** Affected commanders shall be responsible for directing any investigation concerning an employee within their command unless the case has been referred to the IAB or MCB. Commanders shall ensure all investigations directed to their attention are performed in a complete and expeditious manner. Assistance may be requested and shall be provided from other Department entities as necessary. Investigations conducted at the station or division level should be completed within sixty (60) days of receipt unless additional time is required to ensure a thorough inquiry is conducted.
- D. **Employees From Different Commands:** Where an investigation involves multiple employees from different commands, the affected commanders shall consult with their bureau commander and the IAB Commander as necessary to determine the proper investigating supervisor.
- E. **Sworn Employee Notices of Administrative Investigation:** The [Virginia Law Enforcement Officer's Procedural Guarantees Act](#) requires that any officer questioned in connection with an administrative investigation that may result in the imposition of dismissal, demotion, or suspension be notified of the name and rank of the investigating officer, the identity of other individuals present during any questioning, and nature of the investigation. Accordingly, an initialed copy of the [Sworn Employee Notice of Administrative Investigation](#) shall be provided to any sworn employee who is interviewed in connection

with an administrative investigation and another copy shall be retained in the investigative file.

F. **Non-Sworn Employee Notices of Administrative Investigation:** Where any non-sworn employee is interviewed as part of an ongoing administrative investigation, the [Non-Sworn Employee Notice of Administrative Investigation](#) shall be used by supervisors or commanders to notify those employees of the name and rank of the investigating officer(s), the identity of any individual(s) present during questioning, and the nature of the investigation. An initialed copy of the form shall be provided to any non-sworn employee who is interviewed in connection with an administrative investigation and another copy shall be retained in the investigative file.

G. **Confidentiality Orders:** Where it become necessary in the discretion of the investigating authority to prohibit employees from discussing an ongoing investigation in order to safeguard confidentiality, an [Order of Confidentiality](#) memorandum shall be delivered to any involved (sworn and non-sworn) employee. An initialed copy of the form shall be provided to any non-sworn employee who is interviewed in connection with an administrative investigation and another copy shall be retained in the investigative file.

Confidentiality orders shall be considered rescinded once final discipline has been issued, unless stated otherwise. If the employee has been exonerated or there is no discipline issued, the employee shall be notified as soon as practicable when the investigation has been completed, at which time the confidentiality order shall be considered rescinded.

H. **Mandatory Notifications to the Chief of Police:** The Chief of Police shall be notified via the proper chain of command of any information developed during the course of an investigation that necessitates either the (1) reassignment of an employee to other duties for the purpose of closer supervision or separation from the public or other employees, or (2) the relief of an employee from duty and/or placing that employee on administrative leave or administrative restricted duty.

I. **Compelled Statements:** Compelled or written statements may be required from any employee during the course of an administrative investigation. These statements constitute compelled testimony and are not admissible in any criminal proceeding except as otherwise provided by law. When a bargaining unit employee is the subject of concurrent criminal and IAB administrative investigations, the employee shall not be compelled to make a statement in the IAB administrative investigation until the criminal investigation has been reviewed by the Office of the Commonwealth's

Attorney and a determination has been made not to prosecute or any prosecution has been concluded, unless the employee requests, in writing, to proceed with making a statement for the administrative investigation. Only the IAB or the Chief of Police shall have the power to compel statements by bargaining unit employees. Fairfax County will, at a minimum, afford employees all protections required by law, such as but not limited to, the rights established in the United States Supreme Court's decision in [Garrity v. New Jersey 385 U.S. 493 \(1967\)](#) and its progeny.

Written or recorded statements may also be taken from witnesses and complainants to preserve or document facts, observations, opinions, or other information pertaining to the incident under investigation, and do not need to be in the form of questions and answers but may instead be in the form of a memorandum or narrative report. All written and/or recorded statements shall be retained with the investigation file.

- J. **No Response Letters:** Where the investigating supervisor receives no response from a complainant by telephone, electronic mail, or in-person, the complainant shall be sent, via U.S. Mail or electronically to a confirmed e-mail address, a "No Response" letter. After thirty (30) days, if there is still no response from the complainant, the investigation shall proceed without their input.

XII. EMPLOYEE RESPONSIBILITIES

- A. **Commander and Supervisors:** Commanders and supervisors shall promptly initiate investigations into observed infractions or complaints falling within the scope of the administrative authority.
- B. **Employee Cooperation:** All Department employees shall fully cooperate with any competent authority who conducts any administrative investigation, inquiry, dissatisfaction of service, initial review, or disciplinary hearing as necessary. Employees shall fully and truthfully answer any question pertaining to an infraction of law or regulation asked by the investigating authority. In accordance with [FCPD General Order 001](#) (Truthfulness), employees shall not knowingly mislead or omit information pertaining any question posed by the investigating authority. Employees may not refuse to answer any question concerning their performance of duty or adherence to Department rules and regulations; however, their statements may not be used against them during criminal prosecutions except as provided by law.

- C. **Disclosure of Financial Information:** Officers shall only be required to disclose financial information when necessary, during the course of an administrative investigation in accordance with the [Code of Virginia](#).
- D. **Compelled Medical Examinations:** Where an 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 the appropriate test as approved by the Chief of Police or the IAB Commander.
- E. **Polygraph Examinations:** Polygraph examinations may be used to confirm or disprove any 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 results shall not serve as the sole basis for a disciplinary determination or to establish the elements of an allegation. The analysis of any required polygraph examination shall not be admissible in any disciplinary proceeding under [FCPD General Order 310](#) (Discipline and Appeals), or [FCPD General Order 311](#) (Grievances).
- F. **Employee Access to Representation:** The Fairfax Chapter of the Southern States Police Benevolent Association (SSPBA) has been duly elected as the exclusive bargaining agent for the sworn employees of the FCPD. Employees who fall within the bargaining unit shall be allowed reasonable official time to visit (1) a supervisor, (2) SSPBA representative or steward at their assigned duty location, or (3) on-site official concerning any complaint or associated work-related issue. The timing of such visits shall be subject to the demands of the employee's work responsibilities, shall not interfere with the ongoing operations of the FCPD, but the right to ultimately be allowed such visits shall not be denied. SSPBA Representatives/Stewards are permitted to leave their work assignment with supervisor approval whenever an employee requests assistance in the prompt and expeditious handling of a complaint, grievance, or formal discussion between one or more representatives of the County and one or more Employees (or their representatives), and all efforts shall be made to provide representative work in a manner that has minimal impact on the SSPBA Representative/Steward and employee's work responsibilities. Where representation cannot occur at a particular time due to calls for service or other work demands, the supervisor shall permit the representation to occur at the next available reasonable time. The ultimate right to an SSPBA Representative/Steward shall not be denied.

1. **Confidentiality Orders:** Employees who are under confidentiality orders pursuant to an ongoing administrative investigation may discuss the matter with SSPBA Representative/Stewards and have the obligation to inform the Representative/Steward of the existence of the confidentiality order. The SSPBA Representative/Steward shall treat the matter as confidential and is only permitted to discuss the matter with the employee and/or legal counsel. Employees are not precluded from discussing the matter with their own legal counsel, however, they do not have the right to have an attorney present during administrative interviews. Where a SSPBA Representative/Steward is present during any Department discussion or interview in which an employee is under a confidentiality order, the SSPBA Representative/Steward shall also be required to sign an order of confidentiality at the request of the Department. Confidentiality orders or memoranda shall include the designated SSPBA Representative/Steward as a permitted exception to the confidentiality requirement along with any other current and appropriate exceptions.
2. **Interviewee Protections and Representation:** Employees who are members of the bargaining unit and are the subject of the investigation have a right to representation by the SSPBA in any administrative investigation. Prior to commencing the first formal discussion of any Administrative Investigation, the employee shall be provided with the [Notice of Right to Union Representation Form](#). For police-affiliated critical incidents as defined by [FCPD SOP 12-045 \(Investigation of Police-Affiliated Critical Incidents\)](#), involved employees shall be afforded representation unless or until they have expressly disclaimed representation.
3. **Interview Procedures:** An assigned SSPBA Steward shall be permitted to be present for any interview conducted by the IAB if requested by the employee and given access to review any evidence or exhibits provided to the interviewee. IAB interviews shall be audio recorded or audio/video recorded. The interviewee shall be entitled to receive a copy of their own interview transcript upon written request, and is permitted to share the transcript with an assigned SSPBA Representative/Steward and/or their attorney as applicable. FCPD employees are not entitled to have legal counsel present during any administrative interview.
 - a. The interviewee and their SSPBA Representative/Steward shall be allowed to meet privately before an interview. Additionally, the interviewee and the SSPBA Representative/Steward may request to take reasonable breaks during the interview to speak privately, unless there is a pending question. If a question is pending, the interviewee

shall respond to the question first, after which the SSPBA Representative/Steward and interviewee may take a break. These private meetings shall not be recorded or observed by any other FCPD employee or Fairfax County representative. The interviewer shall not require the interviewee to disclose what was discussed during the break, however, if the interviewee changes a previous answer, the interviewer may ask why the interviewee changed their answer.

- b. SSPBA Representatives/Stewards shall not be allowed to answer questions for their employee or direct the employee not to answer any question unless the questioning is in violation of law, the [Collective Bargaining Agreement](#) in effect at the time, or Fairfax County policies. SSPBA Representatives/Stewards may ask the interviewer to clarify a question that is being asked. Neither employees nor SSPBA Representatives/Stewards shall be permitted to take written or digital notes.

XIII. CLASSIFICATION OF ALLEGATIONS

- A. At the completion of an administrative investigation, each allegation shall be classified with one of the following findings based upon a preponderance of the evidence:
 1. **Unfounded** – The allegation is false and did not occur.
 2. **Unfounded by Technology** – The allegation and/or incident has been captured by technology and a review of the technology has established that the allegation is false and did not occur.
 3. **Exonerated** – The employee's actions were found to be in compliance with the rules and regulations of the Department.
 4. **Exonerated by Technology** – The allegation and/or incident has been captured by technology and a review of the technology has proven the actions of the employee were in compliance with Department rules and regulations.
 5. **Not Sustained** – Insufficient evidence exists to either prove or disprove the allegation.
 6. **Sustained** – The allegation is supported by evidence. Where any finding is sustained, disciplinary action shall be imposed in accordance with FCPD General Order 310, Discipline and Appeals.

XIV. DOCUMENTATION OF ADMINISTRATIVE INVESTIGATIONS

- A. Documenting commanders and supervisors may utilize the [Supervisor's Handbook for the Conduct of Administrative Investigations](#) for guidance as necessary. The findings of an administrative investigation shall be documented in the current IAB RMS and include the following:
1. **Narrative:** A detailed narrative with all investigative steps taken during the investigation, including but not limited to; all interviews conducted or attempts to interview witnesses and involved employees, the content of those interviews, and any appropriate supporting documentation.
 2. **Classification of Allegations:** Proper classification of the allegation(s). For sustained allegations, a statement of (1) the violated regulation and (2) the nature of the violation shall be included.

XV. REVIEW OF ADMINISTRATIVE INVESTIGATIONS

- A. Completed administrative investigations shall be submitted for final review to the investigating authority's commander unless otherwise directed. The reviewing commander shall examine the completed administrative investigation and determine if it presents a full and complete examination of all facts and circumstances relevant to the incident. Where it is determined by the reviewing commander that further investigation is warranted, the case shall be returned to the original investigating authority with specific direction as to the required action(s). Where the reviewing authority is satisfied that the administrative investigation is thorough, accurate, and complete, the commander shall include an affirmative statement of review and approval in the current IAB RMS.

XVI. DETERMINATION OF RESULTS AND ACTIONS

- A. After case review and approval, the investigation shall be assigned to a specific command authority for a determination of results and actions.
1. Administrative investigations conducted at the station or division level shall be assigned to the employee's immediate commander. In the event that a bureau commander was the investigating authority or was an involved party to the case, an Assistant Chief of Police shall make the assignment.
 2. Administrative investigations conducted by the IAB shall be assigned to the IAB Compliance Commander.

3. Any commander shall disclose any potential conflicts that may prevent them from serving as the reviewing authority for a specific case so the reviewing authority may be determined by the Chief of Police or their designee.
4. The assigned commander shall complete their review, to include hearings and actions taken, within thirty (30) business days upon receipt of the completed administrative investigation file. The affected bureau commander may authorize an extension of the review and action period where special circumstances exist.
5. The assigned commander shall determine a proper classification for each allegation. Whenever a violation is sustained, the assigned commander shall recommend or take appropriate disciplinary action in accordance with [FCPD General Order 310](#), Discipline and Appeals.
6. The review and appeal of all administrative investigations shall be conducted in accordance with [FCPD General Order 310](#), Discipline and Appeals, and [FCPD General Order 311](#), Grievances.
7. Upon completion of the action/appeals process, the completed report shall be forwarded to the attention of the IAB Commander for recording and filing. The IAB Commander shall be responsible for forwarding copies of any disciplinary actions to the Department's Personnel Resources Division and the Fairfax County Department of Human Resources for inclusion in the employee's personnel file.
8. All complainants shall be notified of the results of the administrative investigation associated with their complaint via a letter from either the Chief of Police or the IAB Commander.

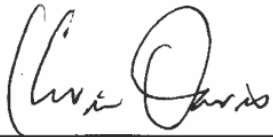
XVII. LEGAL REFERENCES

- A. [Va. Code Ann. § 9.1-500](#): Definitions.
- B. [Va. Code Ann. § 9.1-501](#): Conduct of investigation.
- C. [Va. Code Ann. § 9.1-502](#): Notice of charges; response; election to proceed under grievance procedure of local governing body.
- D. [Va. Code Ann. § 9.1-503](#): Personal assets of officers.
- E. [Va. Code Ann. § 9.1-504](#): Hearing; hearing panel recommendations.

- F. [Va. Code Ann. § 9.1-505](#): Immediate suspension.
- G. [Va. Code Ann. § 9.1-506](#): Informal counseling not prohibited.
- H. [Va. Code Ann. § 9.1-507](#): Chapter accords minimum rights.
- I. [Va. Code Ann. § 9.1-600](#): Civilian protection in cases of police misconduct; minimum standards.
- J. [Va. Code Ann. § 16.1-228](#): Definitions.
- K. [Va. Code Ann. § 15.2-1707](#): Decertification of law-enforcement officers.
- L. [Va. Code Ann. § 18.2-57.2](#): Assault and battery against a family or household member.
- M. [Garrity vs New Jersey, 385 U.S. 493 \(1967\)](#)
- N. [Giglio vs. United States, 405 U.S. 150 \(1972\)](#)

General Order 301 becomes effective on the above date and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:



Chief of Police

APPROVED BY:



County Executive