


FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: CRIMINAL INVESTIGATIONS OF DEPARTMENT EMPLOYEES		NUMBER: 303
	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 VLEPSC ADM.18.04		

I. PURPOSE

The purpose of this General Order is to establish guidelines and procedures to be followed whenever it becomes necessary to conduct a criminal investigation into the actions or conduct of a Department employee.

II. POLICY

For all criminal cases occurring in Fairfax County that involve a Fairfax County Police Department (FCPD) employee where an immediate arrest of the employee is required pursuant to the Code of Virginia, a first-line supervisor shall promptly effect the arrest and notify the Duty Officer. Where an immediate arrest is not required, the Major Crimes Bureau (MCB) Commander shall designate a MCB supervisor to investigate the criminal allegations. A concurrent Internal Affairs Bureau (IAB) administrative investigation shall also be initiated for all incidents that involve the arrest or potential arrest of a Department employee.

III. GENERAL PROCEDURES

- A. **Immediate Arrests:** Where circumstances necessitate the immediate arrest of a Department employee to ensure public safety, such arrest shall not be delayed for the purpose of making supervisory or command notifications. First-line supervisors shall conduct the arrest in accordance with [FCPD General Order 601](#), Arrest Procedures, and make all required notifications as soon as the situation is stabilized.
- B. **Non-Mandatory Arrest Incidents:** For incidents where no on-scene arrest is required or conducted, a designated MCB supervisor will be assigned by the MCB Commander to investigate suspected criminal violations involving Department employees, unless otherwise directed by the Chief of Police or as delineated in this General Order. This shall include incidents within the boundaries of Fairfax County, the Towns of Vienna and Herndon, and on all County-owned properties located outside the territorial limits of the County.

- C. **Miranda Warnings:** Prior to interviewing any Department employee, the supervisor shall advise the accused employee that the investigation is criminal in nature, and that the employee is not compelled to answer any questions. [Miranda](#) warnings shall be provided whenever appropriate under the circumstances.
- D. **Concurrent Administrative Investigations:** In circumstances where an employee is arrested, or is investigated for a criminal offense by an entity not within the jurisdiction of Fairfax County, the Town of Herndon, or the Town of Vienna, an administrative investigation will be conducted in accordance with [FCPD General Order 301](#) (Internal Investigations). All requests for Department records and documents from an external agency investigating a Department employee shall be facilitated by MCB.
- E. **Domestic Violence and Protective Order Cases:** For incidents of suspected domestic violence, or violation of an active protective order committed by a Department employee within the boundaries of Fairfax County, the Towns of Vienna and Herndon, and on all County-owned properties located outside the territorial limits of the County, a patrol supervisor shall notify the active Duty Officer of the event, respond to the scene, and conduct a criminal investigation as follows:
1. **Arrests:** Where probable cause is developed to indicate that the accused employee is the predominant physical aggressor and a custodial arrest is required, the patrol supervisor shall make the arrest on the scene in accordance with the [Code of Virginia](#). The on-call MCB commander shall be notified and may be requested to provide investigative support.
 2. **Domestic Violence Detective Assistance:** The investigating MCB supervisor shall utilize the assistance of a Domestic Violence Detective for the criminal investigation of domestic violence incidents whenever:
 - a. The suspected employee has fled the scene and their whereabouts are unknown; or
 - b. A felony has been committed; or
 - c. The victim has been transported to a medical facility for immediate medical treatment.
- F. **Investigating Authority:** For active criminal investigations in which an FCPD employee is later determined to be a suspect, the original detective/officer will notify the MCB Commander through their direct supervisor. In such cases, the MCB commander will confer with the investigating detective/officer's commander to determine investigative responsibilities.

G. **Non-Mandatory Arrest Procedures:** In cases in which an immediate arrest is not made, the following guidelines shall be adhered to:

1. **Assignment:** The criminal investigation shall be assigned to a MCB supervisor by the MCB Commander based upon the nature of the offense and expertise required to investigate the alleged crime.
2. **Where No Probable Cause Exists:** Where it is determined that no probable cause exists to believe that a crime was committed, the criminal investigation can be concluded with the approval of the MCB Commander, who shall promptly notify the IAB Commander of their determination. The IAB shall retain primary responsibility over the administrative investigation.
3. **Allegations of Criminal Misconduct:** Allegations of criminal misconduct made against any Department employee shall be assigned to a MCB Investigator at the discretion of the Chief of Police or their designee. Department employees who are the subject of a criminal investigation may be questioned by the assigned investigating authority responsible for the criminal investigation. Such employees shall be informed that the questioning is not being undertaken pursuant to an administrative investigation and that they are not being compelled to respond under any administrative authority. The investigating authority shall provide the employee with a Notice of Criminal Investigation.
4. **Administrative Investigations:** The criminal investigation of any Department employee requires a concurrent IAB administrative investigation to be conducted. 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 for criminal investigations. Fairfax County will, at a minimum, afford employees all protections required by law, such as but not limited to, the rights recognized in the United States Supreme Court's decision in [*Garrity v. New Jersey* 385 U.S. 493 \(1967\)](#) and its progeny.
5. **Presentation to the Commonwealth Attorney:** Upon concluding the criminal investigation, the investigating MCB supervisor shall present the findings of the criminal investigation to the Office of the Commonwealth's Attorney for prosecutorial determination. This briefing shall also be attended by a division commander from the MCB.

- H. **Police-Affiliated Critical Incidents:** Police Affiliated Critical Incidents (PACI) which necessitate a criminal investigation shall be reported and investigated by MCB pursuant to [FCPD General Order 540](#) (Use of Force), and [FCPD SOP 12-045](#) Investigation of Deadly Force Deployment and Police Affiliated Critical Incidents.
- I. **Seeking of Warrants by a Community Member:** If it becomes known that a community member is seeking the issuance of a criminal warrant against a Department employee, the MCB and IAB commanders and acting Duty Officer shall be notified immediately. An IAB commander or Duty Officer will attempt to consult with the complainant and should request a delay so that a proper criminal investigation may be conducted.
1. If the complainant refuses to delay seeking the warrant, an IAB commander or Duty Officer will ask the magistrate/issuing authority or the Office of the Commonwealth's Attorney for a delay to permit a criminal investigation.
 2. If a warrant has already been issued, the Central Records Division staff or other employee having knowledge of the warrant shall notify the IAB commander or Duty Officer if after regular business hours. The Duty Officer shall notify the MCB/IAB commanders prior to serving the warrant.
- J. **Confidentiality:** MCB and IAB commanders shall be notified as soon as reasonably possible in all criminal matters, regardless of jurisdiction, involving any Department employee. Active criminal investigations shall be kept confidential by investigating employees at all times, and only disseminated to competent authority within the Department absent the express consent of the Chief of Police or their designee.

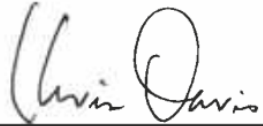
IV. LEGAL REFERENCE

- A. [Va. Code Ann. § 9.1-1300](#): Domestic violence policies and procedures for law-enforcement agencies in the Commonwealth.
- B. [Va. Code Ann. § 16.1-253.2](#): Violation of provisions of protective orders; penalty.
- C. [Va. Code Ann. § 18.2-57.2](#): Assault and battery against a family or household member; penalty.
- D. [Va. Code Ann. § 19.2-81.3](#): Arrest without a warrant authorized in cases of assault and battery against family or household member and stalking and for violations of protective orders; procedure, etc.
- E. [Garrity vs New Jersey, 385 U.S. 493 \(1967\)](#)

F. [Giglio vs. United States, 405 U.S. 150 \(1972\)](#)

General Order 303 becomes effective on the above date and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

Handwritten signature of Kevin Davis in blue ink.

Chief of Police

APPROVED BY:

Handwritten signature of the County Executive in blue ink.

County Executive