

**GENERAL ORDER**  
FAIRFAX COUNTY POLICE DEPARTMENT



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SUBJECT: INTERNAL INVESTIGATIONS	NUMBER: 301
CANCELS ORDER DATED: 7-1-12	DATE: 3-20-15

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I. PURPOSE

The purpose of this order is to establish procedures to be followed when it is necessary to investigate the actions or conduct of any employee of the Police Department. These procedures will ensure the complete examination of all facts and circumstances relevant to the incident being investigated, and will safeguard the rights of employees who are the subject of such investigations.

II. POLICY

Any alleged or suspected acts of employee misconduct, notice of a civil claim filed against the Department or against a member as a result of actions taken in his official capacity, violations of Department rules or regulations, and expressions of dissatisfaction with policy, procedure or practice shall be aggressively, impartially, and thoroughly investigated and documented by the appropriate entity. The disciplinary process shall be reasonable and fair. Law enforcement personnel and citizens shall be afforded all rights and protections provided to them by the Constitution, the Commonwealth, and the County. Integrity, honesty, and professionalism are expected of all Department employees. The Department, through all of our employees, strives to uphold the public trust.

III. DEFINITIONS

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 departmental policy or orders.

Complaint:

- An allegation of specific act(s) or omission(s) which, if proven true, would amount to employee misconduct.
- An expression of dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the agency.

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Day: The term "day," as used herein, shall mean calendar day, exclusive of Saturday, Sunday, and legal holidays as annually approved by the Fairfax County Board of Supervisors.

Domestic Violence: Any criminal offense involving the use or threatened use of physical force in which the parties involved appear to have a covered relationship, in accordance with the Code of Virginia or General Order 601.4, Domestic Violence Policy.

Expression of Dissatisfaction: Notification to the Department of a situation or incident where an individual feels he was unfairly impacted, or where he is displeased with a Department policy or action, and there is no allegation of misconduct.

Initial Inquiry: Investigation conducted into the actions of an employee, in which there is neither an allegation of wrongdoing nor any determined violation of law or Department policy. The purpose of the initial inquiry is to establish the facts and circumstances of an incident involving a Department employee for documentation only. The initial inquiry can also be used when an allegation of misconduct involves an unknown or unidentified employee. The initial inquiry is documented in a memorandum to the Chief of Police.

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. Initial reviews that do not lead to an administrative investigation are documented on an Initial Review Form (PD Form 206).

Misconduct: Act(s) or omission(s) by an employee which, if proven true, would normally result in some form of discipline or sanction. This would include:

- Commission of a criminal act.
- Neglect of duty.
- Violation of departmental policy, procedure, rule, or regulation.
- Conduct which may tend to reflect unfavorably on the employee or agency.

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Relief from Duty: An administrative action, whereby an employee's official authority is suspended and the employee is temporarily relieved from performing the duties of his position.

IV. ADMINISTRATIVE INVESTIGATION PROCEDURES

A. Types of Incidents to be Investigated

The incidents which are to be handled in accordance with the provisions of this order are alleged or suspected acts of employee misconduct, notice of a civil claim filed against the Department or against a member as a result of actions taken in his official capacity, violations of departmental rules and regulations, and expressions of dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the agency.

The incidents include:

1. Complaints from members of the general public concerning employee misconduct.
2. Alleged violations of departmental rules and regulations reported to supervisory or command personnel by members of the Department, or actions observed by supervisory or command officers which appear to be a violation of law or departmental regulation.
3. Incidents which do not constitute any reasonable suspicion of misconduct by an employee; however, the nature of the incident merits investigation for the purpose of documenting all relevant facts.
4. Notice or expression of dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the agency.

B. Source of Complaints

A complaint can come from both an internal or external source. A complaint is an indication of a potential problem or misunderstanding. The openness of the Department to the acceptance of a complaint is a principal element of

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police professionalism, accountability to the public, and community responsiveness.

A complaint can originate from any of the following sources:

- Individual aggrieved person
- Third party
- Anonymous
- Juvenile
- Governmental agency
- Media report
- Any member of the Department
- Notice of civil claim

C. Receipt of Complaint

A complaint may be presented to the Department in person, by telephone, electronically, or by letter. No employee shall attempt to discourage, interfere, or delay an individual from making a complaint. Every effort shall be made to facilitate the making of a complaint by ensuring that the process is convenient, courteous, and prompt.

D. Acceptance of the Complaint

1. Complaints Received In-Person/Via Telephone

- a. The complaint shall be immediately referred to the most available supervisor. When appropriate, a supervisor shall be dispatched to the location of the complainant.
- b. If a supervisor is not immediately available, the employee receiving the complaint shall provide the complainant with a

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Citizen Complaint Form (PD28) and, if necessary, provide assistance to complete the form. The employee receiving the complaint shall forward the complaint to a supervisor as soon as possible.

- c. Should a supervisor not be available and the complainant cannot wait for his availability, contact information shall be obtained from the citizen, who shall be provided the name of the on-duty supervisor and division commander. When this occurs, the supervisor and/or commander shall contact the complainant when available.
- d. A complaint shall be accepted at any police facility, or by any supervisor, regardless of assignment of the accused employee. The receiving supervisor shall obtain all practical information from the complainant and immediately forward the information to the appropriate investigative authority.
- e. Complainants **shall not** be required to:
  - Appear in person.
  - Go to another station or police facility.
  - Return at another time.
  - Prepare their own complaint form.
  - Swear under oath to the truthfulness of their complaint.
  - Agree to participate in certain investigative techniques, such as the polygraph, to have their complaint accepted.
  - Acknowledge that making a false complaint is a crime for which they may be prosecuted.
- f. When the complainant is intoxicated, or under the influence of drugs, the complaint shall be accepted and documented. The

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determination whether to proceed further should be based on the nature of the complaint and the believability of the complainant. The complainant should be re-interviewed as soon as practical after becoming sober.

- g. In all cases, the complainant shall be provided the name and telephone number of the assigned supervisor or commander.
- h. In all cases, a letter or electronic response shall be sent to the complainant acknowledging that their complaint has been received, which departmental entity will be investigating the complaint, and that a supervisor will be in contact with them.

2. Complaints Received In Writing/Electronically

- a. When the complaint is received by mail or electronically, the complaint will be forwarded to the appropriate investigative authority. If the authority is not known, the correspondence shall be forwarded to the Internal Affairs Bureau (IAB).
- b. In all cases, a letter or electronic response shall be sent to the complainant acknowledging that their complaint has been received, which departmental entity will be investigating the complaint, and that a supervisor will be in contact with them.

E. Withdrawal of Complaint

At various stages of the investigation, the complainant may indicate that he desires to withdraw his complaint. This request cannot be refused; however, it is the policy of the Department to continue the investigation as far as possible without the assistance of the complainant. This is done to ensure that all available information and evidence are obtained should the complaint be re-filed or becomes a civil action. The cooperation of the complainant is important and desired, but is not mandatory. Withdrawal of the complaint or the complainant's failure to cooperate with the investigating supervisor shall be documented in the administrative investigation report.

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F. Investigative Responsibility

IAB shall be responsible for oversight of the acceptance, investigation, and adjudication of all complaints of police performance and conduct. The IAB is directly responsible to the Chief of Police.

1. IAB shall be responsible for the following administrative investigations:

- Use of Force as specified in General Order 540.1.
- Allegations of criminal misconduct of an employee.
- Use of the Precision Immobilization Technique (PIT) that involves death or serious injury or that occurs in any jurisdiction outside the boundaries of Fairfax County.
- Allegations of racial profiling or unlawful discrimination.
- Sexual harassment.
- Sexual misconduct of employees.
- Perjury complaints.
- Allegations of misconduct by supervisors.
- Corruption.
- Complex and time-consuming investigations.
- Incidents involving employees of the Department which include the likelihood of civil action.
- Workplace violence.
- Domestic violence.
- Allegations of truthfulness, ethics, and Integrity as delineated in General Order 001.

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- Other complaints or incidents directed by the Chief of Police or IAB commander.
2. The division/bureau or station commander shall be responsible for the investigation of the following, unless otherwise assigned by the Chief of Police or IAB commander:
    - Complaints concerning minor infractions of regulations and/or the manner in which employee duties are performed.
    - Complaints relative to differences of opinion between an employee and a citizen arising from the performance of duty.
    - Complaints concerning the manner in which an employee investigated a crime, accident, or service complaint.
    - Complaints concerning an officer's authority to arrest or the propriety of a particular charge.
    - Complaints concerning the dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the agency.
  3. The IAB shall investigate complaints that are not listed within the above categories. However, when extenuating circumstances exist, the bureau commander and the IAB commander may consult to determine the most appropriate investigating authority. If necessary, final determination of the investigating authority shall be made by the Chief of Police.
  4. Investigations of criminal violations or allegations of criminal misconduct occurring within the boundaries of Fairfax County, the Towns of Vienna and Herndon, and all County-owned properties located outside the territorial limits of the County, shall be investigated in accordance with Section XI of this order.



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V. INVESTIGATIVE PROCEDURES

A. Complaint Review

1. Supervisors shall review all complaints received to determine the nature and extent of the complaint. Whenever possible, supervisors should review the complaint with the complainant.
2. The reviewing supervisor shall determine the nature of the complaint and the appropriate investigative entity. The IAB commander or Internal Affairs Investigations Division commander shall be notified of complaints that are designated for their investigation.

The IAB commander or Internal Affairs Investigations commander shall be **immediately** notified of incidents or complaints involving:

- Use of Force as specified in General Order 540.1.
- Death or serious injury arising from any police action.
- Use of the PIT that involves death or serious injury or that occurs in any jurisdiction outside the boundaries of Fairfax County.
- Criminal arrest of a Department employee.
- Allegations of serious misconduct to include allegations of criminal violations.
- Allegations of truthfulness, ethics, and Integrity as delineated in General Order 001.

The reviewing supervisor may seek direction from the appropriate station/division commander or the duty officer in determining the seriousness of injuries or misconduct.

3. If the complaint is received in person, or the supervisor is present at the scene of the complaint, the supervisor shall take action to ensure that all relevant information and evidence is obtained at that time. Relevant information/evidence would include, but not be limited to:

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- Complete contact information on complainants, witnesses, departmental employees involved or others that would assist in the investigation of the complaint or incident.
- Photographs of any alleged or actual injuries.
- Copies of any documents concerning the complaint or injury.
- Diagram of the scene.
- Collection or safeguarding of evidence present at the scene.
- Statement from complainant.
- Statements from witnesses.

All information obtained during this time shall be forwarded to the assigned investigative body as soon as possible.

4. An initial review is conducted to establish the elements of the complaint and to determine the appropriate investigative entity if warranted. For a complaint to be valid, the complaint must be:
  - An allegation of specific act(s) or omission(s) which, if proven true, would amount to employee misconduct.
  - An expression of dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the agency.

*Note: A disagreement over the validity of a traffic/vehicle code summons or parking ticket is not normally grounds for a complaint. The complaining person shall be advised that this is a matter for adjudication by the proper court system.*

5. In some cases, the initial review of the complaint will determine that the action(s) of the employee were in compliance with policy and that the complaint against the employee is one that, even if true, would not be a violation of law or Department policy. The complainant should

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immediately be advised of this and provided with an explanation. The complaint shall be documented and forwarded through the chain of command to the appropriate bureau commander for review. Should the bureau command review concur with the initial review, no further action will be taken.

Generally the initial review shall be documented on the Initial Review Form (PD 206). However, the documentation requirement may also be satisfied by completing the first page of the PD 206 and attaching a narrative format memorandum or copies of email correspondence indicating the resolution of the complaint.

6. If the initial review determines that a specific allegation exists which, if true, would involve employee misconduct or involve conduct or actions that necessitate investigation by this order, an administrative investigation will be initiated in accordance with this order.

In this situation, the use of the PD 206 as the Initial Review Form would not be appropriate. The decision to conduct an administrative investigation or to document the incident as an initial review on a PD 206 should be determined by the nature of the complaint and not the findings of the review. If the complaint involves an allegation of misconduct, regardless of whether the allegation is determined to be true or not, the use of the PD 206 would not be appropriate.

7. A copy of each review and all relevant attachments shall be forwarded by the appropriate bureau commander to the Internal Affairs Bureau.

**B. Dissatisfaction with Service Complaints**

At times the Department may receive complaints expressing dissatisfaction with a policy, procedure, practice, philosophy, service level, or legal standard of the agency. The complaints do not involve allegations of misconduct, but only dissatisfaction with the agency. If an allegation of misconduct is alleged, regardless of whether it is determined to be true or not, then an administrative investigation shall be conducted.

Citizens shall be permitted to voice their dissatisfaction with the agency and be provided an explanation or response to their complaint. Commanders shall use the information to assist in ascertaining the level of community

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satisfaction within their command, or identify a need to review policies or procedures.

Review Procedure

1. When a supervisor receives a dissatisfaction with service complaint, he shall record all relevant information concerning the complaint. If an explanation is available that would address the complaint, the supervisor shall provide the information to the complainant.
2. The complaint, and any action taken, shall be documented and forwarded to the appropriate bureau commander via the supervisor's chain of command.

Generally, the complaint shall be documented on the PD 206. However, the documentation requirement may also be satisfied by completing the first page of the PD 206 and attaching a narrative format memorandum or copies of email correspondence indicating the resolution of the complaint.

3. The affected division commander shall review the dissatisfaction complaint and determine what, if any, action should occur. When possible the commander shall initiate action which could resolve, clarify, or unfound the complaint. This action shall be documented in the division commander's review and comments section of the PD 206.
4. The division commander shall be responsible for ensuring that the complainant was contacted and the complaint was properly addressed.
5. A copy of each complaint and all relevant attachments shall be forwarded by the appropriate bureau commander to the IAB.

C. Initial Inquiry

There may be times when an investigation into the actions of an employee is warranted, even though there is neither an allegation of wrongdoing, nor any determined violation of law or Department policy. In these instances, the actions of the employee are such that they merit further investigation to

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document the facts and circumstances surrounding the event in an initial inquiry.

1. The division commander, station commander, or assistant commander shall be responsible for directing any initial inquiry concerning an employee within their command, unless the inquiry has been referred to the IAB or Criminal Investigations Bureau (CIB). The division commander, station commander, or assistant commander will be responsible for assuring a complete and expeditious investigation of all inquiries directed to them. Inquiries conducted at the station/division level should be completed within 30 days of receipt, unless circumstances develop which necessitate additional time to ensure a thorough inquiry.
2. Employees questioned during an initial inquiry shall be advised about the nature of the inquiry and informed that no allegation of misconduct has been made.
3. The initial inquiry shall be documented in a memorandum to the Chief of Police. The conclusion of the memorandum shall indicate that the case will be held as an initial inquiry only and that there are no allegations of misconduct and no violations of law or Department policy.
4. The initial inquiry may be used to document an allegation of misconduct when the identity of the employee is unknown. The purpose of the inquiry is to document the facts and circumstances of the incident so that a record of the incident is available should the identity of the employee later be learned. In the event the employee is later identified, an administrative investigation should be initiated.
5. During the course of an initial inquiry, information may be developed to substantiate an allegation of misconduct. In this circumstance, the investigating supervisor shall immediately cease questioning and serve the employee with an Advanced Notice of Administrative Investigation. The employee shall be advised that the nature of the inquiry has evolved into an administrative investigation, under the provisions of General Order 301, V., D. A completed initial inquiry may, with the approval of the IAB commander, be re-opened at any time and investigated as an administrative investigation in the event

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additional information is received which, if true, would support an allegation of misconduct.

6. All completed initial inquiries shall be forwarded to the IAB.

D. Investigations

1. The division commander, station commander, or assistant commander shall be responsible for directing any investigation concerning an employee within their command, unless the case has been referred to the IAB or CIB. The division commander, station commander, or assistant commander will be responsible for assuring a complete and expeditious investigation of all cases directed to them. Assistance may be requested from other divisions as is deemed necessary. Investigations conducted at the station/division level should be completed within 30 days of receipt, unless circumstances develop which necessitate additional time to ensure a thorough investigation.
2. Should an investigation involve employees from different commands, the affected commanders shall consult with their bureau commander and/or IAB commander, to determine the investigative supervisor and who will direct the investigation.
3. The Police Officers' Bill of Rights requires that all officers questioned in connection with an administrative investigation be notified of the name and rank of the investigating officers, the identity of any persons present during questioning, and the nature of the investigation. To meet this requirement, a copy of the Sworn Employee Notice of Administrative Investigation will be provided to all sworn employees who are interviewed in connection with an administrative investigation. The employee shall receive a notice initialed by the investigating supervisor and a second initialed copy shall be retained in the investigative file.
4. The Non-Sworn Employee Notice of Administrative Investigation shall be used by supervisory or command personnel to notify non-sworn employees of the name and rank of the investigating officers, the identity of the persons present during questioning, and the nature of the investigation. The employee shall receive a notice initialed by the

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investigating supervisor and a second initialed copy shall be retained in the investigative file.

5. During administrative investigations there are times when it may be necessary to prohibit employees from discussing the investigation in order to safeguard the confidentiality of the investigation. When, in the judgement of the investigating authority this becomes necessary, a "Requirement for Confidentiality" memorandum shall be delivered to the employees (sworn and non-sworn) involved. The employee shall receive a notice initialed by the investigating supervisor and a second initialed copy shall be retained in the investigative file.
6. Utilizing the proper chain of command, the Chief of Police will be advised by the investigating authority of any new information developed during the course of an investigation, which may necessitate:
  - a. Reassigning an employee to other duties for the purpose of closer supervision or separation from the public or other employees.
  - b. Relieving an employee from duty and/or placing them on administrative leave.
7. During the course of an administrative investigation, a compelled written or taped statement may be required from any employee.
  - a. Such statements are considered to be compelled testimony and are not admissible in any criminal proceeding in which the employee is a defendant, except as provided by law.
  - b. Written or taped statements may be taken from witnesses and complainants to preserve or document facts, observations, opinions, or other information regarding the incident under investigation. Statements need not be in the form of questions and answers, but may be in the form of a memorandum or narrative report. All taped statements shall be retained with the investigative file.

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8. Should the complainant at any time during the investigation refuse to cooperate with the investigation or submit to interviews, the investigation shall continue for the purpose of establishing the facts of the matter. The complainant's initial complaint shall serve as his statement. The complainant's refusal to cooperate with the investigating supervisor shall be documented in the administrative investigation report.
  
9. Should a supervisor be unable to contact a complainant by telephone or in person for the purpose of investigating a complaint, the complainant shall be sent a letter explaining the need for an interview, and how and when the supervisor can be contacted. A reasonable period of time should be given for a response to the letter. Should no response be received within 30 days, the complainant's initial complaint shall serve as his statement and the investigation continued without his cooperation.
  
10. During the completion phase of an administrative investigation, it is the assigned supervisor's responsibility to ensure the detailed and complete examination of all aspects of the personnel incident. The goal of the investigating supervisor is to re-create the incident for the reviewing authority through the use of written descriptions, diagrams, and any other appropriate aids. In cases involving an allegation of misconduct, it is only through the careful identification and presentation of relevant facts that the reviewing authority can render a proper decision. All incident investigations demand thoroughness and accuracy, as the information developed may be vital in defending the employee and the County in an unwarranted civil action.

Recommended procedures for completing an administrative investigation can be found in the Supervisor's Handbook for the Conduct of Administrative Investigations.

11. Some complaints and observed policy violations involve issues of a simple, straightforward nature, for which a full investigation may not be warranted. In such cases, with the approval of the affected employee's commander, the supervisor's investigation may be documented on the Administrative Investigation Short Form (PD 207). Guidelines for the use of the short form include:



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- No dispute as to the employee's action.
- No complex issues requiring in-depth investigation.

Examples of complaints or violations that may be documented on the PD 207 include, but are not limited to:

- Loss or damage to equipment
- Rudeness
- Operation of vehicle complaints
- Property damage cruiser Crashes

The PD 207 is processed in the same fashion as a standard-format administrative investigation.

12. The vast majority of employee missed assignment investigations are straightforward, with simple facts that are not in dispute. In order to expedite the completion and processing of such investigations, the investigating supervisor may use the Missed Assignment Administrative Investigation Form (PD 208). The PD 208 should not be used to document investigations where there is a pattern of missed assignments by the employee, and shall not be used in cases where facts are either complex or in dispute. The PD 208 is processed in the same fashion as a standard-format administrative investigation.

**E. Employee Responsibility**

1. Each employee of the Department shall cooperate fully with IAB personnel 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

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knowingly mislead or omit information regarding the administrative investigation.

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, "Personal Assets of Officers."
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 as approved by the Chief or his designee.
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.

7. Employee records or data beyond those normally included in the scope of an administrative investigation shall not be obtained for use in an administrative case without the approval of the IAB commander. Such records include, but are not limited to:
  - Credit checks

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- Pre-employment personnel background checks
- Pre-employment polygraph records
- Bank records
- County telephone records
- County email and Internet records
- Airbag Control Module (ACM) and Powertrain Control Module (PCM) data.
- Automated Vehicle Locator (AVL) data

VI. CLASSIFICATION OF ALLEGATIONS

After completion of an administrative investigation, each allegation shall be classified with one of the following findings:

1. Unfounded - The allegation is false, and did not occur.
2. In Compliance - The employee's actions were in compliance with the rules and regulations of the Department.
3. Not Sustained - Insufficient evidence exists to either prove or disprove the allegation.
4. Sustained - The allegation is supported by a preponderance of the evidence. Only findings in this category will be included in an employee's personnel file.

If the finding is sustained, disciplinary action will be imposed in accordance with General Order 310.2, Disciplinary Actions and Appeals.

VII. REPORTING

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- A. After completion of the administrative investigation, an administrative investigation report shall be prepared and shall include:
  - 1. Classification of the allegation(s), if any, as specified in Section VI.
  - 2. If an allegation is sustained, a statement of:
    - a. The regulation violated
    - b. The nature of the violation
  
- B. The responsibilities of the reviewing authority are specifically established in General Order 310.2, Disciplinary Actions and Appeals, and General Order 310.3, Grievance Procedures for Sworn and Non-Sworn Employees. All reviews and appeals of administrative investigations shall be conducted in accordance with these procedures.

After completion of the review/appeal process, the report will be forwarded to the IAB commander for recording and filing. The IAB commander shall be responsible for forwarding copies of disciplinary actions to the Personnel Resource Division and the County Department of Human Resources for inclusion in the employee's personnel file.
  
- C. Complainants shall be notified of the results of administrative investigations by letter from the Chief of Police.

**VIII. CASE REVIEW PROCEDURES**

The completed administrative investigation report shall be submitted for final review to the investigating authority's commander, unless otherwise directed. The commander shall examine the report of the administrative investigation and determine if it presents a full and complete examination of all facts and circumstances relevant to the incident in question. If it is determined that the matter requires additional investigation, the entire case file shall be returned to the investigating supervisor with specific direction as to the action required.

Once the reviewing authority is satisfied that the administrative investigation report is accurate and complete, the commander shall include an affirmative statement of review and approval after the conclusion portion of the report.

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IX. DETERMINATION OF RESULTS AND ACTIONS

After command review and approval, the case shall be assigned to a specific command authority for a determination of results and actions. The bureau commander of the subject employee shall make the assignment. Generally, the case will be assigned to the employee's immediate commander, unless otherwise directed by competent authority. In the event that the bureau commander was the investigating authority or was a principal in the case, a Deputy Chief of Police shall make the assignment. Thus, in many instances, the same command authority will prepare the command review and the determination of results and actions (action taken) portions of the report.

The assigned commander shall complete his review, including hearings and action taken, within 20 business days of receiving the completed administrative file. The affected bureau commander may authorize an extension of this review and action period based on special circumstances.

The assigned commander shall review the administrative investigation and shall reach a finding for each allegation as provided in Section VI. In the event that a violation is sustained, the assigned commander shall take appropriate disciplinary action in accordance with General Order 310.2, Disciplinary Actions and Appeals.

X. RELIEF FROM DUTY

A. Authority

When there is probable cause to indicate that the act complained of represents a criminal violation of law, or a violation of Department regulations, or when the accused employee has been drinking, illegally using drugs, or is intoxicated, the employee may be relieved from duty immediately by any supervisory employee of the Department. Any sworn supervisor may immediately relieve from duty any sworn employee of subordinate rank, irrespective of the organizational assignment of either person, when it appears that such action is necessary or prudent to protect the interests of the Department. Any civilian supervisor has the same relief authority with respect to sworn subordinates under his command.

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A civilian employee may be relieved in accordance with the provisions of Chapter 16 of the Fairfax County Personnel Regulations. The appeal procedure for non-sworn personnel is outlined in General Order 310.3, Grievance Procedures, as governed by Chapter 17 of the Fairfax County Personnel Regulations.

When necessary in the course of an administrative investigation, sworn personnel assigned to the IAB are authorized to relieve any sworn employee from duty, regardless of rank.

The period of relief shall continue until a hearing is held as provided below. The relieved employee shall remain available during this period.

B. Types of Relief from Duty

Relief from duty will usually be for one of the purposes, and subject to the conditions, listed below:

1. In conjunction with the imposition of disciplinary action, an employee shall be relieved from duty during any period of suspension without pay.
2. During an administrative investigation, when it appears that such action is necessary and prudent to protect the interests or integrity of the Department. In addition to being relieved of police authority, the employee may be placed on Administrative Leave or may be reassigned to non-enforcement duties within the Department.
3. As a matter of policy, when an employee is involved in a police shooting. The purpose for relief from duty in these situations is to allow for the conduct of the necessary investigations and to provide the involved employee an opportunity to use the resources of the Administrative Support Bureau's Incident Support Services Program. Additionally, employees who have deployed deadly force shall meet with the Department's Police Psychologist for an initial consultation and follow up as directed by command personnel.
4. During a criminal investigation, when a relief from duty is necessary to protect the interests and integrity of the Department. The decision to

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relieve an employee from duty will be based on the seriousness of the allegation(s) and any other factors that may be present.

5. Under any other circumstances when it appears that such action is necessary and prudent to protect the interests or integrity of the Department.

C. Procedures

The relieving supervisor shall complete a memorandum providing full details of the incident including the date and time of relief and alleged violation(s) which resulted in the relief. The memorandum shall be submitted through the chain of command to the Chief of Police, by the next day. A memorandum shall be given to the relieved employee prior to departure from the duty station. The memorandum shall serve as a notification of relief and the nature of the investigation. The memorandum shall also list all equipment removed from the relieved employee, and serve as a receipt for equipment relinquished. Copies of the memorandum shall be sent to the appropriate division or station commander and the IAB.

Unless the relief of duty occurs as imposition of disciplinary action, an inquiry presided over by the appropriate bureau commander shall be held within three days of the relief action. Both the relieved employee and the relieving supervisor shall attend the inquiry. The relieved employee and the Chief of Police shall be notified of the bureau commander's findings and action taken within 48 hours of completion of the inquiry. This inquiry shall not be substituted for any hearing provided an employee under General Order 310.2 or 310.3.

XI. CRIMINAL INVESTIGATIONS OF POLICE DEPARTMENT EMPLOYEES

In criminal cases occurring in Fairfax County where passage of time might impact evidence needed for prosecution, or where the involved employee refuses to cease and desist from continuing the offense, first line supervisors shall effect the arrest and the IAB shall be notified to follow up. The CIB criminal investigator shall be requested to work with the criminal aspect of the case if necessary based upon the circumstances of the case. Concurrently, an IAB detective will be requested to conduct the administrative investigation.

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In cases where no on-scene arrest is required to protect the integrity of the prosecution, or to stop continued criminal behavior, the CIB investigator will be assigned to investigate suspected criminal violations or allegations of criminal misconduct involving Department employees, unless otherwise directed by the Chief of Police or as delineated in this 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. In cases where an employee is arrested or is investigated for criminal misconduct by an entity not within the jurisdiction of Fairfax County, the Town of Herndon, or the Town of Vienna, an Internal Affairs Investigator will follow up for the purpose of conducting an administrative investigation.

- A. In general, an immediate arrest shall be undertaken only if necessary to ensure public safety, safeguard the accused employee, or to protect and/or collect evidence pursuant to the criminal investigation.
  
- B. In all cases of suspected domestic violence, or violation of a Juvenile and Domestic Relations Court 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 respond to the scene and conduct an investigation. Prior to interviewing the Department employee, the supervisor shall advise the accused employee that the investigation is **criminal** in nature, and that the officer is not compelled to answer any questions. Miranda warnings shall be given when appropriate. If probable cause is developed indicating that the accused employee is the primary physical aggressor and an arrest is warranted, the patrol supervisor shall make the arrest on the scene in accordance with the Code of Virginia. A CIB criminal investigator may be requested by the arresting supervisor to provide investigative support.
  1. CIB may coordinate the criminal investigation of domestic violence cases by using the expertise of a domestic violence detective when:
    - The suspected employee has fled the scene and their whereabouts are unknown.
    - A felony has been committed.



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- The victim has been transported to a medical facility for immediate medical treatment.
  
- 2. Should exigent circumstances dictate the immediate arrest of a Department employee, such arrest shall not be delayed for the purpose of making supervisory or command notifications. If an immediate arrest becomes necessary, it shall be undertaken and then the aforementioned notifications made as soon as the situation is stabilized.
  
- 3. In cases of active criminal investigations in which an employee is later developed as a suspect, the original detective/officer will generally maintain responsibility for the case. In such cases, the CIB commander will confer with the investigating detective/officer's commander to ensure proper coordination of resources.

Regardless of the circumstances, the CIB commander shall be notified as soon as reasonably possible in all criminal matters involving Department employees.

- C. In cases in which an immediate arrest is not made, the following guidelines have been established for the conduct of the criminal investigation:
1. The criminal allegation will be assigned to the CIB criminal investigator, or a CIB detective, or CIB supervisor as deemed necessary by the CIB commander based upon the nature of the offense and expertise required to investigate the alleged crime. An IAB investigator will be assigned as the administrative investigator. The criminal investigator will be deemed as the lead investigator.
  
  2. If at any time during the criminal investigation it is determined that no probable cause exists that a crime was committed, or based on the results of the investigation, that there is no longer a desire by the victim or by the Chief of Police to proceed with the prosecution of the employee, the criminal investigation will be concluded. The IAB investigator will then have primary responsibility for conducting the administrative investigation.
  
  3. Allegations of serious criminal misconduct made against a

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Department employee that would normally be assigned to a CIB detective will be investigated by the CIB criminal investigator.

4. Department employees who are the subject of a criminal investigation into the facts and circumstances surrounding their conduct may be questioned by the investigating authority assigned responsibility for the criminal investigation. Such employees shall be informed that the questioning is not 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.
  5. All criminal investigations of Department employees necessitate the opening of a parallel administrative investigation. The timing of the administrative questioning of employees suspected of criminal misconduct or charged with a criminal offense shall be determined by the IAB commander after consultation with the Chief of Police.
  6. Generally, an employee suspected of criminal misconduct or charged with a criminal offense shall not be subjected to administrative questioning or the production of a compelled statement in connection with any administrative investigation until the criminal investigation has been reviewed by the Commonwealth's Attorney's Office. In cases where an employee is criminally charged outside of Fairfax County, the administrative questioning can commence immediately. It shall be the responsibility of the criminal investigator working the case to present the results of the criminal investigation to the Commonwealth's Attorney's Office for prosecutorial decisions. This briefing shall be attended by the CIB Major Crimes commander and the Investigations commander of the IAB.
- D. If, during the course of an administrative investigation, reasonable suspicion develops that the act complained of constitutes criminal misconduct, the IAB commander shall be notified. The IAB commander shall consult with the Chief of Police and proceed pursuant to Paragraph XI, A.
- E. Police shootings which require a criminal investigation shall be reported and investigated by the Major Crimes Division pursuant to General Order 540.1, Use of Force.

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- F. If it becomes known that a complainant is seeking issuance of a warrant for a Department employee, the IAB commander or duty officer shall be notified immediately. The IAB commander or duty officer will consult with the complainant and request a delay so that a criminal investigation may be conducted.
1. If the complainant declines to permit a delay in the issuance of a warrant, the IAB commander or duty officer will ask the magistrate or the Commonwealth's Attorney for a delay to permit a criminal investigation.
  2. If the warrant has already been issued, the Central Records Division staff or other employee having knowledge of the warrant will notify the IAB commander, or the duty officer if after regular business hours. The duty officer shall notify the IAB commander prior to executing the warrant. The timing and circumstances of the warrant service shall be dictated by the criteria established in Paragraph XI, A.

XII. ADMINISTRATIVE PROCEDURES

A. Responsibilities of the IAB

1. The IAB conducts and/or coordinates administrative investigations of complaints or allegations of misconduct against members of the Department.

The IAB commander is responsible for assuring a complete and expeditious investigation of all cases referred to the IAB. Assistance may be requested from other bureaus as is deemed necessary. Investigations should be completed within 60 days of receipt, unless circumstances develop which necessitate additional time to ensure a thorough investigation.

2. The IAB shall maintain all files and records of administrative investigations. The IAB shall issue a unique file number to each administrative investigation and shall maintain a permanent record of all complaints.
3. Access to the administrative investigations files maintained by the Internal Affairs Bureau will be prohibited to all personnel except:

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- a. The Chief or Deputy Chiefs of Police.
  - b. Bureau, district, or division commanders, when necessary in the performance of their duties.
  - c. The IAB commanders and staff.
  - d. Members of the County Attorney's Office when acting in official capacity as counsel to the Department.
4. IAB investigations may be initiated at the request of any member of the Department who feels threatened by a false accusation or a contrived situation involving false evidence.
  5. The IAB shall prepare a weekly Administrative Investigations Status Report for the Chief of Police or such person as designated by the Chief of Police.
  6. The IAB shall identify potential training needs through the course of administrative investigations and civil actions directed at the Department or departmental personnel. This information shall be forwarded to the director of the Criminal Justice Academy for evaluation and possible incorporation into recruit and in-service training.
- B. Case Tracking
1. Once a complaint is received and accepted, or when an administrative investigation is initiated without a complaint, the assigned supervisor shall complete a Case Management form. The form shall be emailed to the FCPD-IA Number mailbox with a copy to the affected division/station commander. A file number will be assigned by the Internal Affairs Bureau and provided to the supervisor and commander by return email message.
  2. Internal Affairs tracking numbers are required for all complaints and administrative investigations (including all cruiser crashes), initial review and dissatisfaction of service complaints (PD 206), and initial inquiries.

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XIII. LEGAL REFERENCE

- Code of Virginia*, Sections 9.1-500 through 9.1-507
- Code of Virginia*, Section 9.1-600
- Code of Virginia*, Section 16.1-253.2
- Code of Virginia*, Section 18.2-57.2
- Code of Virginia*, Section 19.2-81.3

XIV. ACCREDITATION STANDARDS REFERENCE

VLEPSC

ADM		PER
05.03	18.04	09.03
18.01	18.05	09.05
18.02	18.06	
18.03		

This General Order becomes effective March 20, 2015, and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

\_\_\_\_\_  
Chief of Police

APPROVED BY:

  
\_\_\_\_\_  
County Executive