

I. PURPOSE

To insure professional standards for reporting, investigating and resolving complaints with allegations involving employees of the Sheriff's Office. To establish procedures to be followed when it is necessary to investigate the actions or conduct of any employee of the Fairfax County Sheriff's Office. These procedures will ensure the complete examination of all facts and circumstances relevant to the incident investigated, and will safeguard the rights of employees who are the subject of such investigations.

II. POLICY

It is the policy of the Fairfax County Sheriff's Office that all formal complaints will be thoroughly investigated regardless of the status of the complainant. All investigations of alleged misconduct or alleged criminal activity will be systematic, objective, and impartial. Remedial action will be taken, including revision of policies or procedures when necessary. The function of Internal Affairs is to provide fact-finding assistance to the Sheriff, to clear the innocent, establish guilt, and to facilitate suitable corrections or disciplinary action when necessary. The public and the Agency have a right to expect employees to give frank and honest replies to questions that are directly related to the performance of their official duties and/or their fitness to hold public office.

III. DEFINITIONS

- A. Administrative Investigation: A non-criminal investigation conducted for the purposes of examining and documenting an incident in which an employee is suspected of misconduct; or, for the purposes of examining and documenting an incident which by agency policy requires an internal investigation; or to determine if conduct or acts were consistent with agency policy and procedure.
- B. Complaint: An allegation of specific act(s) or omission(s) which relate to an employee's conduct, performance of duties, or fitness to hold office.
- C. Day: The term "day," as used herein, shall mean calendar day, exclusive of Saturday, Sunday, and holidays observed by the Sheriff's Office.
- D. Initial Inquiry: Actions taken by command or supervisory personnel to gather sufficient facts regarding an incident to determine if an administrative investigation is warranted.
- E. Incident: An event in which one or more actions or omissions by an employee of the Sheriff's Office may constitute misconduct.
- F. Preliminary Investigation: Actions taken to gather and/or preserve physical evidence, witness statements, official records, or other pertinent information that might otherwise be lost or unattainable through the passage of time.
- G. 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 their position.

IV. ORGANIZATION

- A. Internal Affairs is assigned to the Administrative Services Division of the Fairfax County Sheriff's Office and shall report directly to the Sheriff and Chief Deputy Sheriffs.
- B. Additional personnel may be assigned to Internal Affairs on a permanent or temporary

V. **ADMINISTRATIVE PROCEDURES**

A. Types of Incidents to Be Investigated

The incidents which are to be handled in accordance with the provisions of this Standard Operating Procedure are alleged or suspected acts of employee misconduct, violations of agency rules and regulations, and any incident involving employees of the Sheriff's Office which include the likelihood of civil action.

Incidents include:

1. Complaints from members of the general public.

A citizen alleging impropriety on the part of any employee shall be encouraged to discuss the incident with a supervisor. If after discussion, the citizen or the supervisor believes an investigation is warranted, the supervisor shall request and assist the complainant in completing a [SOP 014 ATT. 11 - Citizen Complaint Form \(SO 28\)](#). This does not preclude the initial receipt of complaints by mail or telephone that may warrant an investigation even though a SO Form 28 is not received.

2. Alleged violations reported to supervisory or command personnel by members of the agency.

3. Those actions observed by supervisory or command staff that appear to be a violation of law or agency regulation.

4. Incidents which do not constitute any reasonable suspicion of misconduct by an employee; however, the nature of the incident merits investigation for documenting all relevant facts.

All SO 28 forms shall be forwarded to the Internal Affairs Section.

B. Initial Inquiry

1. All complaints will be assigned a tracking number by Internal Affairs.

2. Often information is received which suggests the possibility of employee misconduct and the need for an administrative investigation. This information may originate from a wide variety of sources: incidents observed by staff or supervisors; citizen reports; media reports; and anonymous reports are but a few of the sources from which initial information may be obtained. Obviously, information concerning employee actions originating from these sources does not always result in a need for investigation. These personnel incidents must still be evaluated by supervisory or command personnel to determine appropriate actions to be taken. The process by which this evaluation is conducted shall be referred to as the "Initial inquiry."

3. All allegations shall be initially reviewed by a supervisor. This initial inquiry is conducted to evaluate the incident and determine the need for further investigation. If the initial inquiry is conducted because of a report made by an individual, a telephone or personal interview should be conducted with that

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person. If the initial inquiry is being conducted because of an incident personally observed by staff or supervisory employee, care should be taken to

ensure that all-relevant facts and information are obtained.

4. The initial inquiry is generally intended to be brief and is conducted for making one of the following decisions:
 - a. The incident has been explained to the satisfaction of the reporting party and does not constitute any reasonable suspicion of misconduct by any employee of the Fairfax County Sheriff's Office. No further action is necessary.
 - b. The incident has not been explained to the satisfaction of the reporting party and a complaint has been filed with the Department. An administrative investigation shall be conducted of all such incidents.
 - c. The incident does constitute a reasonable suspicion of misconduct by an employee of the Fairfax County Sheriff's Office. An administrative investigation shall be conducted of all such incidents. Should the incident give rise to a reasonable suspicion of a criminal violation of law by an employee of the Fairfax County Sheriff's Office, the procedures established in Section XI, Criminal Investigations of Sheriff's Office Employees, shall be initiated. As in criminal law, **reasonable suspicion** is a significantly lesser standard of proof than probable cause. It is not a certainty or probability of misconduct; it is a **suspicion** of misconduct.
 - d. The incident does not constitute any reasonable suspicion of misconduct by any employee of the Fairfax County Sheriff's Office; however, the nature of the incident merits investigation for documenting all relevant facts. Matters so investigated shall include, but not be limited to, uses of force which result in injuries requiring medical treatment, accidental injuries to prisoners, and firearm discharges in which there is no reasonable suspicion of misconduct by any employee of the Fairfax County Sheriff's Office. An investigation shall be conducted in accordance with the procedures established for those incidents.
 - e. If the incident is determined to be an unusual situation or an incident requiring investigation by Internal Affairs, the supervisor should immediately notify their Division Commander and Internal Affairs. Sometimes citizens contact the Sheriff's Office to voice suspicions about an officer's conduct or motivations, but are reluctant or afraid to file a formal complaint. When these suspicions relate to significant constitutional or liability issues, or issues affecting the perception and reputation of the Sheriff's Office, it is important to conduct a thorough initial inquiry and to document the findings. If the investigating supervisor develops a reasonable suspicion of misconduct, an administrative investigation should be initiated. If the investigating supervisor determines that the employee's conduct was lawful and proper, those findings must be reported as well. [SOP 014 ATT. 12 - Report of Citizen, Employee Inquiry, Complaint Form \(SO 30\)](#) shall be used to document citizen inquiries or complaints regarding the following issues:
 - 1) Corruption
 - 2) Domestic violence

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- 3) Unlawful detention or arrest
- 4) Unlawful search or seizure

- 5) Excessive force
- 6) Discrimination
- 7) Harassment
- 8) Rude or unprofessional language or conduct
- 9) Neglect of Duty

f. The Report of Citizen Inquiry/Complaint Form (SO 30) is to be used when:

- 1) A citizen alleges a violation of law, regulation or Standard Operating Procedure; and
- 2) The incident has been explained to the citizen's satisfaction, or, the citizen is unsatisfied with the explanation, but has not filed a formal complaint; and
- 3) The facts of the incident do not provide a reasonable suspicion of misconduct that requires an administrative investigation.
- 4) An initial inquiry into such incidents may reveal one or more minor performance issues which do not warrant a full administrative investigation and discipline, but which should be brought to the attention of the employee for correction. The supervisor shall discuss the issue(s) with the employee and may document the counseling session on an Oral Counseling form. Upon completion, the Report of Citizen Inquiry/Complaint Form (SO 30) shall be forwarded to the supervisor's Commander for approval.
- 5) Report of Citizen Inquiry/Complaint forms which allege only rude or unprofessional conduct shall be filed at the squad/branch level in the employee's personnel file and retained for at least 12 months. At the time of the employee's annual performance evaluation, the employee's supervisor should review the personnel folder and destroy any SO 30 forms that are not a part of a subsequent disciplinary action.

All SO 30 forms shall be forwarded to the Internal Affairs Section.

C. Preliminary Investigation

- 1. A supervisor who initiates or is assigned to conduct an administrative investigation shall ensure that a complete preliminary investigation is conducted.
 - a. If a citizen alleges misconduct by an employee of the Sheriff's Office, a citizen complaint form (SO 28) should be provided to and completed by the complainant. If the complainant refuses to complete or sign the form, that fact should be noted by the investigating supervisor.
 - b. A detailed interview should be conducted with the complainant for

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obtaining all available information on the incident

- c. Obtain identifying information on all individuals present at the incident, whether they observed the actions in question.
 - d. Have color photographs taken of all reported injuries, impact locations, and property damage. Document any alteration to the injury as the result of medical treatment (i.e., discoloration due to medication). Download all photographs to a data disc and include it with the case file.
 - e. Ensure that all other relevant physical evidence is properly preserved.
 - f. Request execution of a medical records release from all individuals claiming injury in the incident.
 - g. Obtain copies or request the preservation of all official documents related to the incident. Typically, copies of the CAD history, DPSC audio tapes of telephone and radio communications, field investigation report, arrest documents, and ADC booking, custodial, and classification documents should be obtained whenever possible.
2. Once these steps are completed, the supervisor should provide their Branch Chief/ Division Commander with a verbal report concerning the results of the preliminary investigation. Based on this report, the Branch Chief/ Division Commander can verify that all preliminary investigative activities have been completed and assess the seriousness of the incident.

D. Assignment of Investigations

- 1. The Branch Chief or a designated representative shall investigate the following complaints:
 - a. Complaints concerning minor infractions of regulations and/or the manner in which employee duties are performed.
 - b. Complaints relative to differences of opinion between an employee and a citizen/inmate arising from the performance of duty.
 - c. Complaints concerning the manner in which an employee investigated a crime, delivered civil process, handled inmate incidents.
- 2. Complaints of a serious nature, or improper conduct requiring formal investigation, shall be assigned to Internal Affairs only by the Sheriff or Chief Deputy Sheriff. The following criteria shall be used for assignment to Internal Affairs.
 - a. Serious complaints alleging corruption, brutality, or a breach of civil rights.
 - b. A matter which requires confidential investigation.
 - c. The investigation is of such a nature or time prohibiting that it would be impractical for the Division/Section supervisors to undertake.
- 3. Unless otherwise directed by the Sheriff, Internal Affairs with assistance from the

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Fairfax County Police Department will be assigned to investigate any suspected criminal violations or allegations of criminal misconduct involving a Sheriff's Office employee and all law enforcement shooting incidents as required by [SOP 032 - Use of Force](#).

E. Documentation

1. After determination as to who will conduct the investigation all documentation will be distributed as follows:
 - a. To the supervisor responsible for conducting the investigation.
 - b. To Internal Affairs if IA is to conduct the investigation. A copy of the complaint shall be forwarded to the employee's Division Commander for information.
 - c. In all cases, a copy of the complaint shall be forwarded to Internal Affairs, to be assigned a tracking number.
 - d. In all cases, a letter shall be sent to the complainant acknowledging that their complaint has been received and is under review.

F. Employee Responsibility

1. Each employee of the Agency shall cooperate fully with personnel of Internal Affairs or any other member of the agency conducting an initial inquiry/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 initial inquiry/administrative investigation of an infraction of law or regulation which is asked by the investigating authority.
3. During an initial inquiry/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. If, during an initial inquiry/administrative investigation, the investigating authority determines reasonable suspicion exists to justify an employee's submission to a medical, physical, psychiatric, or laboratory examination, the employee shall submit to such test or exam. The tests and exams may include, but are not limited to Breathalyzer, blood and urine tests, photograph and physical lineups, voice and handwriting exemplars. Tests and exams will be performed in a reasonable manner. Internal Affairs will be responsible for consulting with the Sheriff for approval of such tests or exams, except in those circumstances outlined in Section V., Paragraph G. If the Sheriff is unavailable, the next ranking staff officer shall be consulted.
5. A polygraph examination may be used to confirm or disprove inconsistencies after all other reasonable methods have been exhausted. The polygraph will not be the sole basis for a disciplinary determination or establishing the elements of

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an allegation. The analysis of any required polygraph examination will not be admissible in any disciplinary proceeding.

G. Internal Affairs

1. Internal Affairs conducts and/or coordinates administrative investigations of complaints or allegations of misconduct against members of the Sheriff's Office.
2. The Internal Affairs investigator(s) are responsible for assuring a complete and expeditious investigation of all cases. Assistance may be requested as necessary. Investigations should be completed within 45-60 days of receipt, unless circumstances require additional time to ensure a thorough investigation.
3. The complainant as well as the subject of the complaint will be advised of the outcome as soon as it is reasonable to do so following the investigation. Notification will be made by the internal affairs investigator or, when discipline is imposed, by a supervisor within the employee's chain of command. In select circumstances, where the allegation has been deemed unfounded prior to the employee becoming aware of the investigation, notification of the disposition will not typically be made.
4. Internal Affairs shall maintain all files and records of administrative investigations. A unique file number will be assigned to each administrative investigation and shall maintain a permanent record of all complaints.
5. Upon receipt and assignment of a case for investigation, the Internal Affairs Section shall assign a tracking number and enter it into the IAPro database.
 - a. All Use of Force investigations will be placed in a green folder. IAPro will generate a tracking number for each case (example UF 2013-001).
 - b. All Citizen Complaints will be placed in a yellow folder. IAPro will generate a tracking number for each case (example CC 2013-001).
 - c. All Inmate Injury investigations will be placed in a red folder. IAPro will generate a tracking number for each case (example ICWI 2013-001).
6. Access to the administrative investigations files maintained by Internal Affairs will normally be restricted to all personnel except:
 - a. Command Staff.
 - b. The staff of Internal Affairs.
 - c. Sheriff's Office Attorney when acting in official capacity as counsel to the Sheriff's Office.

VI. INVESTIGATIVE PROCEDURES

- A. The Division Commander or their designee shall be responsible for directing any investigation concerning an employee under their command, unless the case has been referred directly by the Sheriff or Chief Deputies to Internal Affairs. The Division Commander is responsible for assuring a complete and expeditious investigation of all cases where he/she initiates an investigation. Assistance may be requested as

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necessary. Investigations should be completed within 30-45 days of receipt, unless circumstances require additional time to ensure a thorough investigation.

- B. An employee's Branch Chief or immediate supervisor shall have primary responsibility for directing an initial inquiry.
- C. 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. Two signed originals shall be completed. One signed original shall be given to the deputy and a second signed original shall be retained in the investigative file.
- D. 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 investigators, the identity of the persons present during questioning, and the nature of the investigation. Two signed originals shall be completed. One signed original shall be given to the employee and a second signed original shall be retained in the investigative file.
- E. During administrative investigations there are times when it may be necessary to prohibit employees from discussing the investigation to safeguard confidentiality. When, in the judgment of the investigating authority, this becomes necessary, a Requirement for Confidentiality memorandum shall be delivered to the employees (sworn and non-sworn) involved. Two signed originals shall be completed. One signed original shall be given to the employee and a second signed original shall be retained in the investigative file.

At the end of the administrative investigation, a rescission order may be distributed to the employee(s) involved.
- F. Utilizing the proper chain of command, the Sheriff will be advised by investigators of any new information developed during an investigation that may necessitate:
 - 1. Reassigning an employee to other duties for closer supervision or separation from the public or other employees.
 - 2. Relieving an employee from duty and/or placing them on administrative leave.
- G. When there are allegations that the employee complained against has been drinking, illegally using drugs or may be intoxicated, the employee may request an alcohol and/or drug analysis test. Additionally, if reasonable suspicion exists that an employee has been drinking, illegally using drugs or is intoxicated, a supervisor conducting an administrative investigation may require the employee to take an alcohol and/or drug analysis test. The time lapse between the initial report or observation and the time of the test will be included in the initiating supervisor's report, along with the result of the alcohol and/or drug test.
- H. During an administrative investigation, a compelled written or taped statement may be required from any employee interviewed.
 - 1. Such statements are compelled testimony and are not admissible in any criminal proceeding in which the employee is a defendant, except as provided by law.
 - 2. Written 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

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statements shall be retained with the investigative file.

- I. Should it be determined at any time during the investigation that the complaint is clearly unfounded, the investigation shall be concluded. All relevant information supporting the false allegation shall be documented in the administrative investigation report and transmitted through the appropriate chain of command.
- J. 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 using 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 as to the guilt or innocence of an employee.
- K. It is the policy of the Sheriff's Office that employees are not permitted to bring recording devices to administrative investigation interviews. Exceptions should not be granted without the express permission of the investigating deputy. If the investigating supervisor suspects that an employee is attempting to record an interview, the supervisor should confront the issue directly.

VII. RELIEF FROM DUTY

- A. Authority
 - 1. When there is probable cause to indicate that the act complained of represents a criminal violation of law, or a violation of agency 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 Sheriff's Office. Any sworn supervisor may relieve from duty immediately 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 agency. Any civilian supervisor has the same relief authority with respect to sworn subordinates under their command.
 - 2. A civilian employee may be relieved in accordance with the provisions of Chapter 16 of the Fairfax County Personnel Regulations.
 - 3. Sworn personnel assigned to Internal Affairs are authorized to relieve from duty any sworn employee, regardless of rank, when necessary during an administrative investigation.
 - 4. Persons who are relieved from duty will be placed on administrative leave. The relieved employee shall remain available during this period.
- B. Procedures
 - 1. 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 Sheriff, by the next day.
 - 2. A memorandum shall be given to the relieved employee prior to departure from

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the duty station. The memorandum shall serve as a notification of relief and will state the underlying reasons. The memorandum shall also list all equipment removed from the relieved employee, and serve as a receipt for equipment relinquished.

VIII. CLASSIFICATION OF ALLEGATIONS

- A. Upon completion of an administrative investigation, each allegation shall be classified with one of the following findings:
 - 1. **Unfounded** – The allegation concerned an act by an agency employee which did not occur.
 - 2. **Exonerated** – The allegation in fact did occur but the actions of the agency employee were legal, justified, proper and in conformance with the law and the agency policy and procedure.
 - 3. **Not Sustained** – The investigation failed to produce a preponderance of evidence to either prove or disprove the allegation.
 - 4. **Sustained** – The investigation produced a preponderance of evidence to prove the allegation of an act which was determined to be misconduct.
- B. Upon a finding of a sustained violation, disciplinary action will be imposed in accordance with Standard Operating Procedure 024, Disciplinary Actions and Appeals.
- C. Administrative investigations pertaining to matters which do not involve an allegation or reasonable suspicion of misconduct by a Sheriff's Office employee shall have an affirmative statement of the employee's "compliance with all applicable laws and regulations" included under the "Conclusions" portion of the administrative investigation.

IX. REPORTING

- A. Upon completion of the administrative investigation, a report shall be prepared and shall include:
 - 1. Classification of the allegation(s), if any, as specified in Section VIII.
 - 2. If an allegation is sustained, a statement of:
 - a. The regulation violated.
 - b. The nature of the violation.
 - c. Facts leading to this conclusion.
- B. Complainants shall be notified of the results of administrative investigations by letter from the Sheriff or designee.

X. DETERMINATION OF RESULTS AND ACTIONS

- A. Completed investigations conducted by the first line supervisor/Branch Chief will be reviewed by the appropriate Division Commander to ensure they are complete and accurate.
- B. If disciplinary action is appropriate for the subject(s) of the investigation, the Division

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Commander will make a recommendation to the Sheriff regarding the level of disciplinary action to be administered. If formal discipline is appropriate, the Division Commander's recommendation should be in the form of a draft Advance Notice Letter proposing specific discipline.

XI. CRIMINAL INVESTIGATIONS OF SHERIFF'S OFFICE EMPLOYEES

- A. All criminal violations or suspected criminal activity involving a Sheriff's Office employee will be investigated. Criminal violations and suspected criminal activity occurring in Fairfax County will be investigated by Internal Affairs, unless otherwise directed by the

Sheriff. Upon the completion of the investigation it shall be the responsibility of the Sheriff or his designee to present the results of the criminal investigation to the Commonwealth Attorney's Office for prosecutorial decisions.

1. When any employee reasonably suspects criminal misconduct by a Sheriff's Office employee, the situation shall immediately be reported to a supervisor, Staff Duty Officer or Division Commander. Supervisory or command personnel receiving such a report shall immediately contact the appropriate chief deputy for a decision as to whether the accused employee should be arrested forthwith, if an arrest warrant should first be obtained, or if an arrest should be deferred pending completion of a criminal investigation.
 - a. In general, 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. Should exigent circumstances dictate the immediate arrest of a Sheriff's Office employee, such arrest shall not be delayed for making supervisory or command notifications. If an immediate arrest becomes necessary, it shall be undertaken, and the aforementioned notifications made as soon as the situation is stabilized.
 - c. Regardless of the circumstances, the Sheriff and/or the appropriate chief deputy and Internal Affairs shall be notified as soon as reasonably possible.
- B. If, during an administrative investigation, reasonable suspicion develops that the act complained of constitutes criminal misconduct, the administrative investigation shall be immediately suspended, and a criminal investigation initiated. Assignment of investigative authority for all criminal investigation cases shall be at the discretion of the Sheriff or his designee.
- C. Line of duty shootings which require a criminal investigation shall be reported and investigated as defined by [SOP 032 - Use of Force](#).
- D. Unless otherwise directed by the Sheriff, an employee suspected of criminal misconduct or charged with a criminal offense shall not be issued a Notice of Administrative Investigation or be subjected to administrative questioning or the production of a compelled statement in connection with any administrative investigation until the criminal investigation is complete.
- E. Sheriff's Office employees who are the subject of a criminal investigation into the facts and circumstances surrounding their conduct shall be informed that the questioning is not

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undertaken pursuant to an administrative investigation and that they are not being compelled to respond under any administrative authority.

- F. If it becomes known that a complainant is seeking issuance of a warrant for a Sheriff's Office employee, the Division Commander shall be notified immediately. The Division Commander will consult with the complainant and request a delay so that a criminal investigation may be conducted by the Sheriff's Office or designee.
 - 1. If the complainant declines to permit a delay in the issuance of a warrant, the Division Commander will ask the Magistrate or the Commonwealth's Attorney for a delay to permit a criminal investigation by the Sheriff's Office or designee.
 - 2. If the warrant has already been issued, the employee having knowledge of the warrant will notify the Division Commander.
- G. Upon the resolution of all criminal charges, the administrative investigation shall be concluded and a final disposition entered in the employee's record.

XII DECERTIFICATION

- A. Virginia Code [§15.2-1707. Decertification of Law-Enforcement Officers](#) requires the Criminal Justice Services Board, upon written notification from the Sheriff, to decertify a current certified law enforcement officer under certain circumstances.

To be decertified, an individual must be a current certified law enforcement officer and can either be currently employed by the Fairfax County Sheriff's Office or formerly employed by the Fairfax County Sheriff's Office.

- 1. The following requires decertification:
 - a. Been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth;
 - b. Been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving moral turpitude or any offense that would be any misdemeanor involving moral turpitude, including but not limited to petit larceny under
 - c. [§18.2-96. Petit Larceny Defined; How Punished](#) or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth;
 - d. Been convicted of or pled guilty or no contest to any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under [§18.2-67.4. Sexual Battery](#) or [§ 18.2-371. Causing or Encouraging Acts Rendering Children Delinquent, Abused, etc.; Penalty; Abandoned Infant - Clause \(ii\).](#)
 - e. Been convicted of or pled guilty or no contest to domestic assault under [§18.2-57.2. Assault and Battery Against a Family or Household Member; Penalty](#) or any offense that would be domestic assault under the laws of another state or the United States;
 - f. Failed to comply with or maintain compliance with mandated training requirements;

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- g. Refused to submit to a drug screening or has produced a positive result on a drug screening reported to the Fairfax County Sheriff's Office, where the positive result cannot be explained to the Sheriff's satisfaction;
- h. Any sworn law enforcement officer who resigned or was terminated in advance of being convicted or found guilty of an offense that requires decertification or who resigned or was terminated in advance of a pending drug screening.

B. Process for Decertification

- 1. The Sheriff shall notify, in writing, the Criminal Justice Services Board when an event requiring decertification occurs.
- 2. The notification, where appropriate, shall be accompanied by a copy of the judgment of conviction.
 - a. When a conviction has not become final, the Criminal Justice Services Board may decline to decertify the officer until the conviction becomes final, after considering the likelihood of irreparable damage to the officer if such officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or damage to the public if the officer is not decertified, and the seriousness of the offense.
- 3. Upon receiving such notice from the Sheriff, the Criminal Justice Services Board shall decertify the law enforcement officer.
- 4. The Criminal Justice Services Board may initiate decertification proceedings against any former Fairfax County deputy sheriff whom has been found to have been convicted of an offense that requires decertification or who has failed to comply with or maintain compliance with mandated training requirements.
- 5. The Criminal Justice Services Board is authorized to waive the requirements for decertification for good cause shown.
- 6. The Internal Affairs Section shall maintain the decertification notices.

C. Notice of Decertification

- 1. The Criminal Justice Services Board shall, within 10 days of decertification, serve notice upon the affected deputy, in person or by certified mail, and upon the Fairfax County Sheriff's Office, by certified mail, specifying the action taken and remedies available.
- 2. The Criminal Justice Services Board shall stay final action until the period for requesting a hearing expires.
- 3. The affected deputy may, within 30 days of receipt of notice served by the Criminal Justice Services Board, request, by certified mail, a hearing, which shall be granted by the Criminal Justice Service Board.
 - a. A hearing date, time, and place will be set within 60 days.

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- b. The affected deputy will be notified of the hearing date, time, and place by certified mail.
 - c. The affected deputy may be represented by counsel.
 - d. In the absence of a request for a hearing, decertification shall, without further proceedings, become final 30 days after the initial notice.
4. The decertification of the affected deputy shall be sustained by the Criminal Justice Services Board unless the affected deputy shows, by a preponderance of the evidence, good cause for the certification to be reinstated.
5. The Criminal Justice Services Board will notify the affected deputy and the Fairfax County Sheriff's Office, by certified mail, of the final action regarding decertification.
6. Any deputy who is decertified may, after a period of not less than five years, petition the Criminal Justice Services Board to be considered for reinstatement of certification.

10/29/01
DATE APPROVED

05/31/19
EFFECTIVE DATE



**STACEY A. KINCAID
SHERIFF**

Revised: May 2004, February 2013, May 2013, September 2013, May 2019