



# CITY OF FAIRFAX POLICE DEPARTMENT

## GENERAL ORDER

Subject <b>INTERNAL AFFAIRS</b>	Number 1-19
Effective Date November 12, 2014	Rescinds General Order 1-19, dated 04-07-14
Accreditation Standards Fifth Edition 52.1.1 thru 52.1.3	Authority Colonel Carl R. Pardini Chief of Police

### PURPOSE:

To instill public confidence in the Department's ability to investigate allegations of misconduct or improper activities and to take appropriate disciplinary action where necessary. The procedures set forth in this directive are intended to clearly establish a mechanism for complaints to be received, investigated, and resolved.

### POLICY:

The City of Fairfax Police Department is committed to excellence. Part of that commitment rests in the Department's ability to fairly and impartially investigate and resolve complaints about its members and operations. It is the policy of the City of Fairfax Police Department that all persons have the right to initiate a complaint concerning police services in general or the behavior of any of its members. Citizens are entitled to a fair and thorough investigation of facts surrounding their complaint as well as a timely response. A record of all complaints is maintained. Complaints are investigated by either supervisory personnel or the Professional Standards Division Commander, depending on the nature of the allegation(s). Members are entitled to an impartial, objective and confidential investigation of the facts and to procedural guarantees mandated by law and Department directives.

The Professional Standards Division Commander is charged with the responsibility of monitoring all complaints coming to the attention of the Department, keeping the Chief of Police informed of all complaints made against Department members and to fully and fairly investigate the more serious allegations of misconduct.

### DISCUSSION:

Discipline is an important function of command. A well-disciplined police force is one which voluntarily conforms to all rules, regulations, policy and procedure, and applicable laws. The method by which police agencies handle citizen complaints can be an important determinant of the trust and confidence the community will have in the Police Department. The Department recognizes that it is necessary to strike a balance between the annoyance and disruption to Department personnel and functions which can occur when frivolous complaints are received and, conversely, the absolutely essential need to ensure that members do not engage in criminal misconduct, abuse authority, or proceed contrary to rules, regulations, policy or procedure.

It is recognized that members are often subject to intense pressures in the discharge of their duties. Members must remain neutral under circumstances which are likely to generate tension, excitement, and emotion. In such situations, words, actions, and events frequently result in misunderstanding and confusion. It is to the advantage of members to have a procedure for the investigation of allegations of misconduct and the underlying circumstances of an incident so that complaints can be resolved objectively. These procedures are designed to document and respond to all complaints. The amount of documentation and investigative resources is commensurate to the seriousness of the allegation(s).

### DEFINITIONS:

Administrative Investigation: A non-criminal investigation conducted by a supervisor or commander for the purposes of examining and documenting incidents of alleged member misconduct or for the purposes of examining and documenting incidents for which Department policy requires investigation (e.g., police shootings).

Complainant: Any individual making a complaint against conduct or services of the Department or any of its members.

Complaint: An allegation of misconduct made against a specific member of the Department or complaint on specific operations or activities of the Department.

Duty Supervisor: A sworn officer at the rank of Sergeant or above who is in charge of a shift.

Exonerated: There was sufficient evidence found to conclude that the member's conduct did not constitute a violation of law, policy, regulation or procedure.

Internal Affairs: A part of the duties of the Professional Standards Division Commander, responsible for the investigation of complaints filed which involve the integrity of the department and to review those complaints that are investigated by supervisory personnel.

Member: Any sworn, non-sworn, permanent or temporary employee of the City of Fairfax Police Department.

Not Sustained: There was insufficient evidence found to clearly prove or disprove a violation of law, policy, regulation or procedure.

Relief From Duty: An administrative action, whereby a member's official authority is suspended and the member is temporarily relieved from performing the duties of their position.

Supervisor: A sworn officer at the rank of Lieutenant or Sergeant.

Sustained: There was sufficient evidence found to conclude that the member's conduct did constitute violation of law, policy, regulation or procedure.

Unfounded: There was sufficient evidence found to conclude that the alleged conduct did not occur.

## I. THE INTERNAL AFFAIRS FUNCTION

- A. The Chief of Police has the authority to initiate an Administrative Investigation. The Chief may initiate an Administrative Investigation on any issue or event affecting the integrity of the Department and shall initiate an Administrative Investigation, regardless of the method of complaint, upon receipt of the following allegations:
  1. Corruption
  2. Brutality
  3. Use of Excessive Force
  4. Violation of Civil Rights
  5. Criminal Misconduct.
- B. The Professional Standards Division Commander is designated the Internal Affairs Officer and is directly accountable to the Chief of Police for Internal Affairs matters. Strict confidentiality is afforded to Administrative Investigation matters.
- C. When an Administrative Investigation is initiated from a Citizen Complaint, a signed formal complaint is not necessary, but is desirable. An anonymous complaint of serious misconduct is sufficient reason to initiate an Administrative Investigation.
- D. Duty Supervisors are responsible for the immediate notification of command officials and the preliminary investigation of facts, including the obtaining of relevant photographs or other evidence, for allegations or on-site instances of police misconduct coming to their attention during their normal course of duty and while under their immediate control.

- E. Duty Supervisors are responsible for ensuring that prisoner injuries receive complete investigation and are properly documented. (See G.O. 4-9)
- F. The Professional Standards Division Commander maintains liaison with Division Commanders and advises them of statistical trends of complaints.
- G. As necessary, the Professional Standards Division Commander maintains a prosecutorial liaison with the City Attorney and the Commonwealth Attorney for advice and guidance during investigations.
- H. The Professional Standards Division Commander maintains secure files for Internal Affairs records, receives all original PD-134 forms, PD-134A forms, Use of Force Reports, and copies of reports of prisoner injuries. The Professional Standards Division Commander provides annual statistical data for publication in the annual report and other media.
- I. Any member may request the Chief of Police to initiate an Administrative Investigation of their own conduct whenever the perception of a false accusation or a contrived situation is felt to exist.
- J. Members under investigation may ascertain the status of their pending investigation upon request to the investigating officer, Professional Standards Division Commander or other members of Command Staff.

## II. TYPES OF INCIDENTS TO BE INVESTIGATED

- A. The incidents which are to be handled in accordance with the provisions of this Order are alleged or suspected acts of employee misconduct, violations of departmental rules and regulations, and any incident involving employees of the department which include the likelihood of civil action.
- B. The 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 PD-134, Citizen Complaint Form. This does not preclude the initial receipt of complaints by mail or telephone, which may warrant an investigation even though a PD-134 is not received.
  - 2. Alleged violations reported to supervisory or command personnel by members of the Department.
  - 3. Those actions observed by supervisory or command officers that appear to be in violation of law or departmental regulation.
  - 4. 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.

## III. INVESTIGATIVE RESPONSIBILITY

- A. The Professional Standards Division Commander is responsible for oversight, acceptance, investigation and adjudication of all complaints. The Professional Standards Division Commander is directly responsible to the Chief of Police.
- B. The Professional Standards Division Commander will investigate or manage the investigation of all complaints of:
  - 1. Corruption
  - 2. Brutality
  - 3. Use of Force – Death or serious injury (including all Police K-9 bite cases)
  - 4. Traffic accidents resulting in serious injury or death

5. Violation of Civil Rights
  6. Any other complaint or situation affecting the integrity of the department or of a critical nature as deemed by the Chief of Police.
- C. Division Commanders and supervisors will investigate complaints of:
1. Rudeness
  2. Situations other than misconduct
  3. Non-accident driving behavior
  4. Minor violations of rules and regulations.
  5. Traffic accidents involving property damage/minor injury
  6. The manner in which an employee investigated a crime, accident or service complaint.
  7. Arrest or charge propriety.
  8. Police procedure, practice, service level or legal standard of the department.
- D. The Criminal Investigations Division will investigate allegations of criminal misconduct.

#### IV. RECEIPT OF COMPLAINTS

- A. Complaint Sources: The department recognizes all means by which a person may transmit a concern/complaint regarding police service, member conduct, or department policy. Complaints are received verbally, both in-person and telephonically, and in written format, those either mailed, electronically mailed or delivered in-person. In all cases where a complainant makes person to person contact with the department, the complainant shall be referred to the duty supervisor.
- B. Complaint Documentation Procedures:
1. If the complaint involves a member not under the duty supervisor's authority, the duty supervisor will contact a supervisor (if available) in the involved member's chain of command so that a detailed interview with the complainant can be conducted. If the complaint involves more than one member, the supervisor of the most senior member involved is contacted. If a supervisor in the most senior member's chain of command is not available, the duty supervisor conducts an interview with enough depth to accurately identify the complainant's concerns. The receiving supervisor ensures that a PD-134 is completed, either by the complainant, or if the complainant prefers, by the supervisor. Complaints received in written form (including e-mail) are attached to a PD-134 and "see attached" is written in the narrative section of the form.
  2. The complainant is informed that a letter will be sent to them acknowledging receipt of the complaint and advising the name of the investigating officer, that a written reply will follow within thirty (30) days, and that the investigating officer will contact them within seven (7) days. The complainant is provided with a copy of their completed PD-134 upon request. If the complainant wishes to remain anonymous or requests that no letter be sent, that request is honored.
  3. The completed PD-134 is forwarded to the Office of the Chief of Police for review and notification purposes. If the receiving supervisor determines that the nature of the complaint is such that it may be investigated efficiently at their level (see Section VII.C.), the supervisor keeps the original complaint, initiates an administrative investigation and forwards a copy to the Office of the Chief.
  4. After the Chief's review, the complaint will be forwarded to the Professional Standards Division Commander. If it is not already being worked, the complaint will then be assigned for investigation. Prior to final assignment, the Administrative Assistant to the Chief of Police or the Deputy Chief of Police processes the complaint as follows:

- a. If the complaint is in letter form, a fresh PD-134 is used with "see attached letter" typed in the narrative section. E-mails are printed and treated as letters.
- b. A letter of acknowledgment is mailed to the complainant advising; the name of the investigating officer, that a written reply will follow within 30 days, and that the investigating officer will contact them within seven (7) days. If the only contact is by e-mail address, an electronic reply is sent and a paper copy of all e-mail correspondence is included in the investigation file.

## V. INVESTIGATIVE PROCEDURES

### A. Preliminary Investigation

1. The purpose of the preliminary investigation is to document and preserve relevant facts and evidence for the administrative investigation that will follow. It is important for supervisors to consider issues of liability and possible complaints for incidents that occur during their shift. Taking these preliminary steps will assist in ensuring a complete and thorough investigation.
2. A supervisor who initiates or is made aware of an incident, which may require an administrative investigation, shall ensure a preliminary investigation is completed.
3. If a citizen alleges misconduct by an employee of the Police Department a citizen complaint form PD-134 should be provided and completed by the complainant. If the complainant refuses to complete the form that fact should be noted by the supervisor.
4. A detailed interview should be conducted with the complainant to obtain relevant information for the investigation.
5. Other persons with information relevant to the situation should be identified so they may be contacted in the future.
6. Any relevant physical evidence should be preserved.
7. Photographs should be taken of any condition or evidence that may change over time.
8. A request for a medical records release should be made from all individuals claiming an injury in an incident.
9. Obtain any other information that may assist in or be relevant to the administrative investigation.

### B. Administrative Investigation

1. The first phase of an administrative investigation is the Initial Inquiry. The purpose of the Initial Inquiry is to determine if there is reasonable suspicion of member misconduct. If the facts, circumstances, and evidence do not support the reasonable suspicion of member misconduct, the investigating officer should complete a PD-134A short form describing their finding(s) and forward their recommendation to the Chief of Police. The Chief of Police will make the final determination of whether further investigation into the complaint is warranted. All complaints failing to meet the reasonable suspicion standard will be closed as UNFOUNDED.
2. Example: An e-mail complaint is received on an officer for performing his/her duty in a particular manner. The complaint number is assigned and a receipt of complaint letter is sent to the complainant. The reported behavior is determined to be in accordance with police training, tactics and policy. There is no reasonable suspicion of misconduct and the matter requires no further investigation. The investigative finding is documented using the PD 134A short form. A letter is then sent to the complainant explaining the finding. (See Attachment "C" for Administrative Investigation Flow Chart)
3. Administrative Investigations may only be closed during the Initial Inquiry phase if the reported complaint does not constitute a violation of policy or involve reasonable suspicion of misconduct. The lack of witnesses or evidence does not equate to a lack of reasonable suspicion.

4. If a determination is made that there is reasonable suspicion of member misconduct, an administrative investigation shall be completed and either a PD-134A short form or a detailed administrative investigation report is completed and forwarded to the Chief of Police.
5. Recommended procedures for completing a detailed administrative investigation report can be found in the Administrative Investigations Handbook.
6. If applicable or upon approval of the Professional Standards Division Commander, certain complaints may be reported on a PD-134A short form. ( See Section VII. below )
7. A Supervisor or Commander assigned to conduct an administrative investigation shall ensure a complete and impartial investigation is completed. He/she will investigate the complaint, collect reports and other documentation or evidence as necessary, and remain in contact with the complainant. Investigations will be completed within 30 days of receipt unless circumstances develop which necessitate additional time to ensure a thorough investigation. In those instances, a request for an extension is made to the Chief of Police. When an extension is approved, the investigating officer makes notification to the complainant.

## VI. MEMBER'S RIGHTS AND RESPONSIBILITIES

- A. 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, the nature of the investigation and their rights and responsibilities. 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. Two signed originals shall be completed. One signed original shall be given to the officer and a second signed original shall be retained in the investigative file.
- B. 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, the nature of the investigation and their rights and responsibilities. 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.
- C. When an investigation requires that a member be brought in for questioning, the following procedures apply:
  1. Questioning of the member is at a reasonable hour, preferably when the member is on duty, unless exigencies of the investigation dictate otherwise. Where practicable, questioning is scheduled for daytime. The member does not suffer loss of pay or overtime for time spent being questioned.
  2. Questioning normally takes place in a private office or other setting designed to provide privacy.
  3. The member is informed of the rank and name of the officer in charge of the investigation, as well as the rank and name of the questioning person and all persons present during questioning.
  4. The member is informed of the nature of the investigation before any questioning commences. The address of the complainants and/or witnesses need not be disclosed. Sufficient information to reasonably appraise the member of the allegations is provided.
  5. If it is known that the member being questioned is a witness only, they are informed at the initial contact.
  6. Questioning is not excessive. Reasonable breaks are allowed. Time is provided for personal necessities, meals, telephone calls, and rest periods as reasonably necessary.
  7. Members are not subject to any offensive language, nor threatened with transfer, dismissal or other disciplinary punishment. No promises of reward are made as an inducement to answering questions.

8. A member does not have the right to refuse to answer any question concerning their performance of duty or their adherence to rules and regulations, policy and procedure. Any admissions made during such questioning, however, cannot be used against such member in a subsequent criminal prosecution unless the appropriate Miranda warnings had already been given and the admissions were freely made.
  9. During the course of an administrative investigation, a compelled written or taped statement may be required from any employee. 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. 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.
  10. The refusal by a member to answer questions, or to submit a report, may result in disciplinary action up to and including dismissal from the department.
  11. Members do not have the right to have counsel present during administrative interviews.
- D. A member may be required to submit to a medical, psychological, psychiatric, or laboratory examination or tests, at the Department's expense, when the particulars of the tests or examinations are related to the member's fitness for duty and no criminal evidence is the intended result.
  - E. Prior to taking a medical, psychological, psychiatric or laboratory test or examination, the member is given a description of the methodology or test to be used, name of the laboratory, psychologist, psychiatrist or medical doctor and the purpose of the examination or test.
  - F. A member may be required to be photographed or to participate in a live lineup.
  - G. A member may be required to submit a financial disclosure statement when the disclosure is material to a particular and specific allegation and in conformity to Section 2.1-116.3 of the Code of Virginia.
  - H. Polygraph examinations are only conducted on a member if authorized by the Chief of Police. Polygraph examinations are not utilized as normal practice in the internal affairs process, but may be utilized if:
    1. The member under review requests it; or
    2. Significant information has been developed to indicate the member has not been truthful during the investigative process; or
    3. If the Chief of Police determines that a polygraph examination is in the best interest of the department.
  - I. 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.

## VII. REPORTING

- A. All complaints will be thoroughly and fairly investigated. As the administrative investigation is completed, it is the assigned supervisor's responsibility to completely examine all details and 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 as to the guilt or innocence of an employee. All incident investigations demand thoroughness and accuracy, as the information developed may be vital in defending the employee and the City in an unwarranted civil action.

- B. 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 unfounded recommendation shall be documented in either the PD-134A short form or the administrative investigation report and transmitted through the appropriate chain of command.
- C. Reporting Methods
1. There are two methods for reporting administrative investigations, the PD-134A short form and the administrative investigation report.
  2. Certain incidents and complaints require a lesser degree of investigative resources and their nature dictates that a detailed resolution may be effectively documented on a form. The PD-134A short form may be utilized to document the following matters:
    - a. A generalized citizen concern with no specific allegation/detail regarding member misconduct.
    - b. Initial Inquiries resulting in a finding of no reasonable suspicion of member misconduct.
    - c. Minor violations by members in which the facts are undisputed by the involved member (missed court/assignment, tardiness, minor damage to department property, discipline issued at the supervisory level etc.).
    - d. Other incidents/complaints approved by the Professional Standards Division Commander.
  3. If a supervisor or commander comes into receipt of a complaint similar in nature to those stated above, the receiving supervisor documents the complaint on a PD-134 and sends a copy of the complaint to the Office of the Chief of Police for notification purposes. The receiving supervisor may initiate the administrative investigation immediately. The complaint will be reviewed and processed and the Office of the Chief of Police will assign the case a complaint number. All material/documentation related to the case should include the assigned complaint number.
  4. Once complete, the PD-134A short form is forwarded to the Chief of Police through the involved member's chain of command. Any discipline imposed by a supervisor/commander should accompany the completed investigation. Discipline generated by a supervisor which is independent of a complaint may also be documented on the PD-134A Supervisor's Report of Discipline/A.I. Short Form (See General Order 1-9, Discipline).
  5. Training issues identified as a result of a complaint may be documented on the PD-134A short form and are forwarded to the Training Officer for action. Any related discipline issued at the division level or lower shall be annotated on the short form. If a written reprimand is issued, a copy must accompany the form.
  6. All other complaints require a detailed administrative investigation report. The written report must conclude with a recommendation of sustained, exonerated, not sustained, unfounded or policy failure. EXCEPTION: Complaints on situations rather than conduct are concluded with a resolution or recommended remedy. The Administrative Investigation report must contain the following information:
    - a. Synopsis: A brief paragraph describing the event, what the complaint is or what is being investigated.
    - b. Findings: A detailed account of what happened and a description of events as described by the complainant, the member and any witnesses.
    - c. Conclusions: A detailed analysis of the employee's conduct as compared to the standards established by the law, regulations, policy and procedures, followed by specific recommendations concerning specific allegations and/or violations of policy or procedure. This section may also include the identification of any policy failure or void.
  7. Reports of cases having a recommendation of exonerated, not sustained, or unfounded are forwarded through the involved member(s) chain of command to the Chief of Police for a final decision. The member is notified in writing of the decision and the case is closed. Any order of confidentiality issued during the investigation shall expire upon closure of the case.



8. After review by the Chief of Police, reports containing sustained allegations are forwarded to the appropriate Division Commander for review and recommendations. The recommendations of the Division Commander are included in the Administrative Investigation report and forwarded to the Chief of Police within three (3) workdays of a finding.

#### VIII. DUTY STATUS

- A. 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:
  1. Reassigning an employee to other duties for the purpose of closer supervision or separation from the public or other employees.
  2. Relieving an employee from duty and/or placing them on administrative leave.
  3. If an employee is relieved from duty, they must surrender their duty weapon, police badges and identification card. The employee is informed of the hours considered duty time during which they must remain available to the department. All police powers and authority are suspended during this relief period.

#### IX. DISCIPLINARY/CORRECTIVE ACTION

If a complaint results in a sustained finding, appropriate discipline and/or corrective action is imposed in accordance with Section 66-14 of the Personnel Ordinance and General Order 1-9.

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Colonel Carl R. Pardiny / Chief of Police

[Attachment A: Citizen Commendation/Complain/Concern Form](#)

[Attachment B: Supervisor's Report of Discipline/A.I. Short Form](#)

[Attachment C: Administrative Investigation Flow Chart](#)

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