



## 105 Administrative Investigations and Employee Conduct Virginia Beach Police Department General Order

Chapter 100 – Department Rules and Authority

**CALEA Standards:** 1.2.10, 12.2.1 G, 22.1.8 A, 22.4.1, 22.4.2, 22.4.3, 26.1.1, 26.1.4, 26.1.5, 26.1.6, 26.1.7, 26.1.8, 26.2.2, 26.2.3, 26.2.4, 26.2.5, 26.3.1, 26.3.2, 26.3.3, 26.3.4, 26.3.5, 26.3.6, 26.3.7, 26.3.8

### **Purpose:**

The purpose of this document is to establish a set of rules and regulations designed to support existing policies and procedures; to identify the structure, functions, and responsibilities of department employees; to set forth the philosophy and practices of the Virginia Beach Police Department as they relate to promoting discipline throughout the organization; and to convey and establish procedures for employees of the Virginia Beach Police Department to resolve disputes and grievances arising from work-related concerns.

### **Definitions:**

**Administrative Investigation:** All investigations concerning conduct, including External, Internal, Firearms Discharges, and Information cases. Administrative investigations are confidential, impartial, fact-finding investigations that provide a recommended disposition for the Police Chief's review.

**Internal Investigation:** An investigation generated from within the department in response to one or more allegations of misconduct. An internal investigation may be authorized or requested by a command, Internal Affairs, or the Police Chief. These investigations shall not be conducted by a rank lower than Sergeant.

**External Complaint:** An investigation generated from outside the department in response to one or more allegations, by a known citizen, of employee misconduct or a violation of department policy or procedure. A complaint is defined as an expression of formal discontent, dissatisfaction, or accusation made in a written or verbal form that alleges illegal activity, misconduct, or a violation of rules or regulations of the police department or the City of Virginia Beach. When external complaints are assigned to the Precinct for investigation, these investigations shall not be conducted by a rank lower than Lieutenant. When external complaints are investigated by the Internal Affairs Unit (IAU), they will be conducted by IAU sergeants.

**Firearms Discharge Investigation:** The investigation of any firearms discharge by an employee, other than intentional discharges occurring as a part of authorized training or off duty during a lawful sporting activity.

**Information Case:** An internal or external allegation in which the complainant does not wish to file a formal complaint, recants the complaint, or the allegation(s) does not rise to the level of a potential policy or criminal violation.

**Mediation:** A process in which the complainant and the accused employee meet in person or virtually with the assistance of a neutral third-party certified mediator.

**Policy Review:** A policy review is not a disposition. It is an action taken to address a situation in which an employee's actions are within or outside policy, but the consequences of the policy need to be addressed. A Policy Review can occur concurrently with any disposition.

**Dispositions** - All citizen complaints and internal investigations are categorized by specific allegations. Each allegation requires the investigator to recommend one of the following dispositions to the Police Chief. (CALEA 26.3.8)

- A. **Sustained:** There is sufficient evidence to prove the allegation. The incident occurred, the accused employee committed the act, and it violated a departmental rule or policy.
- B. **Sustained Other:** There is sufficient evidence to prove an added allegation that was not a part of the initial complaint. A violation of departmental rule or policy was discovered and proven during the investigation.
- C. **Not Sustained:** There is insufficient evidence to prove or disprove an allegation. The incident may or may not have occurred, and the evidence is insufficient to establish that a violation occurred.
- D. **Exonerated:** The incident occurred, but the employee's actions were proper. The employee essentially did what the citizen alleges, and the actions were reasonable, appropriate, and consistent with current policies or training.
- E. **Unfounded:** The allegation is proven to be false by evidence that demonstrates it did not occur, or if it did happen, the accused employee is not the person responsible for committing it.
- F. **Unfounded by Technology:** The incident was captured on a technology source to include but not limited to Body Worn Camera, Fleet camera, or Genetec etc., and the technology source proves the allegation was false by evidence that demonstrates that the allegation did not occur, or if it did happen, the accused employee is not the person responsible for committing it.

**Action Taken:** How an allegation is addressed. These actions can be both disciplinary and non-disciplinary. There can be more than one action taken in response to an allegation. Potential actions taken can include: No Action, Counseling/Training, Reprimand, Suspension, Administrative Decrease, Dismissal, Mediation, and Policy Review.

**Non-Disciplinary Action:** Informal actions taken by a supervisor designated to document incidents, patterns of behavior, or correct behavior. Examples of non-disciplinary action can include oral or written counseling, training, mediation, and policy review.

**Disciplinary Action** – Formal actions taken by a supervisor designed to correct a behavior or pattern of behavior that violates organizational rules, policies, or values. Examples of disciplinary action can include reprimands, suspensions, administrative decreases, demotions, and dismissals. Human Resources authors all discipline documents in accordance with City Policy. They utilize the Law Enforcement Procedural Guarantees when applicable.

**Memorandum of Charges** – The first written procedural step in the process for imposing disciplinary action.

**Notice of Disciplinary Action** - This is the second written procedural step in the disciplinary action process. This may be combined with the Memorandum of Charges when a reprimand is being issued.

**Independent Citizen Review Board:** A law-enforcement civilian review body that can review allegations of abuse of authority or other serious misconduct.

### **Department Rules**

The rules outlined in [Appendix A: Department Rules](#) apply to both sworn and non-sworn members unless stated explicitly for sworn positions.

All personnel, regardless of their position, are responsible for adhering to these rules and departmental policies and for reporting any violations.

Violations of these rules may subject the member to discipline, in accordance with the City of Virginia Beach Human Resources Policy No. 4.02, Discipline Policy and Procedure, and the guidelines outlined in the [Corrective Disciplinary Action](#) section of this General Order.

### **How to Conduct Administrative Investigations (CALEA 26.2.1)**

This section provides a comprehensive list of actions taken during an administrative investigation.

### **Timelines and Extensions (CALEA 26.3.3)**

Most administrative investigations are expected to be completed within 30 days. Exceptions may occur, and procedures for requesting extensions are outlined below.

When the precinct or bureau commander is responsible for an administrative investigation, it must be completed within **thirty (30) calendar days from the date of assignment**. If this deadline cannot be met, the commander must request an extension from the Commanding Officer of the Professional Standards Bureau (PSB). Extension requests must be submitted via email and documented in the Axon Standards Case, including the reason for the extension and the amount of time requested. If an extension is granted, the precinct or bureau commander must notify the involved employee(s) by email, and a copy of the notification must also be uploaded to the Axon Standards Case. For external complaints requiring an extension, Internal Affairs will send an extension letter to the complainant.

When IAU is responsible for an administrative investigation, it must be completed within a reasonable timeframe, except when there is an active or pending criminal investigation, prosecution, or an active EEO investigation. In such cases, it may be necessary to delay the start of the administrative investigation until related investigations are concluded. If IAU investigations cannot be completed within a reasonable timeframe, the Commanding Officer of the PSB or Lieutenant must notify the command or involved employee(s) by email, and a copy of the notification must be included in the Axon Standards Case.

### Complainant & Employee Notifications (CALEA 26.3.4)

- A. Acknowledgment Notification: Upon receipt of an external complaint, the complainant shall be sent a Citizen Acknowledgment Letter. The letter explains the investigation process and provides an EVT number. A copy is stored in the administrative file.
- B. Extension Letter: Sent to the complainant or involved employee(s) when an active investigation requires an extension beyond the agency's approved timeline. This notification states the investigation remains active and provides a general update concerning the stage of the investigation. A copy of this letter is stored in the administrative file.
- C. Disposition Letter: When an External Complaint investigation is closed, Internal Affairs will send a disposition letter to the complainant disclosing the findings. A copy of the letter is stored in the administrative file.

Timelines for administrative investigations are established to promote accountability and efficiency. Exceeding these timelines does not automatically result in case closure, reversal of disciplinary recommendations, or other actions.

The Police Chief may approve additional extensions beyond established timelines when justified by case complexity, the need to coordinate with outside agencies, or other extenuating circumstances.

All completed administrative investigations must be routed through the PSB Commander to the Police Chief for final adjudication.

### **Conflict Waivers**

Investigations shall be conducted without any potential or actual conflicts that could result in an appearance of impropriety and affect one's professional integrity or ability to investigate matters objectively without any biases or personal interest.

The assigned investigator shall sign the Conflict Waiver Notice form for all investigations. The signed waiver will be included in the case file.

The assigned investigator shall disclose any potential conflicts of interest before commencing the investigation. If either the investigator or supervisor believes a conflict of interest exists, every effort will be made to reassign the investigation.

Examples of conflicts may include, but are not limited to:

- A. Family or close family ties
- B. Godparent/child involvement
- C. Close relationship to either the complainant or witnesses
- D. Mutual off-duty business relationship
- E. Frequent or regular social interactions outside of the workplace

### **Administrative Investigative Tools**

The Police Chief may order sworn employees, during an administrative investigation, to submit to ballistics, chemical, lineup, polygraph, or other tests in accordance with department and city rules and policies.

### **Alcohol and/or Drug Testing (CALEA 26.3.6 A)**

Employees shall follow all procedures outlined in the City of Virginia Beach Substance Abuse Policy, Section 6.15. They shall also submit to testing as required, which may include medical or laboratory examinations when any of the following occurs while on-duty, or off-duty, and an employee has taken official police action:

- A. An employee discharges a department-authorized weapon either while on duty or in connection with the performance of official duties, where such discharge results in personal injury or death of a person.
- B. An employee who is suspected of being impaired from consuming intoxicating beverages or suspected of using illegal controlled substances, or the improper use of controlled substances.
- C. An employee involved in a motor vehicle accident while operating a City licensed/leased fleet asset at any time, or while operating a personal vehicle while conducting official City business, shall be required to submit to a urine and/or breath test for analysis to determine the presence, if any, of drug(s), including marijuana, or alcohol in the member's system when the accident results in:
  1. fatality; OR
  2. bodily injury requiring immediate medical treatment away from the scene, and the member is issued a traffic citation, OR
  3. disabling damage to a motor vehicle requiring towing, and the member is issued a traffic citation.

In addition to the imposition of discipline, an Employee Assistance Program (EAP) formal referral will be required in cases involving a positive drug screen for marijuana, unauthorized prescription drug use, or alcohol screen and in cases involving founded violence in the workplace, per [City of Virginia Beach HR Policy 5.02 Employee Assistance Program](#); [City of Virginia Beach HR Policy 6.15 Substance Abuse Policy](#); and the [City of Virginia Beach Policy 6.17 Violence Prevention Policy](#).

In other situations, the command may informally refer the employee to EAP or, when the employee's workplace performance is negatively affected, make a formal supervisory referral to EAP as an additional resource for helping the employee. EAP referrals shall be made through the Chief Wellness Officer.

### **Photograph Identification (CALEA 26.3.6 B, C, D)**

Department employee photographs may be maintained for identification purposes by citizens who are involved in an investigation of an employee accused of misconduct.

The department will require photographs of employees for identification purposes and will use them as they relate narrowly to the employee's specific job responsibilities. Photographs or video recordings of employees may be taken, whether knowingly or unknowingly, for internal investigations when they relate to the employee's job and the employee is suspected of misconduct.

**Financial Disclosure Statements (CALEA 26.3.6 E)**

Upon the order of the Police Chief or their designee, employees shall submit financial disclosure statements in accordance with departmental procedures in connection with a complaint in which this information is material to the investigation. The Police Chief shall maintain these statements and shall not make them available to the public.

An employee may only be compelled to provide financial disclosure statements when it is directly and narrowly related to allegations of misconduct involving any unlawful financial gain.

**Polygraph Examination (CALEA 26.3.6 F)**

All polygraphs conducted in connection with an administrative investigation shall be requested through Internal Affairs and shall be approved in writing by the Police Chief. Examiners who conduct internal polygraph examinations of department personnel will be responsible for ensuring the appropriate directive letter [Form PD-155](#) has been signed and delivered to the examinee per the Code of Virginia.

Polygraph examinations should be limited to those cases in which the allegations are serious, and all other investigative leads have failed to produce a preponderance of evidence that will either prove or disprove the allegation. No investigator shall personally administer a polygraph examination to any employee involved in a case in which they are the assigned investigator.

Polygraph results may be included as additional evidence to be considered by case reviewers but shall not be referred to in a notice of disciplinary action letter or mentioned during any proceeding before the City's Personnel Board. Nor shall a finding be made solely on the outcome of a polygraph examination.

**Administrative Searches**

Pursuant to the City of Virginia Beach Administrative Directive 2.04, Information and Communication Technology Acceptable Use, the City reserves the right to access, monitor, or review any User's workstation, account, device, and the information stored, transmitted, or received at any time. Users should not consider any of the material transmitted via or stored on the City's information and communication technology system to be private. This includes, but is not limited to, information on a city computer, email, or web browser; on an internal or external network; in voice calls or voicemail; in a CAD system; or on city-issued cellular devices or smartphones.

Additionally, office space and furniture are the property of the City, and there is no expectation of privacy in any office desk, drawer, cabinet, locker, file, or other storage area. The Department reserves the right to review, search, and/or inspect these spaces, areas, and/or systems as necessary.

Supervisors may also enter employee workspaces for inspection to ensure employee health, welfare, and safety; complete equipment inventory reports; check functionality; etc., whether related to an investigation or not. Items inadvertently discovered and determined to be evidence of criminal activity or contraband will be collected and processed by the current department's evidence handling procedures.

## Virginia State Police (VSP) Off-Line Search Requests

Off-line searches of data transmitted or received through the state's Virginia Criminal Information Network (VCIN) and the National Crime Information Center (NCIC) or National Law Enforcement Telecommunications System (NLETS) computer systems are available to VCIN agencies and other criminal justice agencies for investigations upon written requests to the VCIN Administrative Office. The written request must be on agency letterhead and include the search date range, the data to be searched, and the reason for the search. The request may be mailed or faxed to the VSP.

Offline searches through the VSP must be conducted with prior approval. All requests for Off-Line searches shall be submitted through the chain of command to the Commanding Officer of the PSB for approval. Final approval shall come from the Deputy Chief of the Administrative Division or the Police Chief.

Once the requested information has served the purpose for which it was obtained, the printout must be destroyed. If the agency discovers any violations of NCIC/VCIN policies related to:

- A. The unauthorized accessing of any criminal justice information obtained from the VCIN system.
- B. The unauthorized dissemination of any criminal justice information obtained from the VCIN system.

The agency must report these findings to the VCIN Administrative Office.

### Administrative Interview Guidelines (CALEA 26.3.5)

Before discussing the allegations with, and before interviewing the employee, the employee shall:

- A. Be notified of the type of complaint, the alleged date of occurrence, and the location.
- B. Be notified of their alleged role in the incident (Involved/Witness) and that their role and allegations can change during the investigation.
- C. Read and sign the "Garrity Statement" as documented on the [PD-254 Administrative Notification Form](#). This notification shall be given to any sworn employee regardless of their role in the investigation.

The investigator shall comply with all provisions of the Code of Virginia, Law Enforcement Officer Procedural Guarantees ([§9.1-500 §9.1-501 §9.1-502 §9.1-503 §9.1-504 §9.1-505 §9.1-506 §9.1-507](#)).

All employee interviews shall be audio- and/or video-recorded.

Whenever a recorded statement or recorded interview is made with a complainant, witness, or employee, the following information will be recorded before beginning the interview:

- A. Name of interviewer.
- B. Location of interview (if a recorded phone conversation, the number called).
- C. Date and time.
- D. Name of the person being interviewed.

E. Names of anyone else present.

If a complainant or witness asks if the conversation is being recorded, the investigator shall inform them that the interview is being audio- or video-recorded.

Employees shall have up to **thirty (30) days** to review their recorded interview. The audio file of the interview will be provided via a link from our Axon software. Employees are not entitled to **any** other administrative investigation materials.

Lost Statement Procedure - If a recorded statement is lost, the complainant will be notified with an explanation of the circumstances. The complainant shall be given the option to be interviewed again or to read a prepared summary of the interview if one exists.

If the complainant agrees with the summary and does not wish to be re-recorded, a notation will be made in the file. If the complainant wishes to have their statement re-recorded, the investigator will arrange a new interview. A notation will be made in the file containing all decisions regarding this aspect.

If an employee's statement is lost, the employee will be reinterviewed.

**Command Level Administrative Investigations - (CALEA 26.3.1, 26.3.2, 26.3.3, 26.3.4)**

The appropriate precinct/bureau commander shall be responsible for conducting all relatively minor administrative investigations. These may include, but are not limited to:

- A. Discourtesy, profanity
- B. Minor violations of department policy, procedure, and training standards i.e., failure to secure department property, departmental reports, sleeping on duty, insubordination, report for duty
- C. Shots fired at animals
- D. Police vehicle crashes not resulting in the death or serious injury to department personnel or citizens
- E. Unsatisfactory performance/failure to take necessary police action
- F. Other allegations not rising to a serious level

**Internal Affairs Unit Administrative Investigations - (CALEA 26.2.3)**

Internal Affairs will be responsible for conducting more serious administrative investigations. These may include, but are not limited to:

- A. Acts that seriously undermine community trust, public safety, or the image of the department
- B. Bias policing/racial profiling
- C. Criminal law violations by department personnel
- D. Discharge of firearms (excluding animal euthanasia)
- E. Dishonesty
- F. Excessive or inappropriate level of force
- G. Improper arrest, search, or seizure

- H. In-custody deaths and serious injuries to a citizen
- I. Police vehicle crashes involving serious injuries to personnel or civilians
- J. Sexual misconduct
- K. Workplace harassment, workplace violence
- L. Any complaint referred by the Police Chief

### **Notification to the Internal Affairs Unit**

Notifying Internal Affairs is crucial to ensure that investigations are accurate and complete. The employee in charge of a scene has the responsibility to contact Internal Affairs immediately in any of the following circumstances:

- A. An employee is the subject of a criminal investigation.
- B. An employee is arrested.
- C. An employee-involved shooting (excluding animal euthanasia).
- D. An unintentional discharge of a firearm (on or off duty).
- E. Serious bodily injury/death of a suspect or citizen because of police action (Response to Resistance/Pursuit involving a crash, etc.)
- F. Allegation of serious misconduct.

### **Litigation Holds and City Attorney Notifications**

Internal Affairs will review a complainant's complaint history and preserve litigation files with the City of Virginia Beach. At all stages of the litigation process, Internal Affairs will assist the department's administration, the City Risk Management Division, and the City Attorney's Office in preparing cases involving civil litigation related to job-related actions and department personnel.

### **External Complaints**

The VBPD shall investigate all External Complaints to determine whether department policy, standards, or training were followed. External Complaints submitted by a citizen within one year of the alleged incident shall be documented and investigated as either an External Complaint or as Information Only, depending on which option applies. Complaints submitted more than one year after the alleged incident shall be handled as Information Only cases unless the allegations involve corruption, brutality, misuse of force, breach of civil rights, criminal misconduct, abuse of position, or improper search and seizure. Complainants should **not** be delayed, refused, or redirected to Internal Affairs.

Anonymous complaints shall be accepted, documented, and investigated. These complaints will initially be recorded as Internal or External Complaints. Contingent upon the findings, these complaints may be converted to an Information Only case if applicable.

- A. The possibility of a civil claim or lawsuit does not affect the acceptance or investigation of a complaint.

- B. External Complaints shall not be accepted when the allegations involve off-duty conduct where the employee was not identified as a police officer, providing department services, using their authority granted to them through their department position, or working a department-sanctioned event.

However, if the alleged incident adversely affects the department's function or image, violates local, state, or federal law, or violates departmental rules or regulations, the allegation will be reviewed and appropriately investigated. If an employee asserts law enforcement authority during an off-duty encounter, the matter shall be treated as if the employee were on duty.

If a citizen insists on making a complaint and the supervisor believes the information provided does not meet the criteria, the supervisor shall accept the complaint and document it in Axon Standards.

The supervisor shall inform the complainant of the department's procedures for processing and investigating external complaints. The Axon Standards report shall be immediately forwarded via the chain of command to Internal Affairs, regardless of who conducts the investigation.

If the complainant requests to withdraw a complaint, the request shall be documented in the initial Axon Standards entry and forwarded through the chain of command to Internal Affairs. Instances where a complainant recants the complaint can be documented as Information Only.

### **Mediation**

Internal Affairs can offer and facilitate mediation, when appropriate, between complainants and employees, utilizing the services of a certified mediator. Citizens may not pursue mediation and an administrative investigation on the same complaint. This must be communicated to the complainant prior to offering and agreeing to mediation. Internal Affairs will review complaints to determine their eligibility for mediation. If a matter is eligible for mediation, Internal Affairs will contact the complainant to determine if there are any additional details the complainant would like to include.

If there is current litigation, the City Attorney shall be consulted before offering mediation. Past litigation will be considered in the screening process, but it does not automatically render a case ineligible.

Complaints involving the following circumstances are not eligible for mediation:

- A. Response to Resistance.
- B. Criminal misconduct.
- C. Assault of an employee.
- D. A lawsuit has been filed.
- E. The complainant or employee was injured.
- F. Use of ethnic slurs.

When a complaint is eligible for mediation, but the complainant has a pending court case against the accused employee, it must take place only after the court case has been adjudicated.

An employee is eligible for mediation unless they have had two prior complaints with similar allegations within the past 12 months. Internal Affairs will make the final determination of whether a case is eligible. If deemed eligible, the employee will be contacted to determine their interest in participating in mediation. The employee will be advised of the following:

- A. Name of complainant.
- B. The allegation.
- C. Notification that the complaint has been approved for mediation.
- D. Explanation of the voluntary mediation process.

The complainant and employee will be advised that participation in the mediation process is entirely voluntary, and there will be an expectation to actively listen to the other party and participate in the discussion. The complainant will be advised that the purpose of mediation is to address the complaint and may not result in a resolution. Mediated complaints shall not result in a monetary award. The mediation does not require both parties to agree. If the mediator determines the employee is not participating appropriately, the mediator may end the session and return the complaint to Internal Affairs for investigation. Except for a parent(s) or guardian(s) of a juvenile or dependent adult, the complainant and employee do not have the right to have a support person or legal representation present during the mediation.

If the mediator determines the complainant is not participating appropriately, the administrative investigation will close as "Mediated" with no further action.

Since participation is voluntary, either party may withdraw before mediation has been convened. Mediation will be considered "convened" once the parties have assembled and the session has begun. If either party decides not to pursue mediation or withdraws before mediation is convened, the complaint will continue as an administrative investigation.

If the complainant fails to appear for the scheduled mediation without good cause, the complainant will be given a final opportunity to reschedule. If the complainant fails to appear a second time without good reason, the case will be closed with no further action.

If the employee fails to appear for a scheduled mediation without good cause, they will be given one opportunity to reschedule. If the employee fails to appear a second time without good reason, the complaint will continue as an administrative investigation.

### **Discrimination, Harassment, and Equal Employment Opportunity Investigations**

Allegations of discrimination or harassment involving violations of [General Order 307 Prohibition of Discrimination and Harassment](#), and/or City of Virginia Beach Equal Employment Opportunity Policy and Complaint Procedure, 6.06, and/or City of Virginia Beach Workplace Harassment Policy, 6.13, including retaliation claims, will be handled as follows:

- A. The complaint will be forwarded to the Internal Affairs Unit to work with the Department of Human Resources.
- B. If the complaint requires an EEO investigation, it shall be conducted by the Human Resources Employee Relations department.

- C. If an EEO investigation is not required, the complaint will be deferred to Internal Affairs.

### **Investigating Potential VCIN Violations**

- A. Examples of misuse of VCIN include, but are not limited to:
- B. Unauthorized dissemination of information obtained through VCIN.
- C. Utilizing VCIN information for personal and/or non-criminal justice purposes
- D. Improper handling of VCIN records
- E. Unauthorized access to the VCIN terminal
- F. Misconduct that may prohibit access to VCIN:
- G. Any felony offense
- H. Any class 1 or class 2 misdemeanor (excluding DUI – 1st Offense)
- I. DUI – 2nd Offense
- J. Crimes involving moral turpitude (lying, cheating, stealing)
- K. Crimes involving gross misconduct (crimes against a person and crimes involving drugs or controlled substances)

### **The Process of Suspending VCIN Access**

- A. Internal Affairs, a precinct/bureau commander or designee, will notify the VCIN Terminal Agency Coordinator (TAC) and/or Police Support Division's Supervisor if exigent circumstances arise.
- B. The Police Services Manager (PSM) will immediately submit a memo to the Police Chief notifying them of the possible violation. The memo will outline the details of the potential violation and a recommendation from the VCIN/TAC, as well as whether they believe the situation warrants a temporary suspension of the involved employee's VCIN access, in accordance with VCIN rules.
- C. The Police Chief will communicate his approval/denial of temporary VCIN suspension to the PSM. The memo with the Police Chief's comments, including approval or denial of VCIN suspension, will be provided by the PSM to the involved employee's command, the Deputy Chief of the applicable Division, and Internal Affairs.
- D. If the Police Chief recommends the suspension of VCIN access, the PSM will notify the VCIN TAC, who will notify the Virginia State Police (VSP) in writing (memo sent via email to the VSP captain). The VCIN/TAC will send a copy of the letter to the PSM and the VCIN Supervisor. A response will be received in letter format via email from VSP to the VCIN/TAC, acknowledging the suspension or other recommendation. It should be noted that the VCIN system is VSP's system, which VBPD is contracted to use. There may be instances in which a recommendation/request is sent from VBPD to VSP that VSP does not accept. Example: VBPD requests re-certification for an employee, but, given the circumstances, VSP requires suspension.
- E. The VCIN TAC will receive the letter from VSP with their outcome and forward that letter to the PSM. The PSM will provide both the letter sent to VSP by the VCIN

TAC and VSP's response letter to the involved employee's command, the Deputy Chief of the applicable Division, and the IAU.

- F. Internal Affairs or the involved employee's command will initiate the administrative investigation.
- G. If the suspected misconduct is also a potential criminal violation, Internal Affairs shall be notified. An investigation will be conducted in accordance with current policy.
- H. At the conclusion of all investigations, the VCIN/TAC will notify the VSP. The notification will include the following information:
  1. Summary of the violation.
  2. Outcome of the investigation (sustained/not sustained).
  3. What actions were taken by the department to remedy the situation (training, discipline, etc.)?
  4. If the involved employee is to remain employed with the department, the memo will also include a request to have the involved employee's VCIN access reinstated. The request should include a statement confirming that the employee involved understands the VCIN rules and regulations.
  5. If the involved employee is terminated or resigns, their VCIN status will remain disabled, and the memo will include a statement that the employee was terminated or resigned.

### **Release of Administrative Materials**

Upon request, an employee or citizen may receive a copy of their interview if available. Administrative investigative materials are confidential and shall not be subject to release under the Freedom of Information Act (FOIA). They shall not be voluntarily released or disclosed by employees without approval, and such releases or disclosures must be made in accordance with applicable law.

Administrative materials shall be available to approved commanding officers, the City Attorney's Office, Risk Management, Human Resources, and other individuals specifically authorized access by the Police Chief for official purposes.

### **Disclosure of Exculpatory Evidence (CALEA 46.1.6)**

If any information of an exculpatory nature is discovered during an investigation, regardless of type, a summary of the exculpatory information shall be relayed as soon as possible to the prosecuting attorney. Additionally, if statements of witnesses who have not been required to sign an Administrative Notification advising of Garrity warnings have provided exculpatory information, copies of those statements may be released to the prosecuting attorney.

Exculpatory evidence may include information favorable to any person charged with a criminal offense, whether directly related to an offense charged or which might reasonably tend to mitigate the penalty for an offense.

When the Office of the Commonwealth Attorney (OCA) is involved in the prosecution of a defendant who is associated with or involved in an administrative investigation, the following protocols will take place:

- A. The assigned Commonwealth's Attorney will be directed to the Court Liaison Sergeant or Internal Affairs.
- B. Should the OCA identify any potentially exculpatory evidence, the information, such as any audio, video, photographs, or interview transcripts, will then be shared with their office.
- C. Any questions about the release of information from an administrative investigation to the OCA will be vetted with the Internal Affairs.
- D. Any such examination and/or release of material will be documented in the Axon Standards.

### **Brady/Giglio Material**

In 1972, in *Giglio v. United States*, the Supreme Court of the United States ruled that exculpatory evidence also included information that could be used to impeach the credibility of prosecution witnesses, including officers.

Prosecutors have an affirmative duty to seek out exculpatory evidence, and likewise, law enforcement has a duty to collect it and turn it over to the prosecutor. It is for this reason that any sustained Administrative Investigations involving any of the below misconduct will be screened with the OCA Brady Review Board.

#### Non-Exhaustive List of Potential Brady List Material

- A. Any incident involving lying, stealing, or cheating.
- B. Forgery or alteration of documents, whether official or unofficial.
- C. Filling out paperwork with information the officer knows to be false or untrue.
- D. Any conduct or statements, including social media posts, showing potential officer bias:
- E. Any destruction of case-related documents, reports, or evidence
- F. Any mistreatment of defendants or witnesses.
- G. Any threats made to defendants or witnesses.
- H. Any act of fraud
- I. Soliciting another to do any of the acts outlined above.

### **Criminal Investigations of Department Personnel (CALEA 11.3.4)**

When an employee becomes aware of a criminal allegation against another employee, they must immediately notify an on-duty supervisor, who will notify the Commanding Officer of the PSB. The Commanding Officer will then inform the Deputy Chief of the Administrative Division. The Administrative Deputy Chief and the Commanding Officer of the PSB will select the Internal Affairs investigator to lead the administrative investigation.

The Deputy Chief of the Investigative Division and the Commanding Officer of the appropriate investigative bureau will select a criminal investigator. The criminal investigator, who is a supervisor, will report directly to the Commanding Officer of the PSB. The Police Chief, or their designee, gives final approval for both investigator selections.

Criminal investigations take priority. Any administrative interviews of employees will generally be deferred until the criminal investigative supervisor has completed the employee's interview. The Internal Affairs investigator will closely monitor the criminal investigation and ensure all laws, policies, and procedures are followed.

An employee will never be compelled to make a criminal statement, and they should be reminded that their constitutionally guaranteed rights apply during a criminal investigation.

The criminal investigative supervisor, working under the Commanding Officer of the PSB, will review the criminal case to determine whether the allegations are proven false or fail to meet the criteria for OCA Case Screening. All criminal investigations of employees will be presented to the Police Chief prior to finalization.

If the criminal investigation culminates with OCA screening, all documentation, including the Case Screening Report and an investigative summary letter, will be turned over to Internal Affairs.

The Internal Affairs investigator shall conduct an independent Administrative Investigation, which shall be limited to the collection of facts regarding administrative violations. The criminal investigator will not participate in the administrative investigation, and administrative investigative materials will not be shared with the criminal investigative supervisor.

During these investigations, the Commanding Officer of the PSB and/or the Commanding Officer of the affected employee will evaluate access to criminal justice data systems, network access, and work site access to ensure appropriate restrictions are in place. They will work with the Support Division PSM regarding VCIN, NCIC, building access restrictions, and network access.

Criminal Searches conducted in the workplace to uncover evidence of criminal activity will comply with the Fourth Amendment. Before conducting the search, the investigator will notify the Commanding Officer of the PSB.

### **Process for Arrested Police Officers (CALEA 26.3.2)**

When a police officer is arrested for any criminal offense, the on-duty supervisor shall notify the Command Duty Officer (CDO).

- A. Commander / Command Duty Officer (CDO) notification requirements:
  - 1. Police Chief
  - 2. Deputy Chiefs
    - a. The Deputy Chief of the Administrative Division will notify Human Resources.
  - 3. Commanding Officer of the PSB
  - 4. Public Affairs Office
  - 5. Commanding Officer of the Detective Bureau (for crimes requiring a latent investigation, not DUI/Public Intox, etc.)
- B. Internal Affairs notification requirements:
  - 1. Support Division PSM and employees' command (VCIN/NCIC access, operational access to buildings, and internal network access)

2. Risk Management if appropriate.

### **Process for Arrested City Employees**

When a city employee, who is not a police officer, is arrested for any criminal offense, the on-duty supervisor shall notify the Detective Bureau's Violent Crimes Lieutenant. The Violent Crimes Lieutenant will notify Human Resources as the department coordinator for the Charge and Conviction Panel.

In accordance with the City of Virginia Beach Human Resources Policy 6.02 Criminal and Administrative Charge and Conviction Policy, ASB employees and civilian staff charged with a criminal offense must go before the Charge and Conviction Panel to make recommendations. The scope of the Charge and Conviction Panel shall not extend to review charges or convictions of the following employees:

- A. Police Officers (Certified, Probationary, or Recruits),
- B. The City Manager
- C. Deputy City Managers
- D. All Department Heads
- E. All City Council appointees.

### **Defining the Role of Supervisors (CALEA 26.1.5)**

- A. Supervisors at all levels of the organization - Ensure compliance with departmental rules and regulations and monitor the work performance of subordinates; explore alternative ways to improve performance and correct improper conduct before imposing disciplinary action; impose disciplinary action as needed within the limits described above.
- B. Lieutenant or equivalent non-sworn supervisor - Impose disciplinary action beyond that which is delegated to first-line supervisors; advise supervisory personnel of alternatives to disciplinary action; assist supervisors in the administration of disciplinary action; and review all disciplinary action administered by their subordinate supervisors to ensure compliance with departmental procedures and guidelines.
- C. Commanding Officers of the Precinct/Bureau (Captains) - Impose disciplinary action beyond that which is delegated to first-line supervisors or lieutenants; monitor all disciplinary action within their command to ensure consistency that is in keeping with departmental and city values.
- D. Division Commanders - Impose disciplinary action beyond that delegated to Precinct/Bureau Commanders; review disciplinary action which occurs within their division to ensure consistency across precinct/bureau lines, review the summary of disciplinary action imposed throughout the Department to ensure consistency between divisions, and ensure that discipline is in keeping with department and city values.
- E. Police Chief - Impose disciplinary action beyond that delegated to Deputy Chiefs.

**Non-Disciplinary Action (Remedial Training and Counseling) (CALEA 26.1.5)**

The first-line supervisor has the primary responsibility for maintaining and reinforcing employee conformance with the department's standards of conduct. Supervisors shall familiarize themselves with the employees in their unit and closely observe their general conduct and appearance. Supervisors should remain vigilant for signs of behavioral issues or changes that may impact an employee's job performance.

The supervisor should document such information. When a supervisor perceives that an employee may be experiencing or causing problems, the supervisor should assess the situation and determine the most appropriate course of action. A supervisor may recommend counseling and/or additional training to refresh and reinforce an employee's skills. Often, counseling is the most effective tool a supervisor can utilize.

Counseling may be used by the supervisor as follows:

- A. To determine the extent of any personal or job problems affecting performance and to offer assistance and guidance.
- B. To discuss minor and infrequent rule violations and to discuss the substance and importance of the rules with the employee.

**Training (CALEA 26.1.4 A)**

Training agency personnel in the performance of their duties is fundamental to organizational discipline. Training communicates standards and identifies behaviors that define the agency's expectations. Training in job-related functions is mandatory for personnel entering the agency. Periodic in-service training is mandated for certain positions throughout the organization. When desirable job performance or behavioral standards are not met, training or remedial training may be used to enhance employee performance. Such retraining will be in the interest of promoting organizational discipline but will not be considered disciplinary action.

Supervisors who wish to provide remedial training to employees may arrange and schedule it through the Training Bureau. Attendance and completion of the remedial training will be documented by the employee's supervisor.

The supervisor shall document all instances of counseling or additional training used to modify an employee's behavior.

Whenever actions by subordinate personnel are sufficiently improper to require immediate correction, any supervisor may cross authority lines and issue orders to correct the situation.

The supervisor shall report the incident to the employee's immediate supervisor as soon as possible.

**Restricted Duty Status/Administrative Reassignment**

An employee may be placed on limited-duty status or an administrative reassignment pending an investigation, at the direction of the Police Chief. Before issuing the PD11, the Deputy Chief of the division to which the affected employees belong shall be consulted. The affected employee's command shall serve the PD11 to the employee unless otherwise directed by the Police Chief. The signed PD11 shall be added to the personnel jacket at the command, and a copy forwarded to Internal Affairs.

It is the responsibility of the affected employee's command to notify Internal Affairs when the employee's restrictions are lifted and to remove and destroy the PD11 from the employee's personnel jacket.

**Corrective Disciplinary Action (CALEA 26.1.4 C, 26.1.5)**

Organizational discipline within the Virginia Beach Police Department (VBPD) is essential to the agency's mission accomplishment.

The VBPD has established a variety of systems designed to promote and reward employee behaviors that exemplify organizational values and encourage public trust. Alternatively, the agency has established systems to correct employee behaviors that are contrary to the Department's mission, values, and policies.

Supervisors should explore various methods of changing unsatisfactory work-related behavior, as there are often alternatives to disciplinary action that can achieve the desired effect. Should disciplinary action be necessary, the minimum penalty required to achieve the desired result should be applied.

In accordance with the Human Resources Discipline Policy and Procedure, 4.02, disciplinary action should be applied progressively, with more severe penalties applied where lesser penalties have failed to correct the unsatisfactory conduct or the conduct is egregious.

There are examples of unsatisfactory performance and conduct that are serious enough to warrant severe disciplinary action, up to and including dismissal, even for a first offense. These include, but are not limited to, criminal violations, untruthfulness, insubordination, improper use of weapons, or other conduct that endangers the public or other employees, or that brings the city or the police department into disrepute.

Disciplinary actions should be administered without undue haste, but as quickly as reasonably possible following unacceptable conduct. The imposition of suspensions or more serious disciplinary action may be delayed pending the outcome of the appeals process if the employee chooses to appeal.

Supervisors should consider using counseling and training to correct behaviors before using corrective disciplinary action. When a command discovers (Internal Investigation) a performance issue, a rule, or policy violation that is minor in nature and infrequent, they should consult with their Deputy Chief and discuss the option of an electronic entry with Counseling/Training attached. When deciding to address performance issues in this manner, an employee's disciplinary history should be taken into account. If disciplinary action (reprimand or greater) is to be imposed, Internal Affairs will work with Human Resources to obtain the appropriate disciplinary documents, as crafted by Human Resources. An employee's Law Enforcement Procedural Guarantees and Garrity rights must be respected through the discipline process. It is also essential that the disciplinary process steps are followed.

Once the disciplinary action is determined, Internal Affairs shall contact Human Resources to draft all disciplinary documents, including the Memorandum of Charges, Five-Day Letter, Notice of Disciplinary Action, and Pre-Determination Hearing Notice (if applicable for Written Reprimands). These documents shall then be sent to the employee's commander for service on the employee and for signatures.

Supervisors executing discipline documents should consult with Internal Affairs before serving them if they have questions. Command should also remember to follow the PD4SS in the file to ensure no steps are missed in the discipline process.

In accordance with the Code of Virginia [§ 9.1-505](#), the Police Chief, or their designee, has the right to suspend an employee without pay if the employee's continued presence on the job is deemed a substantial and immediate threat to the welfare of the Department or the public. This code section also allows for the immediate suspension of an employee who refuses to obey a direct order issued in accordance with the agency's written and disseminated regulations.

In such a case, the law enforcement officer shall have the right to appeal the suspension under the Virginia Law Enforcement Officer's Procedural Guarantees or the City's Grievance Policy and Procedure, 4.04.

### **Written Reprimand**

A written reprimand is written documentation provided to an employee by a supervisor that advises and cautions the employee regarding their unsatisfactory performance or conduct. Written reprimands are documented in an employee's Official Personnel File.

Procedure:

- A. Serve Memorandum of Charges and Five-Day Letter (applicable when a board is being scheduled)
- B. Wait 5 Days. The employee can respond, either verbally or in writing.
- C. Send the employee's response to Internal Affairs.
- D. Wait for CDRB (if applicable), then:
- E. Serve the Written Reprimand (when no board is being scheduled, the Reprimand will serve as the MOC and NDA.)
- F. Sign the PD1B – Commander and Employee (Do not sign the Citizen advised by section)
- G. Complete the Disciplinary Action Cover Sheet (PD4)
- H. Complete Command Disciplinary Action Signature Sheet (PD4SS)
- I. Place all documents in the file and return them to Internal Affairs

Employees may request that a reprimand be purged through a written request, pending approval from both the Police Chief and the HR Director. Employees shall utilize the police form **PD-4PR Request to Purge Recorded Discipline** to request such.

Reprimands are eligible for purge after 18 months from the date of issuance, provided there is no additional disciplinary action within the 18 months.

### **Suspension**

A suspension is a temporary prohibition of an employee from performing their duties. An employee shall not receive pay during any period of suspension and shall not be permitted to use leave. Any recommended disciplinary action involving suspension or higher must be reviewed and supported by the Police Chief. If the Police Chief supports the recommendation, he can refer the case to the Captain's Discipline Review Board (CDRB).

The CDRB Chairperson will submit a report to the Police Chief with the voting members' recommendation(s). The Police Chief is the final authority on issuing discipline and will forward the finalized report with his findings to Internal Affairs.

Any Sworn Police Officer or Animal Control Officer who is suspended for any amount of time must surrender all badges, uniforms, and wallet, departmental identification, and all service weapons to their commanding officer or designee, prior to commencing the suspension. The commanding officer, or designee, will query asset management software to ascertain the number of badges and service weapons assigned to the officer. The commanding officer will secure unloaded service weapons in the manufacturer's box or, if unavailable, in a firearms evidence box. All badges and identification cards will be sealed in an evidence bag. The commanding officer, or designee, will immediately deliver all service weapons, badges, and identification cards, with an attached memorandum, to Property and Evidence for storage.

During any period of suspension, the employee may not take any police action or engage in any police-related part-time employment. Before a suspension is issued, there must be a pre-determination meeting.

The employee must receive written notice (email or memo) confirming the appointment for the pre-determination meeting at least 24 hours before the meeting date and time. The written notice must also specify that suspension is the recommended course of action.

Supervisors are permitted to serve suspensions upon approval by the Police Chief as follows:

- A. Sergeants or equivalent civilian supervisors may execute reprimands and suspensions up to ten (10) work hours (or one full shift for employees on other than ten (10) hour workday).
- B. Lieutenants or equivalent civilian supervisors and above may execute reprimands and suspensions of up to twenty (20) work hours.
- C. Precinct/Bureau commanders will execute reprimands and suspensions of up to forty (40) work hours.
- D. Division Commanders will execute reprimands and suspensions of up to eighty (80) work hours.
- E. Suspensions of 14 consecutive calendar days/eighty (80) work hours or more will affect the employee's anniversary date, health insurance, and leave accumulation. As such, suspensions of 14 days or more must be endorsed by the Police Chief and approved by the Director of Human Resources.

Procedure:

- A. Serve the Memorandum of Charges and Five-Day Letter.
- B. Wait 5 Days. The employee will then have five days from the date served to respond, either verbally or in writing.
- C. Send the employee's response to Internal Affairs.
- D. Wait for CDRB to convene (if applicable)
- E. Schedule a Pre-Disciplinary Meeting, giving the employee at least 24 hours' notice.

- F. Conduct the Pre-Disciplinary Meeting.
- G. Serve the suspension documents:
  - 1. Complete the Disciplinary Action Cover Sheet (PD4)
  - 2. Complete the Acknowledgment of Suspension Issued (PD4B Civilian/Sworn)
  - 3. Complete the Memorandum of Suspension (PD4S) and send to Payroll
  - 4. Complete Command Disciplinary Action Signature Sheet (PD4SS)
- H. Sign the PD1B – Commander and Employee (Do not sign the Citizen advised by section)
- I. Place all documents in the file and return them to Internal Affairs

Suspensions are eligible for purge after five (5) years from the date of issuance, provided there is no additional disciplinary action.

### **Administrative Decrease**

An administrative decrease is disciplinary action taken against an employee. An administrative decrease is a wage/salary reduction within the pay range of an employee's class.

Administrative decreases must be endorsed by the Police Chief and approved by the Director of Human Resources. An administrative decrease shall require a letter of justification from the Police Chief to the Director of Human Resources and shall be subject to the City Manager's approval.

Procedure:

- A. Serve the Memorandum of Charges and Five-Day Letter
- B. Wait five (5) days. The employee will then have five days from the date served to respond, either verbally or in writing.
- C. Send the employee's response to Internal Affairs.
- D. Wait for CDRB to convene (if applicable)
- E. Schedule a Pre-Disciplinary Meeting, giving the employee at least 24 hours' notice.
- F. Conduct the Pre-Disciplinary Meeting
- G. The Police Chief shall submit an Administrative Decrease Justification Letter to the Director of Human Resources.
- H. Serve Notice of Disciplinary Action and Complete Disciplinary Action Coversheet (PD-4).

### **Demotion**

A demotion is disciplinary action taken by a supervisor against an employee. A demotion is the reduction of an employee's pay range, accompanied by a change in job duties and responsibilities, as a result of unsatisfactory conduct. A demotion must be endorsed by the Police Chief and approved by the Director of Human Resources. A disciplinary demotion can only be undertaken if the employee involved can qualify for a lower-ranked position.

If not, another discipline may be considered. Prior to initiating a disciplinary demotion, the Police Chief must contact the Department of Human Resources for review and approval.

Procedure:

- A. Serve the Memorandum of Charges and Five-Day Letter.
- B. Wait 5 Days. The employee will then have five days from the date served to respond, either verbally or in writing.
- C. Send the employee's response to Internal Affairs.
- D. Wait for CDRB to convene (if applicable)
- E. Schedule a Pre-Disciplinary Meeting, giving the employee at least 24 hours' notice.
- F. Conduct the Pre-Disciplinary Meeting
- G. The Police Chief shall submit a Demotion Justification Letter to the Director of Human Resources.
- H. Serve Notice of Disciplinary Action and Complete Disciplinary Action Coversheet (PD-4).

#### **Dismissal (CALEA 26.1.4 C, 26.1.5, 26.1.7)**

A dismissal is a disciplinary action taken by a supervisor against an employee. A dismissal is the involuntary separation from employment initiated by the employing authority based on an employee's unsatisfactory conduct. A dismissal must be endorsed by the Police Chief and, in accordance with Discipline Policy and Procedure No. 4.02, approved by the Director of Human Resources.

Procedure:

- A. Serve the Memorandum of Charges and Five-Day Letter.
- B. Wait 5 Days. The employee will then have five days from date served to respond, either verbally or in writing.
- C. Send the employee's response to Internal Affairs.
- D. Wait for CDRB to convene (if applicable)
- E. Schedule a Pre-Disciplinary Meeting, giving the employee at least 24 hours' notice.
- F. Conduct Pre-Discipline Hearing with the Police Chief. At this meeting, the employee shall be informed of the reason(s) for the proposed dismissal and shall have the opportunity to respond to or rebut the allegations.
- G. Police Chief shall submit the Dismissal Justification Letter to the Director of Human Resources. A written summary of the meeting and the employee's response, or a statement that the employee was offered a meeting and declined to appear and make a statement, shall be included in the employee's letter of dismissal.
- H. Serve Notice of Disciplinary Action and Complete Disciplinary Action Coversheet (PD-4).

- I. A letter of dismissal will be provided to the employee. It will include the reason for the dismissal, the effective date of the dismissal, and contact information to learn the status of fringe benefits and retirement.

The Police Chief will determine if a "Will Not Hire" letter should be placed in the affected employee's official personnel file. If so, IAU will work with Human Resources to create the document and place it in the official personnel file within 30 days. Per [City of Virginia Beach Official Employment Records File System Policy, 6.10](#).

No individual shall be reemployed or reinstated who has been dismissed twice from the City of Virginia Beach within the previous five (5) consecutive calendar year period.

### **Review Boards**

In specific incidents, the Police Chief may convene a board to provide recommendations on discipline or training. The applicable board should convene as soon as practical and in accordance with existing policies. Involved employees are invited to the board with at least 24 hours' notice. Their attendance is voluntary.

When a case involves more than one employee, the employees shall not be permitted to hear another's statement to the board or to have knowledge of any materials they would not otherwise be entitled to possess. When convening a board, an alternate voting member should be identified and prepared to attend in the event of an emergency. Board members and employees shall keep all reviewed materials, discussions, and decisions confidential. They shall not discuss the incident(s) outside the board unless authorized by the Police Chief.

### Response to Resistance Board (CALEA 11.3.4)

The Response to Resistance Board is an advisory board that provides recommendations for investigations involving the use of physical force. The Response to Resistance Board does not adjudicate Firearms Discharge cases.

The Commanding Officer of the PSB or designee will chair the board and shall complete a report outlining the board's findings, including any identified rule violations or newly discovered information, and make recommendations concerning the Response to Resistance to the Police Chief.

Internal Affairs or a designee will present all relevant materials for voting board members to consider. The Board will make the following recommendations for each case reviewed:

- A. Whether all Responses to Resistance used during the incident were consistent with Department policy and training
- B. Whether the employee(s) involved employed proper tactics
- C. Whether the incident was avoidable
- D. Whether other alternatives were available and/or reasonable
- E. Future training considerations

Composition: Three (3) voting members

<b>Position</b>	<b>Role</b>	<b>Rights</b>
Commanding Officer PSB	Chair	Non-Voting Member
IAU Lieutenant	Facilitator	Non-Voting Member
Case Investigator	Presenter	Non-Voting Member
Training Director	Training Bureau	Voting Member
Training Sergeant	Training Bureau	Voting Member
Training Use of Force Coordinator	Training Bureau	Voting Member
Public Safety Attorney	City Attorney's Office	Non-Voting Member

### Firearms Discharge Review Board (FDRB)

The Firearms Discharge Review Board (FDRB) can review, evaluate, and make recommendations to the Police Chief concerning firearms discharges by employees. The Commanding Officer of the PSB or designee shall preside over the Board.

The FDRB evaluates each aspect of an employee-involved shooting. Internal Affairs or a designee will present all relevant materials for voting board members to consider.

The board will make the following recommendations for each case reviewed:

- A. Whether all Responses to Resistance used during the incident were consistent with Department policy and training
- B. Whether the incident was avoidable
- C. Whether lesser force alternatives were available and/or reasonable
- D. Whether the employee(s) involved employed proper tactics
- E. Training considerations
- F. Quality of supervision
- G. Disciplinary considerations; and
- H. The quality of the post-shooting investigative process

Composition: Three (3) voting members

<b>Position</b>	<b>Role</b>	<b>Rights</b>
PSB Captain or designee	Moderator	Non-Voting
IAU Lieutenant	Facilitator	Non-Voting
IAU Member	Case Presenter	Non-Voting
Captain	Chair	Voting Member
Captain	Member	Voting Member
Captain	Member	Voting Member
Training Use of Force Coordinator	Training Bureau SME	Non-Voting
Firearms Range Sergeant	Training Bureau SME	Non-Voting
Public Safety Attorney	City Attorney's Office	Non-Voting

### Captain's Discipline Review Board

The Captain's Discipline Review Board (CDRB) is a disciplinary advisory board, comprised of three voting captains. The board may be convened at the request and approval of the Police Chief. An involved employee's captain shall not serve as a member of the board. The Commanding Officer of the PSB or designee shall moderate the board.

The board chair shall complete a report outlining the board's recommendations, which will be provided to the Police Chief.

Internal Affairs or a designee will present all relevant materials for voting board members to consider.

Composition: Three (3) voting members

<b>Position</b>	<b>Role</b>	<b>Rights</b>
PSB Captain	Facilitator	Non-Voting
IAU Lieutenant	Facilitator	Non-Voting
Presenter	Case Presenter	Non-Voting
Captain	Chair	Voting Member
Captain	Member	Voting Member
Captain	Member	Voting Member

### **Appeals and Grievance (CALEA 26.1.6)**

Disciplinary actions may be appealed by the employee utilizing the City of Virginia Beach Open Door Policy, the City of Virginia Beach Grievance Policy and Procedure, or the Law Enforcement Officer's Procedural Guarantees.

#### **Open Door Policy**

The City of Virginia Beach Open Door Policy 4.05 is available to all VBPD employees. The Open Door Policy encourages two-way verbal communication between employees and their supervisors. The Open Door Policy may also be used to discuss and/or dispute disciplinary actions taken by supervisors; however, an employee may not use the Open Door Policy and the Grievance Procedure on the same issue.

#### **City of Virginia Beach Grievance Policy and Procedure (CALEA 22.4.1 A, B, C, D, E, F, 26.1.6)**

The [City of Virginia Beach Grievance Policy and Procedure, 4.04](#), is available to all eligible VBPD employees. The objective of the City of Virginia Beach Grievance Procedure is to fully understand employee concerns and resolve them promptly at the lowest supervisory level, ensuring a fair and equitable settlement.

#### **Law Enforcement Officers Procedural Guarantees (CALEA 22.4.1 A, 22.4.2, 22.4.3)**

The Law Enforcement Officers' Procedural Guarantees are provided for in the Code of Virginia (§9.1-502). All Department of Criminal Justice Services (DCJS) certified officers, except the Police Chief, may select an internal hearing utilizing the Law Enforcement Officers' Procedural Guarantees as an alternative to the City of Virginia Beach Grievance Policy and Procedure.

The internal hearing utilizing the Law Enforcement Officers' Procedural Guarantees is available when a DCJS-certified officer is dismissed, demoted, suspended, or transferred for punitive reasons.

The Director of Human Resources for the City of Virginia Beach is responsible for coordinating the grievance procedures existing or utilized under City policy. The Director of Human Resources, or their designee, maintains and controls access and dissemination of all records regarding the use of grievances filed by Department personnel. The Commanding Officer of the PSB shall coordinate the requests for a hearing pursuant to the Law Enforcement Officers' Procedural Guarantees. Records generated from Law Enforcement Officers' Procedural Guarantees hearings shall be maintained, and access and dissemination controlled by the Commanding Officer of the PSB.

Copies of the grievance and findings are kept in the officer's official Human Resources personnel file.

A documented annual analysis of all grievance proceedings involving Police Department personnel will be conducted by the Commanding Officer of the Internal Affairs Unit and presented to the Police Chief.

**Procedure for Requesting an Internal Hearing (CALEA 22.4.1 B, C, D, E, F) For dismissals, demotion, suspension, or transfer for punitive reasons.**

Virginia Beach Police Department Form 4AS (Five-Day Letter) has been formulated to accompany the Memorandum of Charges provided to the employee prior to the imposition of any of the above disciplinary actions. If, after the Notice of Disciplinary Action has been finalized and one of the above actions was imposed, and the employee desires to appeal through the Law Enforcement Officers' Procedural Guarantees. The following procedures shall be adhered to:

- A. In accordance with the Code of Virginia, and as delineated in Police Department form 4AS, the officer has five (5) days to request, in writing, a hearing. At the time of the request, the officer must submit the name of an employee within the Virginia Beach Police Department to serve on the three-member panel.
- B. Precinct/bureau commanders are designated as representatives of the agency head to select one member from within the agency of at least equal rank to the grievant but no more than two ranks above the grievant.
- C. The third member of the panel shall be from within the agency and shall be selected by the other two members.
- D. If the two selected panel members cannot agree on a third panel member, the Chief Judge of the Virginia Beach Circuit Court shall select the third panel member from within the agency.
- E. The panel shall set the date, time, and location of the hearing. The hearing shall not be set later than fourteen (14) calendar days following the date of the request for hearing unless a later date is agreed to by the officer (grievant) or their counsel.
- F. The Commanding Officer of the PSB shall coordinate the procedures that lead up to a hearing under the Law Enforcement Officers Procedural Guarantees.
- G. The grievant may, at their expense, be represented by legal counsel. If the grievant elects counsel, then the department may also be represented by counsel.

General Guidelines for Panel Members:

- A. Once a panel has been selected, the panel members shall select a chairman who will coordinate the activities of the hearing.
- B. The panel shall request the grievant and department representative to submit a list of witnesses they wish to present at the hearing. The panel shall then notify, in writing, such witnesses to appear at the proper date, time, and location. (The panel is authorized by the Police Chief's Office to issue a written notice to police personnel to appear as witnesses at a hearing. Such written notice shall be deemed a direct order from the Police Chief.)
- C. The panel shall coordinate, through the PSB, the recording of the hearing to assist the panel in its deliberations.
- D. The panel shall decide on any request for continuances after the initial hearing date has been set.
- E. The recommendation of the panel shall be transmitted in writing to the grievant or their counsel and to the Police Chief. Such recommendations shall be advisory

only.

### Guidelines for Conducting an Internal Hearing

This panel has been selected in accordance with the Code of Virginia concerning the Law Enforcement Officers' Procedural Guarantees. The panel members have received a copy of the report and proposed disciplinary action.

- A. Has the officer (grievant) received the Memorandum of Charges and the Notice of Disciplinary Action, which sets forth the charges, the basis thereof, and the action which may be taken?
- B. This is not a judicial hearing, but an administrative hearing on a disciplinary matter requested by the officer.
- C. Strict rules of evidence will not be followed, and the panel shall determine the admissibility and probative value of the evidence to be submitted.
- D. Everyone who testifies shall testify under oath.
  - 1. Administer oath or affirmation.
  - 2. An oath can be administered by a notary under the State Code provision.
- E. The burden of proof shall be on the officer (grievant) to disprove the allegations or prove the disciplinary action proposed is unjust or unfair in some manner.
- F. Procedure:
  - 1. The grievant or counsel for the grievant shall be allowed to make an opening statement.
  - 2. The department representative or counsel may make a statement.
  - 3. The grievant or their counsel shall present their case and call any witnesses to testify.
  - 4. After each witness has testified, the department representative, counsel, or panel members shall be allowed to ask questions.
- G. After the grievant or their counsel has completed their case, the department representative or counsel shall present the department's case.
  - 1. After each witness has testified, the grievant or their counsel and panel members shall be allowed to ask questions.
- H. Closing statements may be made by the department representative or counsel and then by the grievant or their counsel.
- I. Hearings shall be recorded.
- J. The panel's recommendation shall be transmitted in writing to the grievant or their counsel, and to the Police Chief. Such recommendations shall be advisory only but shall be afforded significant weight.

**Public Information on Complaint Procedures (CALEA 26.2.4)**

Internal Affairs is responsible for the review of the "*Commendation or Complaint - How to Provide Comments About the Quality-of-Service Delivery By Your Police Department.*"

Copies of the informational brochure on the procedures for commending or complaining about the services provided by Virginia Beach Police Department personnel will be available in public areas of department buildings.

**Records Retention (CALEA 26.1.8, 26.2.2)**

Disciplinary actions resulting from administrative investigations will be retained in the associated file in accordance with the Virginia Library retention schedule. All disciplinary actions must be documented. Once finalized, discipline documents should be shared with the employee's command via Axon Standards and uploaded into the appropriate RMS.

IAU shall ensure that all administrative investigations and reports are treated as confidential materials and shall not be accessible to unauthorized personnel from any department or the public. Access to this information is limited to appropriate command personnel, the City Attorney's Office, Risk Management representatives, Human Resources, and other individuals specifically authorized by the Police Chief for official purposes, or those required access by law or court order. The PSB Commander and IAU Lieutenant will conduct monthly audits of access and queries into confidential matters and administrative investigation material. Any unauthorized access will be investigated.

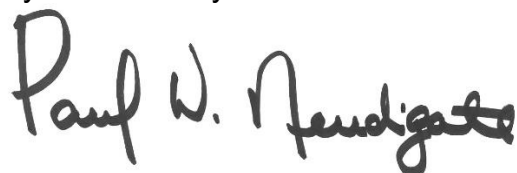
**Annual Statistical Reporting (CALEA 26.2.5, 22.4.3)**

The Commanding Officer of the PSB, or designee, shall compile a statistical summary of complaints filed and investigated against employees throughout the department. This information will be submitted for publication in the Virginia Beach Police Department Annual Report.

**Annual Review**

This General Order will be reviewed by the Commanding Officer of the PSB or designee to ensure it accurately documents the most current methods for conducting administrative investigations.

By the Authority of the Police Chief:

A handwritten signature in black ink that reads "Paul W. Neudig". The signature is written in a cursive, slightly slanted style.

## Appendix A: Department Rules

1. Conformance to Laws and Reporting Violations of the Law:
  - a. Members shall obey all laws of the United States and of any state and local jurisdiction in which the member is present. Additionally, members shall obey any and all court orders.
  - b. A conviction for violation of any law shall constitute conclusive evidence of a violation of this section. A conviction is not required to establish a violation of this rule, nor does a dismissal of criminal charges by a court constitute grounds to unfound a violation of this rule. In addition, any member who is convicted of or there is found to be sufficient evidence to establish violated any law involving moral turpitude or the illegal possession, use, or distribution of drugs shall be dismissed provided, however, that this provision shall not preclude the dismissal of a member who is convicted of or there is found to be sufficient evidence to establish the member violated any other law, of whatever nature, in situations where the circumstances warrant dismissal.
  - c. Sworn law enforcement officers are vested by law with the responsibility to prevent the commission of crimes and offenses; to observe and enforce state and local laws, regulations, and ordinances; and to detect and report offenders. Consistent with this responsibility every member of this department, immediately upon learning of any information which leads to reasonable suspicion that any other member(s) of the department, whether on or off-duty, is in violation of, or has violated, any local, state, or federal criminal statute, law, or ordinance, shall immediately notify an investigator assigned to the Internal Affairs Unit. When circumstances so dictate, the Internal Affairs investigator will notify the appropriate criminal investigation supervisory personnel.
2. Conduct Unbecoming:
  - a. Members shall conduct themselves at all times, in such a manner as to reflect most favorably on the department. Conduct unbecoming is any conduct that may adversely affect the morale, operations or efficiency of the department or any conduct that may adversely affect, lower or destroy public respect and confidence in the department or the employee. Conduct unbecoming also includes any conduct that may bring the department into disrepute, or may bring discredit upon the officer, employee or department.
  - b. Members who interact on social media sites including but not limited to; social networking sites Facebook, Twitter, LinkedIn, etc., blogs, photo, and video sharing sites, wikis, and news sites that permit user contributed content are subject to the standards outlined in section "a" above and City Administrative Directive 2.15, Social Media Sites. A violation of the standards in section "a" above or Administrative Directive 2.15 may lead to discipline up to and including dismissal. No member shall knowingly post official photographs, video images, audio files or text documents that belong to the Department without the expressed written permission of the Commander of the PSB.

3. Abuse of Position:

- a. Police Officers, Animal Control Officers, civilian employees, ancillary personnel and volunteers shall not use their official position, official identification or badge, (1) for personal or financial gain, except for authorized part-time employment; (2) for obtaining privileges not otherwise available to them except in the performance of duty; or (3) for avoiding consequences of illegal acts. They shall not lend to another person their identification card or badge or permit them to be photographed or reproduced without the approval of the Police Chief.
- b. Police Officers, Animal Control Officers, civilian employees, ancillary personnel, and volunteers shall not represent themselves as a member of this Department in connection with testimonials or advertisements (where applicable in Code of Ethics) of any commodity or commercial enterprise, without the approval of the Police Chief.
- c. Police Officers, Animal Control Officers, civilian employees, ancillary personnel, and volunteers shall not use their position, rank, or auxiliary authority to direct or influence other members into unethical, unlawful, or other actions detrimental to the mission and good order of the police department.

4. Unsatisfactory Performance:

- a. Members shall maintain sufficient competency to properly perform their duties and assume the responsibility of their positions. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department.
- b. Unsatisfactory performance includes but is not limited to a lack of knowledge of the application of laws required to be enforced, an unwillingness or inability to perform assigned tasks, failure on the part of an employee to properly notify a supervisor of critical information pertaining to a situation that may require immediate action, failure to take appropriate action on the occasion of a crime, disorder, or other conditions deserving police attention. In addition to other indications of unsatisfactory performance, repeated poor evaluations, or a written record of repeated infractions of rules, regulations, directives, or orders of the Department could constitute unsatisfactory performance.

5. Disobedience of Orders:

- a. Members of the Department shall promptly obey any lawful order of a supervisory member, including any order relayed from a supervisor by an employee of the same or lesser rank.
- b. Members shall obey all City and Departmental rules, regulations, and General Orders.

6. Conflicting or Illegal Orders:

- a. Members who are given an otherwise proper order, but which conflicts with a previous order, rule, regulation, or directive, shall inform the supervisory member issuing the order of the conflict. If the supervisory member issuing the order does not alter or retract the conflicting order, the order shall stand.

Under these circumstances, the responsibility for the conflict shall be upon the supervisory member.

Members shall obey the conflicting order and shall not be held responsible for disobedience of the order, rule, regulation, or directive previously issued.

- b. Members shall not obey any order which they know or should know or have a reasonable belief that would require them to commit any illegal act. If in doubt about the legality of an order, members shall request the issuing member to clarify the order or to confer with higher authority.
7. Insubordination:
    - a. Members shall willingly submit to reasonable authority and shall not disregard expressed or implied directions of a supervisor.
  8. Disrespect:
    - a. Members shall not, through gestures, defamatory statements or any other means, be disrespectful to a supervisor or any other member of the department.
  9. Courtesy:
    - a. Members shall be courteous to the public and other members of the department. Members shall be tactful in the performance of their duties, must control their tempers and exercise the utmost patience and discretion, and shall not engage in argumentative discussions, even in the face of extreme provocation. While on duty or in the performance of their duties, members shall not use unnecessarily abusive language or gestures and shall not express any prejudice concerning race, religion, politics, national origin, sexual orientation, gender identification or any similar personal characteristics. Abusive language includes, but is not limited to, cursing, violent, profane, or obscene language and/or gestures regardless of whether the language is directed towards a citizen.
  10. Treatment of Persons in Performance of Duty:
    - a. Police Officers, Animal Control Officers and ancillary personnel shall not mistreat persons in the performance of their duty. They shall handle persons in accordance with the law and departmental procedures.
  11. Neglect of Duty:
    - a. Members shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty.
  12. Sleeping on Duty:
    - a. Members shall remain awake on duty. If unable to do so, they shall report to their supervisor who shall determine the proper course of action.
  13. Personal Appearance:
    - a. Police Officers, Animal Control Officers and Ancillary personnel on duty shall wear uniforms or be dressed in accordance with established departmental/division/unit policies and procedures.

- b. Except when acting under proper and specific orders from a supervisory officer, officers on duty shall maintain a neat, well-groomed appearance and shall style their hair according to departmental policy.
14. Failure to Adequately Secure and Care for Departmental Property:
- a. No member will alter or repair Department equipment, including vehicles, uniforms, and weapons, unless specifically authorized or in accordance with departmental policies and procedures.
  - b. Members shall utilize Department equipment only for its intended purpose in accordance with established departmental procedures and shall not abuse, damage, or lose Department equipment. All Department equipment issued to or under the control of a member shall be maintained in proper condition. All employees shall maintain custody and control of departmental equipment to prevent any unauthorized use and/or potential loss or theft.
  - c. Members shall report damage to any department equipment, according to departmental or City policy.
  - d. Cleaning Departmental Property:
    - 1) It is expected that members will clean and maintain their issued equipment, when necessary, at their command and while on duty.
    - 2) In those unusual circumstances in which a nonexempt member must clean and/or maintain City/Department-issued equipment while off duty, and has not obtained prior approval, that member must notify their supervisor. The time may be approved if it is justified and reasonable. It is the supervisor's responsibility to ensure that the circumstances requiring the off-duty activity are justified. The supervisor will also be responsible for carefully inspecting the equipment to ensure that it is clean and in good working order. If there are any questions or concerns about the condition of the equipment, the appropriate supervisor should be consulted.
15. Departmental Reports:
- a. Members shall submit all necessary reports on time and in accordance with established departmental procedures. Reports submitted by members shall be truthful and complete, and no member shall knowingly enter or cause to be entered any inaccurate, false, or improper information.
16. Employment Outside Department: Deleted
- a. See *General Order 511 Off Duty Employment*
17. Use or Possession of Alcohol, Drugs, or Steroids:
- a. See City of Virginia Beach Human Resources Policy 6.15, Substance Abuse Policy.
  - b. Marijuana and unauthorized prescription drug use will result in a 40-hour suspension and a formal referral to EAP, to include signing and complying with the Last Chance Agreement. Subsequent violations within 3 years will result in termination.

- c. All other illegal drug use, as defined in the City of Virginia Beach Human Resources Policy 6.15, will result in termination.
18. Failure to Assist Another Officer or Citizen:
  - a. Officers shall assist another officer or citizen.
19. Requests for Assistance:
  - a. When any person applies for assistance or advice or makes complaints or reports, either by telephone or in person, all pertinent information shall be obtained and recorded in an official and courteous manner and shall be properly and judiciously acted upon, consistent with established departmental procedures.
20. Report of Investigation:
  - a. Employees who are the subject of official police contact with any law enforcement agency other than the Virginia Beach Police Department shall notify the department. Off-duty employees shall make the notification within 24 hours, while on-duty employees shall make the notification as soon as possible.
  - b. Those employees authorized to operate city-owned vehicles shall report any involvement in an accident, violation, or suspension of their operator's license.
21. Telephone and Address Information:
  - a. Police Officers, Animal Control Officers, and ancillary personnel shall have a cellular telephone or a telephone in their residence and shall immediately report any change of telephone number or address to their supervisory members and to such other persons as may be appropriate, to include updating said information in Insite.
22. Absent Without Leave:
  - a. Members shall not be absent from duty without proper authorization. Members shall report promptly to a supervisory member any anticipated absence from duty in accordance with City Human Resources policies and Department policies.
23. Reporting for Duty or Court:
  - a. Members shall report for duty at the time and place required by assignment or orders and shall be fit to perform their duties. They shall be properly equipped and cognizant of the information required to perform their duties so that they may immediately assume their duties. Members shall also attend court as required or stipulated.
24. Leaving Duty Post:
  - a. Members shall not leave their assigned duty posts during a shift except when authorized by proper authority.
25. Public Statements and Appearances:
  - a. Members shall not publicly criticize or ridicule the Department, its policies, or other members by speech, writing, or other expression, where such speech,

- writing, or other expression is defamatory, obscene, unlawful, interferes with maintenance of discipline, or is made with reckless disregard for truth or is false while representing or implying that they represent the Department in such matters.
- b. Members shall not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or a periodical, release or divulge investigative information, or any other matters of the Department while implying that they represent the Department in such matters without proper authority.
26. Use of Police Vehicles:
- a. Police Officers, Animal Control Officers and ancillary personnel shall not permit any person not on official police business to ride in a Department vehicle unless specifically authorized.
27. Operating Vehicles:
- a. Police Officers, Animal Control Officers, and ancillary personnel shall operate official vehicles in a careful and prudent manner and obey all laws and all departmental orders pertaining to such operation.
28. Use of Weapons:
- a. Police Officers, Animal Control Officers, and ancillary personnel shall not unlawfully or unnecessarily use or display a weapon.
  - b. Whenever a firearm is discharged by a member in the performance of his duty, he shall immediately make an oral report to a supervisor in the precinct of occurrence and follow this with a written report.
29. Processing Property and Evidence:
- a. Property and evidence which has been discovered, gathered, or received in connection with departmental responsibilities shall be processed in accordance with established departmental procedures. Members shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with, or withhold any property or evidence in connection with an investigation or other police action, except in accordance with established departmental procedures.
30. Use of Tobacco:
- a. As a condition of employment, sworn personnel are not permitted to use tobacco or tobacco products including a vape or chewing tobacco on or off duty. Reference Virginia State Codes §27-40.1 and §51.1-813. State Code §51.1-813 is the Heart Lung Presumption allowing municipalities to restrict employees from using tobacco products.
31. Dissemination of Information:
- a. Members shall treat the official business of the Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended and in accordance with established departmental procedures. Members may remove or copy official records or reports from a police installation only in accordance with established departmental

procedures. Members shall not divulge the identity of persons giving confidential information except as authorized by proper authority.

32. Political Activity: (Deleted)
  - a. This rule has been deleted - Refer to City Ordinance 90-1987, which addresses this subject (Section 2-90 of the Municipal Code).
33. Opinions Concerning Court Fines and Penalties:
  - a. Members shall not render an opinion regarding court fines or penalties.
34. Endorsement and Referrals:
  - a. Members shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service (such as an attorney, ambulance service, towing service, bondsman, mortician, etc.). In the case of ambulance or towing service, when such service is necessary and the person needing the service is unable or unwilling to procure it or requests assistance, members shall proceed in accordance with established departmental procedures.
35. Associations:
  - a. Members shall avoid regular or continuous associations or dealings with persons under criminal investigation or indictment or who have been convicted of a felony, except as necessary in the performance of official duties, or where unavoidable because of personal relationships of the members.
36. Gifts, Gratuities, Bribes, or Rewards:
  - a. Police Officers, Animal Control Officers, and ancillary personnel shall not solicit or accept from any person, business, or organization any gift (including money, accommodation, discount, or other thing of value) for the benefit of the member or the Department, if it may reasonably be inferred that the person, business, or organization:
    - (1) seeks to influence the action of an official nature or seeks to affect the performance of an official duty, or (2) has an interest which may be substantially affected directly or indirectly by the performance or non-performance of an official duty, or (3) accept gifts from sources on a basis so frequent as to raise an appearance of the use of public office for private gain.
37. Seeking or Soliciting Contributions:
  - a. Officers in the performance of their duties or representing themselves as police officers are prohibited from seeking or soliciting contributions of any kind from anyone by any means, for any purpose, under any circumstances, except as specifically authorized by the Police Chief.
38. Truthfulness:
  - a. No member shall knowingly make a false statement to any department supervisor or city official. Upon the order of the Chief, the Chief's designee, or a supervisory member, members shall truthfully answer all questions

specifically directed and narrowly related to the scope of employment and operations of the Department which may be asked of them.

Failure to provide true and accurate information and facts, or to truthfully answer all questions specifically directed and narrowly related to the scope of employment shall result in termination.

39. Use of Polygraph, Medical Examination, Photographs, Lineups, Alcohol and Drug Tests:

- a. Polygraph Examinations: Upon the written directive of the Chief, members shall submit to polygraph examinations when the examinations are specifically directed and narrowly related to a particular internal investigation being conducted by the Department. When a citizen's complaint forms the basis for a non-criminal investigation, it will be the normal practice of the investigator to request that the citizen complainant submit to a polygraph examination prior to the final determination of the necessity for a member to submit to a polygraph examination. In the case of the citizen's complainant's inability, unsuitability, or refusal to submit to a polygraph examination or due to unusual circumstances of the case the Chief may, to aid the investigation and/or protect the integrity of the Department, order members to submit to a polygraph examination at any point in the investigation.
- b. Medical Examinations, Photographs and Lineups: Upon the order of the Chief or the Chief's designee, members shall submit to any medical, ballistics, chemical or other tests, photographs, or lineups. All procedures carried out under this subsection shall be specifically directed and narrowly related to a particular investigation being conducted by the Department.
- c. Alcohol and/or Drug Tests: A member who is suspected of being impaired from consuming intoxicating beverages on duty or is suspected of being under the influence of illegal controlled substances or the improper use of controlled substances on duty in violation of City of Virginia Beach Human Resources Policy 6.15, Substance Abuse Policy and meets the requirements for testing shall submit to the appropriate tests as set forth in Policy 6.15.

Members assigned to Special Investigations are subject to random drug screens. Sworn police officers and animal control officers shall also be subject to random drug screens at the time of their annual physical exam and at such times as required by Human Resources Policy 6.15 Substance Abuse Policy.

When an officer discharges a firearm that is pointed towards a person, regardless of whether an injury is sustained, they shall submit to the appropriate tests as outlined in City of Virginia Beach Human Resources Policy 6.15 Substance Abuse Policy. This applies to discharges directed at a person, whether on duty or off duty.

40. Financial Disclosure:

- a. Upon the order of the Chief or the Chief's designee, members shall submit financial disclosure statements in accordance with departmental procedures in connection with a complaint in which this information is material to the investigation. These statements shall be maintained confidentially, separate

from other personnel records by the Chief, and shall not be available to the public.

41. Intervention:

- a. Members shall not interfere with cases being handled by other members of the Department or by any other governmental agency unless: (1) ordered to intervene by a supervisory member; or (2) the intervening member believes beyond a reasonable doubt that a manifest injustice would result from failure to take immediate action. In addition, members shall immediately notify their supervisor and follow up by a memorandum.
- b. Officers shall not undertake any investigation or other official action not part of their regular duties without obtaining permission from their supervisor unless the exigencies of the situation require immediate police action.

42. Identification: (CALEA 22.1.8 A)

- a. Officers shall carry their badge and official agency identification cards on their person at all times while conducting official police business or carrying a firearm, unless doing so would be impractical or compromise officer safety or the integrity of an investigation. When in uniform, officers shall provide their last name and official agency photo identification upon request.
- b. Department members shall immediately identify themselves when conducting department business on a telephone, except when it is impractical or dangerous to their safety or to an investigation.

43. Fictitious Illness or Injury Reports:

- a. Members shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the Department concerning the condition of their health.

44. Meals:

- a. Members shall be permitted to suspend patrol or other assigned activity, subject to immediate recall at any time, for the purpose of having meals during their hours of duty, but only for such period of time, and at such time and place, as authorized by a supervisor.

45. Arrest, Search, and Seizure:

- a. Officers shall not make an arrest, search, or seizure that they know, or should know, is not in accordance with law or departmental procedures.

46. Use of Physical Force:

- a. The use of physical force shall be prohibited except to the extent reasonably necessary to accomplish a valid police objective.
  - 1) Unnecessary Use of Force: Officers and members shall not use physical force where no physical force or contact is required or otherwise permitted by department policies.
  - 2) Excessive Use of Force: Where physical force is necessary, no officer or member shall use force in excess of that required by the circumstances or beyond that force permitted by department policies and procedures.

- 3) Duty to Intervene: In situations where the force used by an officer appears to be excessive, the officer observing the incident has an affirmative responsibility to intervene. Any such intervention or failure to intervene will be reported to a supervisory member and investigated by the Internal Affairs Unit.

47. Biased Policing:

- a. Bias Profiling is the interdiction, detention, arrest, or other treatment of an individual based inappropriately upon one's race, national origin, citizenship, religion, ethnicity, age, gender, economic status, or sexual orientation. Members of this department shall not consider race, national origin, citizenship, religion, ethnicity, age, gender, or sexual orientation as the primary reason in determining whether individuals should be stopped, searched, or property seized.

48. Interference:

- a. All employees, regardless of role (involved or witness employee), shall cooperate with an administrative investigation. This includes submitting and attending interviews and giving a complete and factual response to any questioning narrowly focused on knowledge of potential policy or rule violations, and job duties.
- b. Members against whom a complaint has been made or who are subject to an administrative investigation shall not attempt, directly or indirectly, by threat, appeal, persuasion, payment of money, or other means, to secure the abandonment or withdrawal of the complaint, charges, or allegations. Members shall not knowingly interfere or unnecessarily interject themselves beyond the scope of their responsibilities into an administrative investigation or other internal matter that is the responsibility of the Internal Affairs Unit.
- c. All information relating to an active administrative investigation is considered confidential. Members shall not disclose or discuss details of an active administrative investigation with anyone except:
  - 1) IA Investigator(s) assigned to the case.
  - 2) The member's chain-of-command, if command is investigating.
  - 3) Member's Legal Representation.
  - 4) Persons designated explicitly by the Police Chief or designee.