

**CITY OF VIRGINIA BEACH**  
**INVESTIGATION REVIEW PANEL**  
**POLICY AND PROCEDURES**

**I. PURPOSE**

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2           It is the purpose of the Investigation Review Panel (“Panel”) to ensure that reports and  
3 conclusions of the Police Department’s Internal Affairs Office investigations involving abuse  
4 of authority or other serious misconduct are complete, accurate, and factually supported. To  
5 that end, the Panel shall have the authority to review these findings, to the extent provided for  
6 herein, when a complainant is dissatisfied with such an investigation.

7           The Panel may also make recommendations to the City Manager that specific Police  
8 Department policies and procedures be revised.

9           Panel hearings shall not be considered civil or criminal proceedings but independent  
10 reviews of administrative investigations concerning the performance of sworn police officers.

11           All Panel hearings shall be open to the public; provided, however, that in the discretion  
12 of the Panel for good cause shown, a hearing may be closed upon the request of a party to  
13 protect the privacy of individuals such as juveniles and victims of sexual assault. Also, Panel  
14 deliberations may be conducted as provided for in subsection IV.C.2.b.(2) below, but the  
15 Panel’s decision shall be announced in public once they have concluded their deliberations.

**II. APPLICABILITY**

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17           This Policy shall be applicable to all sworn police officers of the City.

**III. COMPOSITION**

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19           1.     **Number and Method of Appointment:** The Panel shall be comprised of five  
20 (5) members and two (2) alternates who shall be appointed by the City Council. Appointees  
21 shall be residents of the City of Virginia Beach, and will be chosen on the basis of expertise  
22 and experience in fields relevant to the performance of the duties of the Panel.

23           2.     **Conflict of Interest:** No appointee shall be an officer or employee of the City,  
24 or an immediate family member, as defined by the Virginia Conflict of Interests Act, of any  
25 officer or employee of the City. Should a matter come before the Panel in which a member of  
26 the Panel feels that his or her personal interests may influence his or her ability to hear an issue

27 or case in an impartial manner, that member shall abstain from participating therein, including  
28 hearing and/or discussing the particular matter. The Panel member shall indicate to the  
29 Chairperson the existence and nature of the conflict, and thereafter the Panel member shall be  
30 excused from hearing and/or participating in the matter.

31 3. **Term:** Of those members initially appointed, two (2) will be appointed for terms  
32 of three (3) years, two (2) will be appointed for terms of two (2) years, and one (1) will be  
33 appointed for a term of one (1) year. Thereafter, all appointments shall be for terms of three (3)  
34 years. The two (2) alternate members will be appointed for terms of three (3) years.

35 4. **Removals and Vacancies:** Members of the Panel serve at the pleasure of the  
36 City Council. Members may also be removed for missing two (2) consecutive meetings of the  
37 Panel without appropriate excuses delivered to the Chair of the Panel within a reasonable  
38 period of time. Any vacancy occasioned by resignation, death or removal of a member will be  
39 filled for the unexpired term by appointment by the City Council.

40 5. **Chairperson and Vice-Chairperson:** The City Council may chose to designate  
41 one of its appointees to the panel as the initial chairperson and also may chose to designate one  
42 of its appointees as the initial vice-chairperson. If the City Council has not designated an initial  
43 chairperson or a vice-chairperson, then at the first meeting of the Panel, the members shall elect  
44 a chairperson and/or vice-chairperson from among themselves. Thereafter, a new Chairperson  
45 and Vice-Chairperson shall be elected annually at the meeting of the Panel falling closest to the  
46 anniversary date of the previous Chairperson's election. If either the Chairperson or Vice-  
47 Chairperson resigns or otherwise is no longer a member of the Panel, the Panel shall elect  
48 another panelist to serve the unexpired term of the departing officer. The Chairperson shall be  
49 the Panel's official spokesperson and shall act as liaison between the Panel and the City  
50 Manager. The Vice-Chairperson shall serve in the absence of the Chairperson and as otherwise  
51 provided herein.

52 6. **Quorum:** Three (3) members shall constitute a quorum. However, a majority  
53 vote, *i.e.*, three (3) votes of five (5) voting members, shall be required for an action to be taken.

54 7. **Meetings:** The Panel shall meet as often as necessary to conduct its business.  
55 Public notice of meetings shall be given by the Department of Human Resources at least forty-  
56 eight (48) hours in advance of the meeting.



87 resolution of the civil proceedings. The letter shall provide the complainant  
88 with appropriate contact information so the complainant may contact the  
89 Human Resources Department once the civil proceedings have concluded  
90 and request a hearing at that time. The letter shall advise the complainant  
91 that any such request for a Panel hearing must be made no later than thirty  
92 days after the conclusion of the civil proceedings, including any appeals.

- 93 d. The Human Resources Director or designee shall determine if the complaint  
94 concerns discipline covered by the City’s Disciplinary Policy and Procedure  
95 and Grievance Procedure. If so, the Director or designee shall inform the  
96 complainant in writing that such discipline is not subject to review by the  
97 Panel.

98 B. ABUSE OF AUTHORITY/SERIOUS MISCONDUCT

99 Examples of “abuse of authority” and “serious misconduct” may include, but shall not  
100 be limited to, the following:

- 101 • deliberate application or use of unnecessary, unreasonable or excessive  
102 physical force;
- 103 • ethnic, racial, or sexual remarks or gestures;
- 104 • using or brandishing of firearms, electric weapon or device, or other  
105 weapon in a rude, careless, angry, or threatening manner not necessary  
106 for self-defense;
- 107 • overreacting: *e.g.*, unjustified use or display of force or unnecessary  
108 escalation of charges;
- 109 • theft or improper handling of personal property;
- 110 • reckless endangerment of detainee or person in custody;
- 111 • violation of laws or ordinances; and
- 112 • other serious violations of City or Police Department policies or  
113 procedures.

114 C. PROCEDURE

115 1. **Review Process:**

- 116 a. The Police Department shall inform the complainant of Internal Affairs  
117 Office investigative findings by mail to the most recent address provided

118 by the complainant. The complainant shall receive a brochure explaining  
119 the Virginia Beach Investigation Review Panel Process and a Request  
120 For Review Form. Upon notification by the Police Department, the  
121 Human Resources Director or designee shall promptly send a subsequent  
122 notification and Request For Review Form to the complainant.

123 b. The Request for Review Form shall include identifying information, a  
124 statement describing the nature of the original complaint and/or  
125 allegations, the reasons for the review and supporting evidence, and a  
126 complete list of the names, addresses, and telephone numbers of all  
127 known witnesses.

128 c. Requests for review shall be made in writing, addressed to the Director  
129 of Human Resources and shall be delivered or postmarked within ~~fifteen~~  
130 (15) thirty (30) calendar days from the date the Police Department  
131 Internal Affairs Office investigative findings are mailed to the  
132 complainant. The time for filing may be extended by the Panel for good  
133 cause shown.

134 d. Unless a majority of the members present at the meeting vote to waive  
135 the requirement, no written material shall be considered by the Panel  
136 which was not made available to the Panel at least five (5) days prior to  
137 the hearing.

138 2. **Hearing:**

139 a. The Panel shall, within forty-five (45) calendar days of receipt of the  
140 complete Police Department investigative report and file, conduct a  
141 hearing to review the departmental investigation. The Human Resources  
142 Director or designee shall send notification of the date and time of the  
143 hearing to Panel members, Police Department Internal Affairs Office, the  
144 City Attorney's Office, and the complainant. Panel review hearings shall  
145 be recorded and records maintained by the Department of Human  
146 Resources in accordance with the Library of Virginia Records Retention  
147 and Disposition schedule.

148           b.       At the hearing, the complainant shall state the specific reason(s) for the  
149                   request for review, present supporting evidence, and provide statements  
150                   pertinent to the allegation as stated on the Request For Review Form.  
151                   Information not listed on this form cannot be presented at the Panel  
152                   Review, except as deemed appropriate by the panel. Upon completion of  
153                   the complainant's statement, the Police Department representative  
154                   familiar with the investigation shall present all findings of fact and a  
155                   review of all evidence collected and received, including witness  
156                   statements, subject to the following limitations:

157                   (1)       The statement of any police officer required by the Department to  
158                   give a statement under the provisions of Garrity v. New Jersey,  
159                   385 U.S. 493 (1967) shall not be revealed in public. The Panel  
160                   shall have confidential access to the entire statement for the  
161                   purpose of its review. The Internal Affairs officer presenting  
162                   information to the Panel may publicly state only that the officer  
163                   admitted or denied the allegation, unless the officer consents to the  
164                   public release of the entire statement.

165                   (2)       The Panel may convene in private to deliberate; provided,  
166                   however, that any deliberations by the Panel which do not address  
167                   the alleged improper conduct or performance of duties of a public  
168                   officer or employee shall be conducted in an open public hearing.  
169                   Neither the Police Department representative nor any Panel  
170                   member shall reveal the identity of any victim of sexual assault,  
171                   unless authorized to do so by the victim, or of any juvenile.

172           c.       Each member of the Panel shall, prior to the hearing, be provided a  
173                   complete copy of the Internal Affairs Office file. The file is deemed a  
174                   personnel record and shall not be disclosed nor shall copies be provided  
175                   to the public. All recordings of statements prepared in the course of the  
176                   investigation shall be made available to the Panel. Prior to providing the  
177                   file to the Panel, the Director of Human Resources, in consultation with  
178                   the Internal Affairs Office, shall determine if the file contains

179 information concerning an identifiable juvenile. If the file contains such  
180 information, the Director of Human Resources shall forward the file to  
181 the City Attorney or designee, who shall redact information that  
182 identifies a juvenile in conformance with the requirements contained in  
183 Virginia Code § 16.1-301 or any successor provision.

184 d. The Panel, in its discretion, may invite any person previously identified  
185 as a witness to appear at such hearings to answer questions proffered by  
186 the Panel; provided, however, that the Panel shall not have subpoena  
187 powers. The City Manager or designee may require the attendance of any  
188 employee whose appearance is requested by the Panel, and may also  
189 require the production of any relevant documents or other materials in  
190 the possession of the Police Department, or other City departments.

191 e. Any person appearing before the Panel may be accompanied by legal  
192 counsel; provided, however, counsel shall not be authorized to  
193 participate in the proceedings.

194 D. FINDINGS/RECOMMENDATIONS

195 1. **Findings:** In its findings, the Panel may:

- 196 a. Concur with the findings of the Police Department investigation;
- 197 b. Advise the City Manager that the findings are not supported by the  
198 information reasonably available to the Department;
- 199 c. Advise the City Manager that in its judgment the investigation is  
200 incomplete; or
- 201 d. Conclude that the complaint is not appropriate for review by the Panel.

202 Upon a finding by the Panel under the provisions of b. or c., the City Manager, upon  
203 consultation with the City Attorney, shall direct further action as he deems appropriate.

204 2. **Recommendations:** The Panel may recommend to the City Manager that a  
205 specific Police Department policy or procedure be revised or amended.

206

- 207           3.     **Reporting:**  
208           a.     The Department of Human Resources shall, within ten (10) working  
209                 days of the conclusion of the Panel’s deliberations, submit a report of the  
210                 Panel’s findings and recommendations to the City Manager. Thereafter,  
211                 the Panel shall notify the complainant of the findings and  
212                 recommendations of the Panel and a copy of such findings and  
213                 recommendations shall be made available to the public in accordance  
214                 with the Freedom of Information Act.  
215           b.     On or before January 31<sup>st</sup> of each year, the Panel shall, with staff  
216                 support, provide to the City Council a summary of its activities during  
217                 the previous year.

218 E.     PANEL RULES  
219           The Panel shall, at its initial meetings, formulate rules of procedure governing its  
220 operations, not inconsistent with this directive.

221 F.     AMENDMENTS  
222           The City Manager may, from time to time after consultation with the Panel, amend the  
223 provisions herein.

This policy shall become effective on the date that it is signed by the City Manager.

  
\_\_\_\_\_  
City Manager

6.1.2017  
\_\_\_\_\_  
Date

APPROVED AS TO LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
City Attorney’s Office

5/31/17  
\_\_\_\_\_  
Date

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Department of Human Resources

5/31/2017  
Date