City of Virginia Beach
Police Department

Administrative Investigation
Field Guide

A Guide for Department Supervisors

- Methods for Conducting Administrative Investigations
- Adjudication and Documentation of Work Performance and Disciplinary Action
- Appeal Process

This Field Guide is Prepared and Updated by the Virginia Beach Police Department Professional Standards Division, Under the Approval of the Chief of Police
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Section 1

Overview

This guide has been established in order to ensure the integrity of the Department by establishing procedures to promote positive discipline and to provide for the prompt, thorough, and objective investigation of alleged or suspected misconduct by Department personnel. It will also serve to inform all employees of departmental procedures for the handling of administrative investigations and addressing complaints of employee misconduct.

Definitions

Citizen's Complaint: A specific allegation of misconduct or violation of Department policy or procedure against a department employee by a known citizen. 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 of the City of Virginia Beach.

Internal Investigation: An investigation generated from within the department concerning a specific allegation of misconduct. An internal investigation may be authorized or requested by Command authority. An internal investigation shall be conducted when an employee is arrested in connection with a criminal violation. An internal investigation can also result from an upgraded inquiry.

Inquiry: A preliminary investigation generated from outside of or from within the department that is based on the need for information on possible misconduct.

Firearms Discharge Investigation: The investigation of any firearms discharge by a member other than one that occurs as a part of authorized training or off duty in the course of some lawful sporting activity, to include negligent discharges on or off duty, and cases of animal euthanasia. Should there be an allegation of a violation of departmental policy in connection with a firearms discharge such as violation of the departmental weapons policy, excessive force, etc., that allegation will be classified separately as an internal investigation, citizen complaint or inquiry as defined above. The use of the Sage will not be considered a firearms discharge, but will be treated as a less lethal impact weapon.

Police Vehicle Accident Investigation: An investigation generated from within the department regarding accidents involving police vehicles resulting in property damage, personal injury or death.

Policy

It is the policy of the Virginia Beach Police Department to accept and appropriately investigate all complaints made by citizens against the department and/or complaints relating to alleged employee misconduct or violations of departmental policies or procedures. The supervisor accepting the complaint shall ensure it is documented in writing in accordance with guidelines established in this field guide. This shall include at a minimum preparing a written summary of the allegation, the name(s) of the involved employee(s), if they are known, and whenever possible detailed contact information for the complainant.
Section 2

Handling Citizen Complaints, Internal Investigations and Inquiries (CALEA 26.3.1, 26.2.2, 26.3.4 A)

Handling of Citizen Complaints

The department shall investigate all complaints of alleged employee misconduct to equitably determine the validity of the allegations. Concerns brought by a citizen within one year of the alleged incident shall be documented as a citizen complaint or inquiry as appropriate. Concerns brought by a citizen a year or more after the alleged incident shall be handled as an inquiry unless they involve the following: complaints regarding corruption, brutality, misuse of force, breach of civil rights, criminal misconduct, abuse of position, or arrest, search and seizure which shall be documented as a citizen complaint and investigated regardless of the time elapsed.

All citizen complaints pertaining to departmental policies or procedures or alleged employee misconduct shall be documented and investigated by the department unless handled through mediation.

1. Complaints may be accepted in person, via the Internet or email, over the telephone, or in writing.
2. Anonymous information or information from citizens who wish their names to be held in confidence, shall be accepted for investigation. This type of information will be initially recorded as an inquiry.
3. Every reasonable effort will be made to facilitate the convenient, courteous, and prompt receipt and processing of complaints.
4. The possibility of a civil claim or suit will not affect the receipt of a complaint or the conduct of an administrative investigation.
5. Complaints shall not be accepted when the allegations result from off-duty conduct, unless the alleged incident adversely affects the function or image of the department; violates local, state or federal law; and/or involves a violation of departmental rules and regulations. Supervisors should be mindful, if the employee asserts his/her authority as a law enforcement officer during the off-duty encounter/conduct (examples: display of badge, announcement that they are a law enforcement officer), then the matter shall be treated as it would be if the employee were on duty.

Complaints which solely arise from a criminal or traffic charge against the complainant, to be adjudicated by the court, that do not involve alleged misconduct or violations of the law by department members, do not come within the purview of this directive.

While it is generally obvious when a complaint alleges misconduct on the part of an employee; complaints concerning lack of service, perceived inadequate response, or improper procedures are sometimes more difficult to identify. In many instances, a citizen may be merely requesting information or clarification of a policy or procedure. In such cases, the citizen should be given a thorough explanation of the procedures or legal issues involved in the situation by the supervisor having initial contact with the complainant. After the explanation is offered, the citizen may still wish to register their concerns with the department. In such situations, a citizen's complaint, or inquiry if appropriate, should be documented and submitted via the BlueTeam reporting system.
The Office of Internal Affairs will be responsible for conducting all administrative investigations into allegations of employee misconduct relating to corruption, brutality, misuse of force, breach of civil rights, and criminal misconduct, unless otherwise directed by the Chief of Police. They will conduct all internal investigations involving discharge of firearms or whenever a person in police custody or as a result of police action receives a serious injury, attempts suicide, or dies.

In the event that a citizen insists on making a complaint and the supervisor believes that the information provided does not meet the criteria of a citizen complaint, the supervisor shall accept the information and document it via the BlueTeam reporting system or via the Citizen Complaint Form (PD-1A). If the complaint is taken at the command of the employee(s) involved in the incident, the incident shall be reviewed and concluded at the command level. This is unless it is determined that it must be upgraded to a citizen complaint or internal investigation, in which case the Office of Internal Affairs shall generate a file for investigation for by the appropriate command or conduct the investigation if required by to do so by policy. If the employee(s) involved are assigned to a command other than where the complaint is taken, the report and all supporting documents shall immediately be forwarded to the command of the employee(s) involved for disposition.

All employees of the department shall immediately, and in a courteous and willing manner, direct any citizen who wishes to make a complaint to a supervisor. All supervisors in the department are charged with the responsibility of courteously and willingly accepting citizen complaints. Complainants should not be told to contact the Office of Internal Affairs in lieu of that supervisor documenting the complaint.

It is incumbent upon the supervisor interviewing the complainant to complete a BlueTeam or a PD-1A which shall be used to initially record the complaint. The supervisor shall also advise the complainant of departmental procedures for the processing and investigation of citizen complaints. Regardless of whether the initiating supervisor intends to personally handle the investigation into the matter, the BlueTeam report shall be immediately forwarded via the chain of command to the Office of Internal Affairs for entry into the appropriate records management system. At that time the case will be assigned a case tracking number, incorporated into an appropriate case folder, and distributed to the assigned investigator. The investigator completing the case data entry will initiate a letter to the complainant acknowledging receipt of the complaint.

The PD-1A and PD-1B will be generated by the Office of Internal Affairs and made part of the investigative file. The PD-1B is a disposition tracking form that provides the disposition of each allegation, the recommended discipline, if any, documents the signatures of the appropriate supervisors and the affected employee. The allegations listed on the PD-1B will be classified in accordance with the department's rules and regulations as contained in General Order 1.05 (Department Rules).

If the complaint is handled at the command level, the Office of Internal Affairs can assist the investigating supervisor by preparing the formal PD-1A, PD-1B, and assorted other investigative file forms and folders.

In the interest of providing quality customer service and ensuring negative employee behavior is not disregarded, supervisors will not require citizens to personally appear in order to make a complaint. However, the integrity of the investigation must be maintained by whatever means are available. If a citizen refuses to meet with the supervisor receiving the complaint either at the precinct or other location,
the supervisor is strongly urged to permanently document the content of the conversation with the citizen by either electronic or mechanical means. This could include the complainant preparing a written statement, or the supervisor recording the conversation. Regardless of how the complaint is filed, a BlueTeam report or PD-1A shall be completed by the supervisor, summarizing the incident on the complainant's behalf. The citizen and the supervisor should agree on the terminology utilized in the complaint summary. If requested, a copy of the completed form shall be provided to the complainant.

Once a citizen's complaint has been received, the complaint shall not be disposed of solely because of the complainant's desire to withdraw the complaint. When a complainant requests that a complaint be withdrawn, the complaint shall be reclassified to an inquiry and concluded by command authority or reclassified to an internal investigation and handled according to policy. If the complainant becomes uncooperative, despite persistent efforts on the part of the investigator to establish the merits of the complaint, such actions will be documented in the investigative report.

All completed investigations will ultimately be forwarded to the Office of Internal Affairs for logging and storage in accordance with records retention guidelines.

**Handling Citizen Complaints by way of MEDIATION**

**Definition**
Mediation- An informal process in which the complainant and accused employee meet face to face with the assistance of a neutral third party mediator to discuss the alleged misconduct. The goal of mediation is to engage in a good faith discussion with the goal of reaching a shared understanding.

**Policy**
The Virginia Beach Police Department recognizes the value of mediation. When allegations of employee misconduct are brought to its attention, the Office of Internal Affairs will work to facilitate mediation, when appropriate, between complainants and accused employees, utilizing the services of a mediator. Citizens may not pursue mediation and an Internal Affairs investigation on the same complaints that are eligible for mediation; instead they must elect which procedure to use.

**Screening**
The Commanding Officer of internal affairs or designee will review complaints brought to their attention to see if they warrant consideration for mediation. If a matter is determined to be potentially eligible for mediation, Internal Affairs will contact the complainant to see if there are any additional details that the complainant wants to include in the complaint. The Office of Internal Affairs will also review the complainant’s complaint history and current or past litigation with the City of Virginia Beach. This will be used in screening; however, it will not automatically make a case ineligible for mediation.

**Case Eligibility**
Generally, cases involving courtesy, minor allegations of unsatisfactory work performance (to include Inquiries) and biased based policing complaints may be eligible for mediation. Complaints involving the following circumstances will not be eligible for mediation:

- If force was used
• Allegations involving criminal misconduct
• An employee was assaulted
• A lawsuit has been filed
• The complainant was injured as a result of employee actions
• Ethnic slur directed at a person

If the complaint is determined to be eligible for mediation, but the complainant has a pending court case with the accused employee, then the mediation will only take place after the case has been adjudicated in court.

Employee Eligibility
Generally, an employee is eligible for mediation unless they have had two prior complaints with similar allegations within the past 12 months.
The Commanding Officer of Internal Affairs, or designee, will make the final determination whether a case is eligible.
If deemed eligible then the employee will be contacted by the Office of Internal Affairs. A determination will be made whether the employee is interested in participation in the mediation program. The employee will be made aware of the following:
• Name of complainant
• Summary of allegation
• Notification that the complaint has been approved for mediation
• Explanation of the mediation program, that the process is voluntary and that upon completion the case will appear in IA PRO as mediated.

Voluntary participation
The complainant and employee will be advised that participation in the mediation process is completely voluntary and that if they participate they are to act in good faith. Good Faith means they will actively listen to the other party and actively participate in the discussion. Good Faith does not require an agreement. The mediator has the final authority to determine whether participants are acting in good faith.
If the mediator determines the employee is not acting in good faith, then the mediator may end the session and return the complaint to Internal Affairs for investigation. If the mediator determines the complainant is not acting in good faith, then the mediator will close the case as “Mediated” with no further action. Since participation is voluntary, either party may withdraw before mediation has convened. Mediation will be considered “convened” once the parties have assembled and the session has begun. In the event either party decides they do not wish to participate in mediation before mediation is convened, they will be advised that the complaint will be referred back to the Office of Internal Affairs to handle according to normal Internal Affairs procedures. The fact they did not choose to participate will not be held against them.
Prior to scheduling mediation, the complainants will be advised in writing that they have the right to mediate a complaint or have the Office of Internal Affairs review the complaint in accordance with their normal procedures; however, they may not use mediation and an Internal Affairs investigation on the same issue. They will also be advised that in electing to mediate a complaint the complaint will not be eligible for the Investigation Review Panel (IRP) because in that case there is no Internal Affairs investigation to review. However, should either party withdraw from mediation before it is convened, then the complaint,
with the approval of the complainant, will be referred back to the Office of Internal Affairs for review in accordance with their normal procedures. In that situation, at the conclusion of the investigation, if any, the IRP process would be applicable. Additionally, the Complainant will be advised that the purpose of mediation is to address the complaint, which may or may not result in resolution of the complaint and that mediated complaints shall not result in a monetary award.

**Complaints involving multiple employees**
All employees accused in the complaint must be willing to participate in mediation as described herein, or mediation will not go forward. In the event one employee does not wish to participate in mediation then the complaint will be referred back to the Office of Internal Affairs.

**Failure to appear for Mediation**
If the complainant fails to appear for a scheduled mediation without good cause, then the complainant will be given one final opportunity to reschedule the mediation session. If the complainant fails to appear a second time without good cause, they will not be allowed to reschedule again and the case will be closed. 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 cause, the complaint will be returned to the Office of Internal Affairs for investigation.

**Confidentiality**
Documents created as a result of mediation may be subject to release under the Freedom of Information Act; however, some specific portions may be excluded from mandatory disclosure. For example, the identity of the officer(s) and medical information may be exempt from required disclosure. Nevertheless, for mediation to be successful, all parties must feel free to speak candidly. Therefore, officer(s) are assured that an apology or admittance of wrongdoing will not be used against them by the Police Department.

**Support and Representation**
With the exception of the 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.

**Adjudication of Mediated Cases**
Complaints that are finalized as described above through good faith mediation will be documented by the Office of Internal Affairs as “mediated” and concluded using the IAPro software. Documentation will consist of the name of the complainant, the involved officer(s), the specific allegation or listing as an Inquiry, a brief summary of the original complaint, and the mediation agreement.
Process for Typical Handling of Incoming Citizens Complaint by Line Command Supervisors

Citizen calls indicating dissatisfaction with an employee. Interview the citizen and document facts of the complaint. Record if possible.

Is there a potential policy or criminal violation?

Yes

Educate the caller on policy/procedure. Explain why employee took actions they did. Thank caller for bringing the matter to department’s action & explain why no formal complaint will be taken.

No

Does the caller desire to file a formal complaint?

Yes

Is the citizen satisfied?

Yes

You are done. Document complaint and forward all information via BlueTeam to Internal Affairs.

No

Is the citizen inquiry. See Inquiry Flowchart.

No

By policy, can command conduct investigation?

Yes

Proper to continue investigation?

Yes

Document complaint and forward all information via BlueTeam to Internal Affairs and request a file folder.

No

Investigate complaint. See Citizen Complaint Flowchart.

No

Does C.O. authorize you to investigate?

Yes

No
Process for Typical Handling of Citizen Complaint Investigations by Line Command Supervisors

A Citizen’s Complaint is a specific allegation(s) of misconduct against a department employee by a known citizen. A complaint is defined as an expression of formal discontent, dissatisfaction, or accusation made in written or verbal form that alleges illegal activity, misconduct, or a violation of rules or regulations of the police department or of the City of Virginia Beach.

By policy, can command conduct investigation?

Yes

Document all information and forward via BlueTeam to Internal Affairs and request a file folder.

Conduct interview with complainant—record if at all possible. Identify specifics of complaint, employees involved, any witnesses, potential evidence, etc.

Conduct recorded interview with employee. Utilize Administrative Notification form.

Investigate case & complete Investigative Report.

No

Does C.O. authorize you to investigate?

Yes

Document all information and forward via BlueTeam to Internal Affairs.

No

Forward to supervisor for approval. Case should then be adjudicated and recommendations made by a different supervisor.

You are done
Handling of Internal Investigations

An internal investigation shall be investigated at the Command level or by the Office of Internal Affairs as set forth herein. Unless otherwise directed by the Chief of Police, the Office of Internal Affairs shall be responsible for conducting all administrative investigations into allegations of:

1. Employee misconduct relating to corruption, brutality, misuse of force, breach of civil rights, and criminal misconduct.
2. Discharge of firearms or whenever a person in police custody receives a serious injury, attempts suicide, or dies.
3. Criminal violations, particularly when an employee is arrested.

An internal investigation can further result from an upgraded inquiry. Additionally, an internal investigation may be authorized or requested by any Command authority within the Department.

Note: Any allegations of discrimination or harassment involving violations of General Order 2.06, Prohibition of Discrimination and Harassment and/or City HR Policy 4.03, to include retaliation claims will be handled as follows: The command receiving the complaint will forward the information to IA for an initial screening of the complaint (i.e. basic facts – who, what, when, where, why, etc.). IA will screen the fact pattern(s) with the Human Resources Coordinator. The Human Resources Coordinator will coordinate a fact pattern review with other HR subject matter experts. This review will provide HR the opportunity to evaluate the facts of the complaint. HR will determine based on this initial fact pattern review whether the complaint requires an EEO investigation. Depending on this evaluation, the complaint will then be handled by HR should it meet the EEO qualification. Should the fact pattern not rise to the level of an EEO complaint, the investigation will be returned to IA for administrative investigation tasking.

Any command authority within the Department may initiate internal investigations regarding other allegations. Notification through the chain of command to the Office of Internal Affairs shall be made as soon as practical. All internal investigations shall be documented on the Administrative Investigation Form (PD-1A) and the Investigative Disposition Form (PD-1B).

Regardless of whether the initiating supervisor intends to personally handle the investigation into the matter, a BlueTeam report shall be forwarded to the Office of Internal Affairs for entry into the appropriate records management system. At that time the case shall be assigned a case tracking number, incorporated into an appropriate case folder and distributed to the assigned investigator.

The PD-1A and PD-1B shall also be generated and made part of the investigative file. The PD-1B is a disposition tracking form that provides the disposition of each allegation, the recommended discipline, if any, and also documents the signatures of the appropriate supervisors and the affected employee. The allegations listed on the PD-1B will be classified in accordance with the department's rules and regulations as contained in General Order 1.05 (Department Rules).

If the complaint is handled at the command level, the Office of Internal Affairs can assist the investigating supervisor by preparing the formal PD-1A, PD-1B and assorted other investigative file forms and folders. Additionally, the Command can, at any time, request that the Office of Internal Affairs complete an investigation commenced at the Command level.
All completed investigations shall ultimately be forwarded to the Office of Internal Affairs for logging and storage in accordance with record retention guidelines.
Process for Typical Handling of Internal Investigations by Line Command Supervisors

An internal investigation is an investigation generated from within the department concerning a specific allegation of misconduct. An internal investigation may be authorized or requested by Command authority. An internal investigation will be conducted when an employee is arrested in connection with a criminal violation. An internal investigation can also result from an upgraded inquiry. All weapon discharges, except when approved in training or in animal euthanasia cases, will be handled as internal investigations.

By policy, can command conduct investigation?

No

Document all information and forward via BlueTeam to Internal Affairs and request a file folder.

Yes

Conduct interview with all witnesses—record if at all possible. Identify specifics of complaint, employees involved, potential evidence, etc.

Conduct recorded interview with employees. Utilize Administrative Notification form.

Investigate case & complete Investigative Report.

Does C.O. authorize you to investigate?

No

You are done

Document all information and forward via BlueTeam to Internal Affairs.

Yes

Forward to supervisor for approval. Case should then be adjudicated and recommendations made by a different supervisor.
Handling of Inquiry Investigations

An inquiry may be initiated as the result of:

1. An investigation of an employee by an outside agency;
2. A report of a minor traffic violation by an employee;
3. Notification of a lawsuit against either an employee or the City of Virginia Beach as a result of an employee’s actions while performing his/her duties;
4. At the request of the City Attorney's Office or City Risk Management Division, in which case the information will be treated as a work product protected under lawyer/client privilege;
5. As a result of a citizen’s insistence a “complaint” be filed when there is clearly no misconduct or policy violations.

The inquiry may be based on information received from any known or unknown source. Depending upon the seriousness of the situation and the amount of information developed, the inquiry may be upgraded to an internal investigation. An inquiry shall be documented on the Inquiry Report Form (PD-1C) via the BlueTeam report. Since the only disposition for an inquiry is “concluded,” a PD-1B shall not be completed. Instead, all findings and appropriate signatures shall be included on the PD-1C form.

Matters brought to the attention of the Department which may impact the Department's integrity and are not specific enough to warrant an internal investigation, shall be reviewed via an inquiry. The completed inquiry shall be logged, entered into the appropriate records management system, and filed in the Office of Internal Affairs, but will not be considered as a complaint filed against the individual employee. Should the matter be determined to have specific allegations or charges, the matter may become an internal investigation or citizen complaint.

In the event that a citizen insists on making a complaint and the supervisor believes that the information provided does not meet the criteria of a citizen complaint, the supervisor shall accept the information and document it via a PD-1C or a BlueTeam entry. If the inquiry report is taken at the command of the employee(s) involved in the incident, the incident shall be reviewed and concluded at the command level. If a commanding officer, division chief or the chief of police determines that the inquiry must be upgraded to a citizen complaint or internal investigation, then the case will be appropriately assigned. If the employee(s) involved are assigned to a command other than where the inquiry report is taken, the report and all supporting documents shall be immediately forwarded to the command of the employee(s) involved for disposition.

It is incumbent upon the supervisor initiating the inquiry to complete the Inquiry Report Form (PD-1C). Regardless of whether the initiating supervisor intends to personally handle the investigation into the matter, a BlueTeam report shall immediately be forwarded to the Office of Internal Affairs for entry into the appropriate records management system. At that time the case shall be assigned a case tracking number, incorporated into an appropriate case folder, and distributed to the assigned investigator.

All completed investigations shall ultimately be forwarded to the Office of Internal Affairs for logging and storage in accordance with record retention guidelines. Inquiries may be "concluded" by the commanding officer of the Office of Internal Affairs or the commanding officer of the named employee without the
necessity of the officer being interviewed. However, the concluding authority shall notify employees who are named in an inquiry that an inquiry has been conducted.
Process for Typical Handling of Inquiry Investigations by Line Command Supervisors

An inquiry is initiated as a result of:
(1) an investigation of an employee by an outside agency; (2) a report of a minor traffic violation by an employee; (3) an animal euthanasia; (4) notification of a lawsuit either an employee or the City of Virginia Beach as a result of an employee’s actions while performing his/her duties; (5) at the request of City Attorney’s Office or City Risk Management Division; (6) as a result of a citizen’s insistence a “complaint” be filed when there is clearly no misconduct or policy violations.

By policy, can command conduct investigation?

Yes

Document all information and forward via BlueTeam to Internal Affairs and request a file folder.

Conduct interview with complainant—record if at all possible. Identify specifics of complaint, employees involved, any witnesses, potential evidence, etc.

Conduct recorded interview with employees. Utilize Administrative Notification form.

Investigate case & complete Investigative Report.

No

Document all information and forward via BlueTeam to Internal Affairs.

Does C.O. authorize you to investigate?

Yes

You are done

No

Forward to supervisor for approval. Case should then be adjudicated and recommendations made by a different supervisor.
Section 3 (CALEA 4.2.1, 4.2.3)

Officer Involved Shootings or Other Significant Use of Force

Parallel Criminal and Internal Investigations

Whenever an officer discharges a firearm while on-duty or when exercising their law enforcement authority, the officer – or another responding officer should the involved officer be incapacitated during the event – will secure the area of the shooting and immediately notify his/her supervisor or the next ranking supervisor in the officer’s chain of command. The supervisor shall be responsible for notifying the appropriate Detective Bureau personnel, the Command Duty Officer, the Chief of Police, the appropriate Deputy Chief of Police, the Office of Internal Affairs, and Public Affairs Office.

In an effort to conduct a fair and impartial investigation the on-scene supervisor will arrange for the officer(s) to be secluded a reasonable distance from the shooting scene. At the officer(s) request, he/she shall be given access to a peer counselor, the on-duty supervisor, their Commanding Officer and the opportunity to retain legal representation. Any department member other than the Chief of Police and Deputy Chiefs requesting to speak with the officer(s) must first contact the on-scene Detective Bureau Lieutenant. In the absence of a Lieutenant, the supervisor conducting the investigation shall be contacted.

At the conclusion of the incident involving the firearm discharge, officers shall refrain from counting the remaining rounds in the firearm. The firearm shall remain secured in the officer’s holster until turned over to the Detective Bureau Homicide supervisor, or designee. The firearm shall be inspected by the Firearms Training Unit Supervisor, or his designee, or a firearms expert from the Virginia Forensic Science Laboratory to determine if the firearm was in proper working condition. The Detective Bureau Homicide supervisor, or designee, shall be responsible for replacing any issued firearm taken from an officer(s).

The Detective Bureau shall conduct a criminal investigation into all firearms discharges except negligent discharges in which no one is injured, intentional shooting of aggressive animals or animal euthanasia. In cases where the Detective Bureau is conducting a criminal investigation, no warrants shall be obtained by other department members without first consulting with the Detective Bureau Homicide Lieutenant or supervisor investigating the case. Any criminal charges anticipated as a result of the criminal investigation shall be screened with the Commonwealth Attorney’s Office by the Homicide supervisor prior to the warrants being obtained.

The Office of Internal Affairs shall conduct a firearms discharge investigation. A Firearm Discharge report is required for an animal euthanasia and submitted via BlueTeam by the involved officer(s). In all other incidents a Use of Force Report shall be completed by the officer(s) involved and forwarded via the chain of command through BlueTeam as soon as practical to the Office of Internal Affairs.

When an officer discharges a department-issued firearm or any firearm when exercising their law enforcement authority in another jurisdiction, the officer shall immediately notify the appropriate law enforcement agency in that jurisdiction and contact an on-duty supervisor in this department as soon as practical. The supervisor will be responsible for notifying the Command Duty Officer, the officer’s Commanding Officer, Chief of Police, the Office of Internal Affairs, and Public Affairs Office. The law
enforcement jurisdiction where the firearm was discharged will be responsible for conducting a criminal investigation, if they determine it necessary.

Whether the other law enforcement jurisdiction pursues a criminal investigation or charges, the Office of Internal Affairs shall conduct a firearms discharge investigation. A Use of Force report shall be forwarded by the officer through the chain of command to the Office of Internal Affairs via the BlueTeam reporting system.

If a department-issued firearm, or a firearm authorized for use by the department as a primary duty weapon, is discharged by a non-member of the department under circumstances which would require a report if discharged by a member, the member to whom that firearm was issued or authorized to be carried shall follow the same procedures as if he/she had discharged the weapon.

The Office of Internal Affairs shall investigate all police involved shootings. A Use of Force report is required for all intentional discharges of a firearm. The Use of Force report shall be forwarded by the officer, through the chain of command, to the Office of Internal Affairs via the BlueTeam reporting system.

As in all administrative investigations, if the Internal Affairs investigator suspects a criminal act may have occurred, they shall halt their investigation and notify the Commander of the Office of Internal Affairs. Consideration may be given to turning the case over to the Detective Bureau for investigation.

In the case of negligent discharges, the involved officer will follow the guidelines outlined in General Order 5.01. IA shall be contacted as soon as possible and the scene secured until the assigned supervisor responds to conduct the preliminary investigation. For many cases, after initial consultation with IA and provided a shift commander or CDO is available to respond, IA can designate an on-duty supervisor to conduct the preliminary investigation which can be documented via BlueTeam. IA will generally respond and conduct the preliminary investigation for cases that involve injury or 3rd party property damage; additionally, IA will respond to cases to conduct the preliminary investigation when there is no shift commander or CDO available to respond. Regardless of who conducts the preliminary investigation, IA will conduct any follow up, finalize the investigation and present the case to the Firearms Discharge Review Board.

If an negligent discharge occurs during authorized firearms training, the Firearms Training Unit (FTU) Supervisor shall be contacted and assume control of the scene. The FTU Supervisor will confer with IA to determine if the incident will be handled by IA or if the FTU Supervisor will assume proper management of the incident.

Refer to General Order 5.01 for additional guidelines on dealing with firearms discharges.

**Negligent Discharge investigative BlueTeam format**

The content of the BlueTeam report should be written in a narrative format containing all the appropriate facts and circumstances of the negligent discharge. The investigating supervisor should make every effort to verify the statements made by the officer involved through the course of his or her investigation. The supervisor should have a Forensics Technician, or a precinct ID Technician respond to photograph the
scene and recover any appropriate evidence. The BlueTeam report must contain, at a minimum, all the below listed information if not available in the BlueTeam reporting feature:

- Date, Time and Location of incident
- Officer’s name, badge #, rank, sex and age
- Duty status of officer involved: on duty, off duty, training, etc.
- Officer’s type of weapon information
- Type of premises where negligent discharge occurred: open area, house, apartment, etc.
- Name of all witnesses and if so, attach memos from witness officers
- Was the bullet located and if so where, and if not, what efforts were made to locate the expended bullet
- Was the spent shell casing located and if so where

The Office of Internal Affairs will ensure a copy of the investigation is forwarded, as soon as practical, to Professional Development & Training for consideration for future training needs.

**Police Vehicle Accidents**

Any on-duty supervisor will be assigned to investigate police vehicle accidents and prepare and submit all required documentation via the BlueTeam system. The involved employee’s command will determine if the accident was preventable or non-preventable. In addition the command will determine if any disciplinary action will be taken against the employee. A BlueTeam crash report will immediately be forwarded to the Office of Internal Affairs for entry into the appropriate records management system. If disciplinary action in the nature of a written reprimand or greater is to be taken the case will be assigned a case tracking number, a PD1CVA will be incorporated into an appropriate case folder, and distributed to the assigned investigator.

**Administrative Assignments/Counseling (CALEA 4.2.3, 22.1.4, 22.1.7)**

All department personnel directly involved in a use of force incident, accident, or any other actions taken in an official capacity that results in serious injury or death after clearance by Occupational Health Services to return to duty, may be placed on administrative assignment for a period of time designated by the Chief of Police, or designee pending an administrative review. This assignment shall not result in loss of pay or benefits pending the results of an investigation and shall not be a position or role that will expose the employee to contact with the public. The assignment shall not be interpreted to imply or indicate that the department member acted improperly. The Chief of Police reserves the right to immediately suspend an employee pursuant to the authority in Virginia Code § 9.1-505, if necessary based upon the totality of the circumstances.

All department personnel directly involved in a critical incident which results in serious injury or death shall be governed by the following: (1) the directives outlined in the Peer Support General Order (2.15) will take place, including a critical incident stress debriefing; (2) within a reasonable amount of time, (within 72 hours) or as soon as practical after the incident, the involved officer(s) shall receive a one-on-one screening by a mental health clinician provided by the Employee Assistance Program (EAP); which may result in a referral for additional counseling and/or a more comprehensive psychological assessment;
and (3) prior to returning to active duty, the involved officer must be screened again with a mental health clinician provided by the EAP, and any required follow-up, such as a comprehensive psychological assessment, must be completed and the findings of this screening communicated to Occupational Health Services (OHS) so that a determination regarding the officer’s readiness for return to full duty can be made.

Debriefings, screenings, assessment and other counseling sessions provided by EAP and directly related to the critical incident shall be provided at no cost to the officer(s). Whether time spent in these activities shall be considered compensable time shall be governed by City Human Resources Overtime Policy, No. 2.02 and the City Human Resources EAP Policy, No. 5.02. The officer’s command shall be responsible for ensuring that the recommendations of the mental health (EAP) and medical (OHS) professionals are followed.

As soon as possible, the Command shall notify Occupational Health Services that the critical incident has occurred and provide them with the name(s) of the officer(s) directly involved. This notification will ensure that OHS coordinates appropriate case management in collaboration with the EAP. Reporting from EAP or OHS to the command will be limited to information pertaining to the officer’s compliance with required appointments and duty status, in accordance with ADA and HIPAA guidelines.

Section 4

Duties and Responsibilities of the Office of Internal Affairs (CALEA 26.2.2, 26.2.4, 26.2.5, 26.3.2, 26.3.4)

The Office of Internal Affairs is responsible for maintaining and, where possible, increasing the integrity of the Virginia Beach Police Department by either monitoring or conducting full, fair, and objective investigations of all complaints or allegations of misconduct on the part of members and employees of the department. The Office of Internal Affairs shall be responsible for conducting all administrative investigations into allegations of employee misconduct relating to corruption, brutality, misuse of force, breach of civil rights, and criminal misconduct unless otherwise directed by the Chief of Police. They will conduct all administrative investigations involving discharge of firearms or whenever a person in police custody receives a serious injury, attempts suicide, or dies. They may also be tasked to conduct investigations as designated by the Chief of Police. All other complaints of misconduct may be investigated by either the Office of Internal Affairs or at the line command level. The Office of Internal Affairs shall assist the department's administration, City Risk Management Division, and the City Attorney's Office in preparation of cases to address civil litigation involving police personnel. They shall be responsible for providing the Office of Planning and Analysis and the Public Affairs Officer an annual statistical summary of the final disposition on citizen complaints against officers. The Office of Internal Affairs shall maintain an accounting of all administrative investigations and will make this information available to the Chief upon request. The Office of Internal Affairs falls under the command of the Deputy Chief of the Professional Standards Division who reports directly to the Chief of Police and will notify the Chief of Police of any investigation of a significant nature or one that is likely to attract public and/or media attention.
The Office of Internal Affairs shall act as the clearinghouse for the documentation and assignment of all administrative investigations to department supervisors. Upon initial notification of a citizen complaint, they shall correspond in writing with the complainant in order to acknowledge receipt of the complaint. Upon return of an administrative investigation case file from the Chief, they shall notify the complainant of the disposition in writing and record the findings accordingly. If the investigation goes beyond time lines established in this field guide, they will make written notification to the complainant advising them of the extension.

The Office of Internal Affairs shall ensure that all administrative investigations and reports are considered as confidential material and shall not be accessible to unauthorized department personnel or the public. This information shall be available only to appropriate command personnel, the City Attorney, Risk Management representatives, and other individuals specifically authorized access by the Chief of Police for official purposes. This information may be released to federal agencies investigating allegations regarding the police department, in response to a subpoena, or in response to discovery in legal proceedings. When requests for such files are received in association with such proceedings, responses will be in accordance with applicable law and the guidance of the City Attorney's Office.

The Office of Internal Affairs shall prepare annual statistical summaries relating to conducted investigations for the purpose of disseminating this data to the public and/or media via the office of the Chief of Police.

The Office of Internal Affairs will be tasked with the annual review of this field guide to ensure it is in compliance with applicable codes and policies, and is in keeping with the current practices of the department. They will also ensure web pages and brochures maintained and distributed by the department with respects to the citizen complaint process are current and readily available to the general public.

Investigative Responsibility

Although the Office of Internal Affairs is primarily responsible for conducting investigations into allegations of employee misconduct, each command is responsible for managing and supervising investigations specifically assigned to them.

If the complaint is taken by, but not handled by, the respective command, the complaint shall be documented in BlueTeam and all statements shall be forwarded to the Office of Internal Affairs within twenty-four hours of receipt of the complaint. If the complaint or inquiry is investigated by the command, the complaint shall be documented in BlueTeam within twenty-four hours, listing the name of the complainant, name of the employee, type of complaint, and name of the investigating supervisor. A file control number will be obtained from the Office of Internal Affairs.

Should a command develop or receive information that a department member is suspected of employee misconduct relating to corruption, brutality, misuse of force, breach of civil rights, or criminal misconduct, the complaint shall be documented in BlueTeam and immediate notification will be made to the Office of Internal Affairs. All statements, documentation, and other evidence obtained by the command will be immediately forwarded to the Office of Internal Affairs for completion. The Chief of Police shall be notified by the Office of Internal Affairs of all significant allegations.
Early Intervention System

It is the policy of the Virginia Beach Police Department to provide the appropriate assistance to officers who may be experiencing job performance difficulties and/or are subject to heightened levels of risk by virtue of their position and/or performance history. The Department shall employ an Early Intervention System (EIS) in an effort to identify officers who may be in need of such assistance. A comprehensive Early Intervention System is an essential component of good discipline in a well-managed law enforcement agency.

Early Intervention (CALEA 35.1.9)

The Virginia Beach Police Department utilizes a computerized Early Intervention System that captures various indicators of behavior that will help the Department identify employees who may be considered at risk and who may require agency intervention efforts before a crisis occurs that could ruin a career and/or erode community confidence. Through the use of IAPro, BlueTeam and EIPRO, the Department will have the ability to track these indicators and automatically provide notification of those employees engaging in potentially problematic behavior before they result in improper performance or conduct. The early identification of such employees and a menu of intervention actions can increase agency accountability and offer employees a better opportunity to meet the agency's values and mission statement.

The Early Intervention System is under the purview of the Office of Internal Affairs. The Internal Affairs Investigative Unit Lieutenant shall be the System Administrator. The Early Intervention System tracks selected incidents that will be used as performance measures and shall include, but not be limited to citizen complaints, internal investigations, vehicle pursuits and use of force incidents as reported in accordance with the provisions of this Field Guide, General Order 5.01 (Use of Force), and 10.04 (Vehicle Pursuits).

The Early Intervention System is a tool designed to assist the Department in identifying officers in need of assistance. It provides supervisors with the opportunity to have one on one conversation with subordinates that the Early Intervention System has identified as our most “at risk” employees. The Early Intervention System is not a tool for discipline or punishment, but a risk mitigation tactic for both the agency and the employee; additionally, it is not intended to replace the responsibility and authority of the immediate supervisor whose role it is to observe, monitor, guide and when necessary, correct the actions of his/her subordinates.

Evaluation Threshold (CALEA 35.1.9 B, C, E)

The Early Intervention System’s functionality is based on alerts. System alerts are triggered by linking an employee to an incident. When the numbers of incidents exceed thresholds that have been set by the System Administrator, the Early Intervention System is triggered and an alert associated with the employee is activated.

Thresholds and cumulative thresholds shall be evaluated and assessed for effectiveness at least annually. The System Administrator will have the capability of adjusting the threshold levels as needed.
Reaching a particular threshold level is not an indication of guilt on the part of the officer. The threshold alert is merely a mechanism designed to allow the Department to conduct a closer inspection of potential risk and/problematic behavior on the part of the officer and attempt to develop strategies for intervention to address the existing issues.

**Review and Notification (CALEA 35.1.9 F)**

When an alert has been generated, the officer’s supervisor will be forwarded the alert and supporting documentation via BlueTeam. The supervisor will evaluate the alert and respond via attaching a memo to the BlueTeam report. The memo should address and document the following:

- A summary of what triggered the alert.
- Contextual data on the officer and his/her work environment.
  - Performance Data
  - Assignment
  - Other areas of concern, such as other alerts, administrative investigations, missed court or training, etc. This data can be obtained via the EIPro software or by contacting Internal Affairs.
- Feedback from a meeting with the employee where the alert and contextual data is discussed.
- Consideration for additional training or assistance.
  - Refresher or Specialized Training
  - EAP, Counseling or Peer Counseling

Once completed by the first line supervisor, the report will be forwarded through the officer’s chain of command via BlueTeam for review, comment and approval. Once satisfied with the alert’s adjudication, the command will forward the alert back to Internal Affairs.

This system has the capability of tracking supervisors based on the actions of their assigned employees. Reports can be generated indicating the number of incidents that are linked to involved officers assigned to a particular supervisor during a defined time period, thus identifying supervisors who have an unusual number of employees demonstrating performance difficulties. Executive leadership can then identify subordinate supervisors who demonstrate patterns of leadership that may call for intervention. Additionally, executive leadership may require greater accountability from those supervisors in an effort to reduce the number of officers needing assistance.

**Intervention (CALEA 35.1.9 G, H)**

Interventions available to the employee include, but are not limited to, remedial training, EAP, Peer Support and Counseling as outlined in General Orders 2.05 (Conditions of Work), 2.07 (Discipline), and 2.15 (Peer Support). After the appropriate intervention, the immediate supervisor should continue to monitor the involved officer’s performance and document any additional actions taken to correct those behaviors found to be contrary to the Department’s values and mission statement.
Section 5

Criminal Investigations of Department Personnel

If an investigation of a department member focuses on criminal matters, the appropriate criminal investigative unit shall investigate the allegation. The Office of Internal Affairs shall conduct an independent administrative investigation, which shall be restricted to the collection of facts for administrative purposes only and shall not be used for prosecution of criminal violations. All commands must be mindful that compelled statements may taint subsequent criminal proceedings. Whenever a member is likely to be criminally prosecuted, the member should not be questioned by either the command or the Office of Internal Affairs without the concurrence of the Commonwealth Attorney’s Office when they are prosecuting the department member or the department member is likely to be charged with a felony; or the City Attorney’s office in all other potential criminal matters.

Section 6 (CALEA 35.1.9 A, 26.3.3)

Investigation Guidelines

No complaint shall be investigated by persons, witnesses or potential witnesses, named in or implicated by the complaint.

The investigator assigned will notify the employee's command as soon as practical following assignment of the investigation. Any recognized and appropriate investigative techniques may be employed in pursuing a meaningful and objective investigation. All physical evidence connected with each case will be gathered including photographs, pertinent records, background evidence, etc.

During the investigation, the investigator should refrain from making any judgmental statements, which could result in the complainant or accused employee reaching a premature conclusion that might be contrary to the final disposition.

If the complainant becomes uncooperative, despite persistent efforts on the part of the investigator to establish the merits of the complaint, such actions will be documented in the investigative report summary.

Every effort shall be made to complete each investigation in a period of less than forty five (45) calendar days. A status report shall be given to the investigator's commanding officer after thirty five (35) calendar days if the investigator anticipates the investigation will not be completed within forty five (45) calendar days. An extension of the forty five (45) day limitation may be granted by the investigator's commanding officer in those cases where extenuating circumstances exist. Any such request for an extension shall be in writing. Should the investigation continue beyond the 45-day period, the complainant and the accused employee shall be contacted and advised of the extension. If the command assigned the investigation is not the Office of Internal Affairs, it will be the responsibility of the assigned commanding officer to ensure the Office of Internal Affairs is made aware of the approved extension. It will be the responsibility of the Office of Internal Affairs to make notification to the complainant. The accused employee shall be notified.
of the extension by the investigating supervisor. US Mail and/or email will normally be utilized to notify
the complainant in writing in order to ensure delivery.

Section 7

Interview Guidelines (CALEA 26.3.5)

Before discussing the allegations with, and prior to interviewing the accused employee, the accused
employee shall:

- Be notified that they are being investigated/questioned concerning a citizen complaint or internal
  investigation.
- Be provided a summary of the allegation(s).
- If appropriate, shall be made aware of the information contained within the departmental
  Administrative Notification (PD-254). The employee shall sign an Administrative Notification
  Form once it has been reviewed with them.

The investigator shall comply with all provisions of Virginia Code 9.1-500 to 9.1-507, Law Enforcement
Officer Procedural Guarantees.

It is strongly suggested that all statements should be audio and/or video recorded.

The interview of all accused employees shall be transcribed, unless there is an equipment malfunction. In
those cases, a summary of the interview shall be prepared. Other interviews shall be transcribed as needed.
All complaints that are mandated by policy to be investigated by Internal Affairs shall be recorded both
audibly and by video, as long as the equipment to do so is both available and functioning properly.

If a recorded statement is lost, for whatever reason, the procedure will be to notify the complainant and
explain what has happened. The complainant will be asked if he/she wishes to have the interview re-
recorded or the complainant will have the option to read a prepared summary of the original interview. If
the complainant is in agreement with the summary and does not wish to be re-recorded a notation will be
made in the file. If the complainant does wish to have their statement re-recorded that will be arranged by
the investigator. A notation will be made in the file containing all the decisions made with respect to this
aspect.

Transcribed interviews: If a verbatim transcript is prepared employees shall review their transcribed
statements and confirm the accuracy of the transcription. Minor corrections may be made and initialed by
the employee; however, corrections that change the meaning of the statement are prohibited unless a review
of the recording discloses an error in transcription. The transcript may be reviewed in the Office of Internal
Affairs or by electronic means (e-mail).

Non-transcribed interviews: In some cases a transcription of the interview may not be prepared. In those
instances, the investigator will produce a written summary of the facts discussed and that summary will be
presented to the employee in order to ensure that it accurately portrays the facts discussed. An audio file of
the interview may also be provided to the employee for their review. The review may be conducted in person at the Office of Internal Affairs or by electronic means (e-mail).

Under most circumstances, one or both of the parties to the interview should review transcribed statements for accuracy, if possible. Should it not be practical or necessary to have the interviewed party sign their transcribed statement, the recording, shall be held for at least two (2) years. Should a litigation hold notice be received due to legal action or the possibility of legal action against the City, the department, or any of its members, any recorded statements in the possession of the department that pertain to the pending litigation shall be held until disposal is authorized by the City Attorney's Office.

Whenever a statement or recorded interview is made with a complainant, witness, or employee, the following information will be part of the preamble:

a) Name of interviewer;
b) Location of interview (if a taped phone conversation, number called);
c) Date and time;
d) Name of person being interviewed;
e) Names of anyone else present;

Any pre-interviews (unrecorded preparatory interviews) with departmental personnel will only include an explanation of the process and procedure of the questioning. Elements of the case or cases being investigated shall not be discussed at this time.

If any information of an exculpatory nature is discovered during the course of 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 the 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.

All employees shall be compelled to truthfully answer questions that are related to their duties or fitness. General Order 1.05, Rule 38 states, “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.” As such, any refusal by personnel to provide truthful information, answer questions, and/or fully cooperate during an administrative investigation may be cause for disciplinary action up to and including termination.

Because members are required to truthfully answer all questions related to their duties or fitness under penalty of discipline up to and including termination, the answers given during the investigation of an administrative matter, and derivative information received from such answers, shall not be used against the employee in any related criminal proceeding.
Should an employee refuse to give a statement of facts concerning their full knowledge of the matter under investigation or answer a question, the investigating supervisor shall order the employee to answer the question or give a statement of facts concerning their full knowledge of the matter under investigation. If the employee refuses the order, the investigator shall immediately contact a supervisory member of the employee’s command who shall relieve the employee from duty pending further action by the Chief of Police.

**Release of Transcripts**

Upon request, an employee or citizen may receive a copy of his/her own interview transcript. Transcripts and other attachments to administrative investigative files shall not be subject to release under FOIA, and shall not be voluntarily released or disclosed by the department unless ordered to do so by competent authority or in accordance with applicable law.

However, this information shall be available to appropriate command personnel, the City Attorney’s Office, Risk Management representatives, and other individuals specifically authorized access by the Chief of Police for official purposes. This information may also be released to federal agencies investigating allegations regarding the police department, in response to a subpoena, or in response to discovery in legal proceedings. When requests for such files are received in association with such proceedings, responses will be in accordance with applicable law and the guidance of the City Attorney's Office.

**Section 8**

**Administrative Investigation Tools**

An employee may be compelled to submit to any ballistics, chemical, or other tests in accordance with General Order 1.05, Rule 39.

**Photographs and Lineups (CALEA 26.3.6 A)**

Upon the order of the Chief or the Chief's designee, members shall submit to any 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.

**Alcohol and/or Drugs Tests**

A member who is suspected of being impaired from consuming intoxicating beverages or is suspected of using illegal controlled substances or the improper use of controlled substances, in violation of HR Policy 6.15 (Substance Abuse Policy,) shall submit to the appropriate tests as required by that policy. All procedures set forth in HR Policy 6.15 shall be followed by Department members. An employee shall be required to submit to a urine or breath test for chemical analysis to determine the presence, if any, of drug(s) or alcohol in the employee's system when the employee's supervisor has a reasonable suspicion that the employee is under the influence of drug(s) or alcohol while on duty.

"Reasonable suspicion" is defined as the presence or occurrence of specific objective facts or events and rational inferences drawn from those facts or events in light of experience, which the employee is, at the
time of the suspicion, under the influence of drug(s) or alcohol. The following procedural safeguards will be observed to ensure that reasonable suspicion does, in fact, exist. The supervisor must have knowledge of objective facts or events that would reasonably lead him/her to suspect that an employee is under the influence of drug(s) or alcohol. Such facts or events may include, but are not necessarily limited to, the following: 1) observed possession or use of drugs or alcohol by the employee "on-the-job" or prior to reporting for duty, 2) the smell of marijuana or alcohol on the employee's person, 3) the occurrence of an accident or incident involving personal injury or damage to property when there is no reasonable explanation for the occurrence thereof, 4) mood swings, agitation, hyperactivity, explosiveness, violence, combativeness or other remarkable behavior that is uncharacteristic of the employee, and 5) excessive absenteeism, tardiness or other significant changes in job performance. The determination by a supervisor that reasonable suspicion exists will be supported by at least one additional supervisory-level employee and/or by the City Physician or his/her duly authorized designee. The facts or events leading to a determination that reasonable suspicion exists will be documented in writing and forwarded to Occupational Health Services within 24 hours or less.

A member who is involved in a motor vehicle accident while operating a City licensed fleet asset, or personal vehicle while conducting official City business, shall be tested in accordance with HR Policy 6.15. All tests for drugs or alcohol, whether due to reasonable suspicion or mandated by policy, shall be conducted in accordance with HR Policy 6.15. A drug screen conducted in accordance with the provisions of this policy may include an analysis for any substance which could impair an employee's ability to safely and effectively perform the duties and responsibilities required of his or her job, including, but not necessarily limited to, the following: 1) heroin, 2) cocaine, 3) morphine and its derivatives, 4) PCP, 5) methadone, 6) barbiturates, 7) amphetamines, 8) methaqualone, 9) marijuana, and other cannabinoids; and/or 10) anabolic steroids, androgenic steroids, or any other controlled substances used to enhance physical development and/or athletic performance. When a determination has been made that reasonable suspicion exists, the following procedures will be applicable.

**Drug(s)** – The employee will be transported to Occupational Health Services or, in the event that Occupational Health Services is unable to provide testing, they will recommend an alternate testing site. The employee will be provided a consent form for signature. After signing the consent form, the employee will be required to provide a urine sample (at the option of the City Physician or his/her duly authorized designee) for chemical analysis to determine the presence, if any, of drug(s) in the employee's system. Whenever an applicant's or employee's urine sample tests positive for the presence of drug(s) in the applicant's or employee's system, the urine sample will be subjected to a more scientifically-accurate confirmatory test. If the confirmatory test is positive, an employee may request that an independent confirmatory test be conducted on the urine sample. The request will be made, in writing, to the Director of Human Resources within 72 hours of the date on which the employee receives the results of the initial confirmatory test. The laboratory that conducts the independent confirmatory test will be selected by the employee from a list of laboratories approved by Occupational Health Services and on file with the Department of Human Resources. The City will bear the cost for all alcohol tests and preliminary, initial, and independent confirmatory drug tests. When an employee elects an independent confirmatory test, he or she will be required to pay for a positive independent confirmatory test. All urine and breath samples will be processed, and all tests will be conducted, in accordance with established clinical procedures.
**Alcohol** – In accordance with Virginia Law and the policies and practices of the Virginia Department of Forensics Science, the breath test instruments at the police precincts shall only be used for judicial evidentiary purposes by a certified Breath Test Operator. All other testing of employees for alcohol will be under the direction of Occupational Health Services (or the on call designee for after-hours service) who will determine the need and means of testing.

When a supervisor, or the City Physician or his/her duly authorized designee, determines, based on reasonable suspicion of impairment, that an employee should not be permitted to continue working, the employee will be transported home by a supervisory-level employee or will be required to remain on the premises until a responsible friend or relative can provide transportation. Nothing herein will be deemed to prohibit management from temporarily reassigning an employee, or from placing the employee in an approved leave status, pending the results of a drug test when such action is deemed to be in the best interest of the City. Such action, however, will not be considered disciplinary in nature, nor will any presumption of guilt arise there from. However, when the results of the confirmatory test are negative, an employee required to take leave pending the results of a drug test will have his or her leave reinstated or will be compensated for hours spent in a leave without pay status.

**Refusal to Submit**
"Refusal to Submit" shall be defined as (1) a failure to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, (2) a failure to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing, or (3) engaging in conduct that clearly obstructs the testing process. An employee who refuses to execute a consent form or to submit to a urine or breath test will be subject to immediate discipline up to, and including, dismissal.

**Photograph Identification (CALEA 26.3.6 B, C)**
An employee may be required to stand in a lineup for viewing by citizens for the purpose of identifying an employee accused of misconduct. Department employee photographs may be maintained for the purpose of identification by citizens of an employee accused of misconduct. Photographs of employees for identification will be required by the department and will be used as it narrowly relates to the employee's job. Photographs or video recordings of employees may be taken, whether knowingly or unknowingly by the employee, for the purpose of internal investigations when it relates to the employee's job and the employee is suspected of misconduct.

**Financial Disclosure Statements (CALEA 26.3.6 D)**
As is related in General Order 1.05 Rule 40, 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 by the Chief and shall not be 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 E)**
All polygraphs conducted in connection with internal or citizen complaint investigations shall be requested through the Office of Internal Affairs and shall be approved in writing by the Chief of Police. Examiners...
who conduct internal polygraph examinations of department personnel will be responsible for ensuring that the appropriate directive letter (Form PD-155) has been signed and delivered to the examinee in accordance with the Code of Virginia.

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

Section 9

Administrative & Criminal Department Searches

This section will promulgate legal authority and guidelines for conducting administrative or criminal searches of department or personal property within the workplace.

No employee should have an expectation of privacy regarding information stored, sent or received in or on a City computer, CAD system, City issued phone or pager, office desk, drawer, cabinet, locker, file etc. The Department reserves the right to review, search and/or inspect these spaces, areas, and/or systems as necessary in the scope and course of an administrative or criminal investigation. The purpose for conducting a search or inspection within the workplace will dictate the appropriate action to be taken. The workplace will include those areas and items that are related to work and are generally within the employer's control. Examples could include offices, desks, file cabinets, pagers, computers, mailboxes, lockers, patrol vehicles, City issued cellular or smartphones, etc. These items remain a part of the workplace even though employees may occasionally store personal items in them or use them for personal reasons. Items that would typically not be included as a part of the workplace would include handbags, closed briefcases, lunch bags, or personal luggage.

Administrative Searches/Inspections

In order to provide for efficient department operations, supervisors and employees have wide latitude to enter workplace areas for administrative, non-criminal reasons. It is reasonable for supervisors and/or other employees to enter workplace areas for legitimate administrative purposes (for example, to retrieve paperwork, forms, investigative reports, etc.). Supervisors may also enter employee workplaces to inspect for the purposes of ensuring employee health, welfare, and safety; completing equipment inventory reports; as required in the course of an administrative investigation; or ensuring compliance with departmental or other procedures or regulations. Items that are inadvertently discovered and determined to be evidence of criminal activity or contraband will be collected and processed in accordance with current department evidence handling procedures.
Criminal Searches
Searches conducted within the workplace to uncover evidence to support criminal charges will adhere to the Fourth Amendment. Prior to conducting a search, the supervisor will notify a Detective Bureau supervisor to initiate a criminal investigation.

Section 10
Investigative Documentation

At the conclusion of the investigative process, the assigned investigator will prepare an Investigative Summary for review by command authority. This document should list at the minimum:

a) The name of the accused employee.
b) The name of the assigned investigator.
c) The names of all pertinent witnesses.
d) A listing of the allegations to include the rule number and literal citation.
e) A brief summary of what pertinent information each witness provides. This is not designed to be a detailed overview of the statement. For these details transcripts or recordings of the interviews are provided.

The Investigative Summary should in no way provide the investigator’s recommendation for potential findings or proposed disciplinary action. The investigator should remain unbiased in the investigation. This cannot be adequately accomplished if the investigator is also the person who adjudicates the case. For this reason the investigative summary should never contain a recommendation to command authority pertaining to the adjudication of a matter. The investigator should use caution in the wording of their Investigative Summary to ensure he/she does not provide opinions or recommendations for the outcome of the matter. The facts alone should be reported. Investigations handled at the command level shall be treated in the same manner. One supervisor shall be tasked to conduct the investigation while another supervisor is tasked to review the completed investigation and make recommendations up their chain of command.

After the investigation is completed, a case file will be prepared containing all documents collected during the investigation. At a minimum this file will include the PD-1A, PD-1B (PD-1C in Inquiries) and Investigative Summary. The allegations listed on the PD-1B will be classified in accordance with the department's rules and regulations as contained in General Order 1.05 (Department Rules).

Section 11
Adjudication of Administrative Investigations (CALEA 26.3.3)

The complete investigative file will be forwarded to the appropriate precinct/bureau/division commander who, after consultation with the Chief of Police and the City Attorney's Office will determine a disposition and forward the file via the appropriate chain of command to the Chief of Police for review. In addition to conclusion recommendations, the command should include any recommended changes in policy or rules and regulations, as well as the need for any new or additional training.
The case file shall be returned, via the appropriate division commander, to the Office of Internal Affairs within twenty (20) working days of receipt, unless the division commander grants an extension.

The time periods set forth for conducting administrative investigations and processing the results are intended as guidelines in the interest of departmental efficiency, and exceeding these guidelines shall not be cause for the closure of cases or the overturning of disciplinary recommendations or action.

**Findings (CALEA 26.3.8)**

All citizen complaints and internal investigations are broken down into specific allegation classifications. Each allegation requires one of the below listed conclusion recommendations by the division command. When a command determines that an allegation is not sustained, exonerated, or unfounded; a memorandum from the precinct/bureau supporting the conclusions shall be included in the case file.

**SUSTAINED:** Sufficient evidence to prove allegation.

**NOT SUSTAINED:** Insufficient evidence to prove or disprove allegation.

**EXONERATED:** Incident occurred, but employee’s actions were proper.

**UNFOUNDED:** Allegation is proven to be false.

**POLICY REVIEW:**

A Policy Review is not a finding but an action used to address a situation where an employee’s actions are within or outside of policy, but consequences of policy need to be addressed.

**Required Documentation When a Complaint is Sustained**

A finding that a complaint is sustained merely states there was sufficient evidence incorporated in the investigative file to indicate the alleged act and/or actions occurred, that current policies do not support these actions as appropriate, and the accused employee is responsible for committing the act and/or actions.

The corrective action to be taken shall be determined by the seriousness of the violation and/or the extent of injury to the victim. It shall be commensurate with the circumstances surrounding the incident while considering the officer's service record and any prior sustained complaints.

A directed EAP referral will be required in cases involving a positive drug or alcohol screen and in cases involving founded violence in the workplace, per HR Policy 5.02, Employee Assistance Program; Policy 6.15, Substance Abuse Policy; and Policy 6.17 Violence Prevention Policy. In other situations, the command may suggest EAP to the employee or, when appropriate, make a formal supervisory referral to EAP as an additional resource for assisting the employee in addressing the underlying causes of the problem behavior.

If the corrective action is non-disciplinary (counseling), all instances of counseling or additional training used to modify an employee's behavior shall be documented in the employee's Personnel Notes in accordance with General Order 2.10 (Performance Feedback.)
If the corrective action involves disciplinary action (reprimands and more severe action) it shall be recorded in accordance with General Order 2.07 (Discipline) and as set forth in this field guide.

The command recommending/imposing discipline shall comply with all provisions of Virginia Code §9.1-500 to 9.1-507, will act in accordance with General Order 2.09 (Grievance Procedures,) as well as applicable areas of this field guide as they relate to the Law Enforcement Officer’s Procedural Guarantees. If no attorneys are involved in an appeal to the Personnel Board then the respective precinct or bureau commanding officer shall personally represent the department during all appeals before the City Personnel Board. If the City Attorney’s Office is representing the City/Department at a Personnel Board hearing, the attorney shall determine who shall represent the department during the Personnel Board hearing.

IA retains the ability to re-open cases in limited situations, such as based on new or additional evidence or when recommendations made by the IRP require further review.

Inquiries may be "concluded" by the Deputy Chief of the Professional Standards Division or the commanding officer of the named employee without the necessity of the officer being interviewed. However, the concluding authority shall notify employees who are named in an inquiry that an inquiry has been conducted.

Administrative investigations concluded with Policy Review as the disposition shall include a recommendation as to what review is needed, by whom, and provide a follow-up due date. The Office of Internal Affairs will be responsible for ensuring that the follow-up is completed and noted in the file.

Section 12
The Role of the First Line Supervisor

The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department shall be with the employee and the first line supervisor. Supervisors shall familiarize themselves with the employees in their unit and closely observe their general conduct and appearance on a daily basis. Supervisors should remain alert for indications of behavioral problems or changes that may affect an employee's normal job performance. The supervisor should document such information. Where a supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action. A supervisor may recommend additional training to refresh and reinforce an employee's skills. Often the most effective tool a supervisor can utilize when dealing with a subordinate is counseling. Counseling may be defined as subordinate centered communication that outlines actions necessary for subordinates to achieve individual and organizational goals

Authority Delegated to Supervisors (CALEA 26.3.7)

Counseling may be used by the supervisor as follows:

1. To determine the extent of any personal or job problems that may be affecting performance and to offer assistance and guidance.
2. To discuss minor and infrequent rule violations and to discuss the substance and importance of the rules with the employee.

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

Any supervisor may relieve from duty any subordinate personnel within his/her command when such action is considered to be in the best interest of the individual, the department, or the public for such a period as is necessary to receive direction from a higher level of authority.

Whenever actions by subordinate personnel are sufficiently improper and contrary to the best interest of the department or public that they require immediate correction, any supervisor may cross lines of authority and issue orders to correct the situation. The supervisor shall report the incident to the employee's immediate supervisor as soon as possible thereafter and follow through with a memorandum to the employee's command. In incidents of a less serious nature that do not require immediate corrective action, the supervisor should document the details on a memorandum and forward it to the employee's command.

**Immediate Suspension from Duties**

In accordance with Virginia state code 9.1-505, the Chief, or his designee, has the right to immediately suspend an employee without pay if the employee’s continued presence on the job is deemed to be 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 for refusing to obey a direct order issued in conformance with the agency's written and disseminated regulations. In such a case, the law-enforcement officer shall have the right to appeal the suspension with under the state law Law Enforcement Officer’s Procedural Guarantees or the city’s grievance policy.

**Section 13 (CALEA 26.1.2, 26.1.4 A, B)**

**Written Documentation of Employee Actions**

Organizational discipline within the Virginia Beach Police Department is crucial to the accomplishment of the agency’s mission. The Virginia Beach Police Department has established a variety of systems designed to promote and reward behaviors by employees that exemplify organizational values and promote the public trust. Alternatively, the agency has also established systems to correct behaviors by employees that are contrary to the mission, values, and policies of the Department.

**Section 14 (CALEA 26.1.4 C, 26.1.5, 26.1.7, 26.1.8)**

**Discipline**

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

Supervisors should explore various methods of changing unsatisfactory work-related behavior, as often there are alternatives to disciplinary action that can bring about the desired effect. Examples could
include, but are not limited to, interim performance feedback reports and work plans designed to direct improvement. Should disciplinary action be necessary, the minimum penalty necessary to bring about the desired result should be applied. Based on varying circumstances, however, a supervisor may exercise discretion in determining the degree of disciplinary action that should be imposed. Disciplinary action should be applied in a progressive manner with more severe penalties being applied where lesser penalties have failed to correct the unsatisfactory conduct.

There are examples of unsatisfactory 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 brings the city or police department into disrepute. When there is a sustained complaint or allegation before imposition of disciplinary action, the procedure and process set forth in General Order 2.07, Discipline shall be followed. The Human Resources Coordinator is available for consultation regarding the determination of discipline. In cases of serious disciplinary action (forty hours suspension or greater) or when other legal issues exist such as use of FMLA leave, disability issues, discrimination complaint, etc., commands are encouraged to not only discuss the case with the Human Resources Coordinator, but also to coordinate a review of all correspondence to the employee (the Memorandum of Charges and Notice of Disciplinary Action) with both the Human Resources Coordinator and the Human Resources Attorney in the City Attorney’s Office.

An employee must be advised of the allegations and given an opportunity to respond to allegations. Employee input regarding both the allegations and the proposed disciplinary action is essential. In cases involving the proposed disciplinary action of suspension or higher level discipline, a pre-disciplinary meeting shall take place between the Commanding Officer of the employee and the employee after the five day response period has ended and before the disciplinary action is finalized. The purpose of this meeting is to allow the employee the opportunity to respond to or explain the charges and/or any mitigating facts or circumstances they feel are relevant. The employee shall be given written notice of the pre-disciplinary meeting (email, memo or letter to home address sent certified mail, return receipt requested) with a minimum twenty-four hour notice.

Any supervisor who recommends disciplinary action greater than that which he or she is authorized to administer should forward the Disciplinary Action Cover Sheet (PD-4), the Memorandum of Charges, his or her recommendation and the employee’s response through the chain of command until it reaches that level authorized to impose such disciplinary action. If the official authorized to impose such action disagrees with the recommendation provided by the supervisor, he/she should consult with that supervisor prior to making a final determination. Once the disciplinary action is determined, the official authorized to impose such action shall draft the Notice of Disciplinary Action and return it to the employee via the Chain of Command for signature.

Disciplinary actions should be administered without undue haste, but as quickly as reasonably possible following the unacceptable conduct. Imposition of suspensions or more serious disciplinary action may be delayed pending the outcome of the appeals process, should the employee decide to appeal the disciplinary action.
The Office of Internal Affairs shall be made aware of and record all disciplinary action taken on department employees. If the circumstances are such that the discipline is not the result of an investigation previously documented by the Office of Internal Affairs, the initiating supervisor will be responsible for making notification to the Office of Internal Affairs. The supervisor should make this contact as soon as it becomes clear the action will be taken, or within twenty-four hours of the action being taken in cases where it was not predictable. The Office of Internal Affairs will assist the assigned supervisor by entering necessary data in the appropriate records management system, generating a case tracking number, preparing the appropriate administrative investigation documents (PD-1A, PD-1B, or PD-1C) for the assigned supervisor, and conducting past history checks on the accused employee and/or complainant for the purpose of documenting potential patterns or problems. This documentation will be incorporated in the appropriate file folder and distributed to the assigned supervisor. The assigned supervisor will be responsible for completing a Disciplinary Action Cover Sheet (PD-4) and assuring all documents required for the imposition of discipline are incorporated in this file. Ultimately, the file and all associated documents will be returned to the Office of Internal Affairs where the appropriate updates will be made in the appropriate records management system to reflect the final outcome of the case. The Office of Internal Affairs will store the file in compliance with established procedures.

A reprimand is written documentation provided to the employee from the supervisor advising and cautioning the employee in reference to his or her unsatisfactory conduct.

All supervisory personnel have the authority to issue a written reprimand. As is the case with all disciplinary action, supervisors should review the actions of the employee and the appropriateness of the written reprimand with their supervisor prior to taking such action. The purpose of the review is to ensure consistency in the application of discipline throughout the agency.

The procedure for imposing disciplinary action in the form of a written reprimand is to issue the Memorandum of Charges document and the Notice of Disciplinary Action document to the employee. Both documents may be issued to the employee at the same time, and may be combined into one document provided all of the required information is included.

Memorandum of Charges – The first written procedural step in the process for imposing disciplinary action. The memorandum of charges shall include, at a minimum, the following:

1. The name of the employee and the name of the supervisor placing the charge(s);
2. A description of the conduct that constitutes a violation of policy or unsatisfactory conduct, including the names of witnesses, if applicable;
3. Identification of the specific rule or policy that is alleged to be violated or an explanation of why the conduct constitutes unacceptable behavior.
4. A statement outlining what steps management has taken to assist the employee, if applicable;
5. A summary of any relevant previous disciplinary action, if applicable, which may influence the current situation.

Notice of Disciplinary Action – The Notice of Disciplinary Action is the second written procedural step in the two-step process for imposing disciplinary action. The Notice of Disciplinary Action shall include, at a minimum, the following:
1. A statement specifically describing the action to be taken, and the reason for that action;
2. A summary of employee’s response to the charges, if any;
3. A statement that further disciplinary action may be taken for future problems with unsatisfactory performance or misconduct, and
4. A statement of the employee’s rights under the City’s Dispute Resolution Program (Grievance Procedure, Open Door, or mediation) and, if applicable, the Law Enforcement Officers’ Procedural Guarantees.

After eighteen (18) months free from further disciplinary action, a written reprimand shall not be considered for purposes of future disciplinary action and may be purged from the official personnel file. Employees may request that discipline be purged through written request, pending approval by both the Chief of Police and the HR Director. Employees shall utilize police form PD-4PR, Request to Purge Recorded Discipline, to request such.

**Suspension**

A suspension from duty is disciplinary action taken by a supervisor against an employee. A suspension is a temporary prohibition of an employee to perform his or her duties due to unsatisfactory conduct. An employee shall not receive pay during any period of suspension and shall not be permitted to use leave.

Suspensions may be imposed in any increment of two hours. Any sworn employee or Animal Control Officer who is suspended for any amount of time must surrender his/her badge, departmental identification and service weapon to their immediate supervisor prior to commencing the suspension. During any period of suspension, the employee may not take any police action or engage in any police related part-time employment.

Supervisors have the following authority to impose suspensions upon approval by the chain of command as follows:

1. Sergeants or first line supervisors may impose reprimands and suspensions up to ten (10) work hours (or one full shift for employees on other than ten (10) hour workdays).
2. Lieutenants or equivalent civilian supervisors and above may impose reprimands and suspensions up to twenty (20) work hours.
3. Precinct/Bureau commanders may impose reprimands and suspensions up to forty (40) work hours.
4. Division Commanders or managers may impose reprimands and suspensions up to eighty (80) hours work hours.
5. Suspensions of 14 consecutive calendar days 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 Chief of Police and approved by the Director of Human Resources.

Exempt employees under the FLSA may not be suspended for less than one workday. Prior to imposing a suspension on an exempt employee, the official imposing such suspension must consult with the Department of Human Resources.

The procedure for imposing disciplinary action in the form of a suspension is to issue the Memorandum of Charges document to the employee along with a Five Day Letter (PD-4A). The employee then has five
days to respond either verbally or in writing to the allegations. Following the five-day period, a Notice of Disciplinary Action is issued by the supervisor. The Notice of Disciplinary Action must include a reference to the response by the employee to the Memorandum of Charges, or the opportunity to respond if no response was received.

A Memorandum of Suspension to Support Division/Payroll (PD-4S) will be completed by the supervisor taking the disciplinary and forwarded to the Account Clerk Supervisor in order to ensure the proper handling of pay and benefit issues affected by the suspension.

After five (5) years, free from further disciplinary action, a suspension shall not be considered for purposes of further disciplinary action and may be purged from the official personnel file. Employees may request that discipline be purged through written request, pending approval by both the Chief of Police and the HR Director. Employees shall utilize police form PD-4PR, Request to Purge Recorded Discipline, to request such.

In accordance with the Code of Virginia, management has the right to place a sworn member on immediate suspension without pay when that member's continued presence on the job is deemed to be a substantial and immediate threat to the welfare of the agency or the public.

**Administrative Decrease**

An administrative decrease is disciplinary action taken by a supervisor 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 Chief of Police and approved by the Director of Human Resources. An administrative decrease shall require a letter of justification submitted by the Chief of Police to the Director of Human Resources and shall be subject to the approval of the City Manager.

The procedure for imposing disciplinary action in the form of an administrative decrease is to issue the Memorandum of Charges document to the employee along with a Five Day Letter (PD-4A). The employee then has five calendar days to respond either verbally or in writing to the allegations. Following the five calendar day period, the supervisor issues a Notice of Disciplinary Action. The Notice of Disciplinary Action must include a reference to the response by the employee to the Memorandum of Charges, or the opportunity to respond if no response was received.

**Demotion**

A demotion is disciplinary action taken by a supervisor against an employee. A demotion is the reduction of the employee’s pay range in conjunction with a change in job duties and responsibilities as a result of his/her unsatisfactory conduct. A demotion must be endorsed by the Chief of Police 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, other discipline may be considered. Prior to initiating a disciplinary demotion, the Chief of Police must contact the Department of Human Resources for review and recommendation.

The procedure for imposing disciplinary action in the form of a demotion is to issue the Memorandum of Charges document to the employee along with a Five Day Letter (PD-4A). The employee then has five calendar days to respond either verbally or in writing to the allegations. Following the five calendar day
period, the supervisor issues a Notice of Disciplinary Action. The Notice of Disciplinary Action must include a reference to the response by the employee to the Memorandum of Charges, or the opportunity to respond if no response was received.

**Dismissal (CALEA 26.1.7 A, B, C)**

A dismissal is 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 Chief of Police and approved by the Director of Human Resources.

The procedure for imposing disciplinary action in the form of a dismissal is to issue the Memorandum of Charges document to the employee along with a Five Day Letter (PD-4A). Prior to dismissal, the department official authorized to terminate the employee shall afford the employee an opportunity to an informal meeting at which time he/she shall be informed of the reason(s) for the proposed dismissal and shall have the opportunity to answer or rebut the allegations. The department official shall document the meeting. If after such meeting the official concludes that the employee should be dismissed, or if the employee declines to attend such a meeting or to make a statement, 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. Additionally, the letter of dismissal 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. Final action to dismiss an employee will not be taken by the Department of Human Resources until such written documentation is received.

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.

**Role of Department Supervisors and Administrators in the Disciplinary Process (CALEA 26.1.5)**

Supervisors at all levels of the organization are tasked with ensuring compliance with departmental rules and regulations, monitoring work performance of subordinates, exploring alternative ways to improve performance and correct improper conduct prior to imposing disciplinary action, and imposing disciplinary action as needed within the limits described above.

Lieutenant or equivalent non-sworn supervisors may 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.

Captains or Precinct/Bureau Commanders may 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.
Division Commanders may impose disciplinary action beyond that delegated to Precinct/Bureau Commanders, review disciplinary action that occurs within their division to ensure consistency across precinct/bureau lines, and 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.

Chief of Police may impose disciplinary action beyond that delegated to Division Commanders.

**Discipline Review Procedures**

**Approval Procedure (CALEA 26.1.8)**

1. Once the Memorandum of Charges and the Notice of Disciplinary Action have been served on the employee and signed, a copy of all applicable paperwork shall be forwarded to the Precinct or Bureau Commander.
2. After the Precinct/Bureau Commander’s review, a copy will be retained at the precinct/bureau, and a copy shall be forwarded to the Office of Internal Affairs who will log the case and then forward it to the office of the appropriate Division Commander.
3. The Division Commander will review all Notices of Disciplinary Action that occur within that division for form and content and to ensure reasonable consistency within commands. The Division Commander will also assess the amount of time taken by the command to complete the corrective disciplinary process.
4. After the Division Commander’s review, the completed Notice of Disciplinary Action will be returned to the Office of Internal Affairs.
5. When appropriate, the Office of Internal Affairs will forward the Notice of Disciplinary Action to the Chief of Police for review. After the Chief of Police has reviewed the Notice of Disciplinary Action, he will return it to the Office of Internal Affairs for finalization.
6. The Office of Internal Affairs will verify the final determination of disciplinary action and provide copies to the Department of Human Resources, the office of the Chief of Police and to the employee’s command for inclusion into their respective personnel files.
7. In the event the Precinct/Bureau, Division Commander or Chief of Police elect to overturn or to amend the imposition of disciplinary action, a written explanation will be provided to the supervisor who initiated the disciplinary action and to the employee who is the subject of that action.

**Captain’s Board**

When considering the appropriateness or consistency of discipline, the Captain's Board, comprised of all department captains, may be convened at the request of the Chief of Police, a Deputy Chief, or a Captain. The Board will meet upon the completion of the administrative investigation and prior to the employee receiving the notice of disciplinary action. The Board may review any allegation of misconduct that may lead to dismissal, or any disciplinary situation of a complex nature where the requesting member believes that a review by the committee would be of value. The Office of Internal Affairs will present the administrative investigation for the Board to review. A quorum of this committee shall consist of at least half of the department’s captains and no meeting shall take place without a quorum. The Police Support Division Manager will sit on the Captain’s Board when the issue involves Support Division personnel or
when requested by the Chief or a Deputy Chief. The Deputy Chief of the Professional Standards Division or his/her designee shall preside over the Board. The decision of the Captain's Board is advisory only. The Board is not an open meeting and unless requested to present material facts, testimony or background information such as training, shall be restricted to Captains of the Police Department, IA staff, and the Human Resources Coordinator.

The Captain’s Board may summon other witnesses. Witnesses who are employees are required to attend and to make statements or answer questions of the Captain’s Board.

**The Firearms Discharge Review Board**

The Firearms Discharge Review Board is established for the purpose of reviewing, evaluating, and making recommendations to the Chief of Police concerning all incidents of firearms discharge by employees of the Virginia Beach Department of Police. Employees covered by this policy shall include all sworn, ancillary, civilian and volunteer personnel of the Department of Police. The Deputy Chief of Professional Standards or his/her designee shall preside over the Board.

The Firearms Discharge Review Board shall not review the discharge of firearms during authorized and supervised training, except when a firearms discharge during such training presents a dangerous situation that could or does result in an injury, death, or any property damage. In addition, the Chair of the Firearms Discharge Review Board may decide not to convene the board if, based on their review of the incident, the firearm was used to humanely dispose of a severely or critically injured animal when no other method of humane disposal was immediately available or in cases of negligent discharges where there were no injuries or significant damages.

The Firearms Discharge Review Board shall evaluate each aspect of an employee-involved shooting. Such evaluation shall include a thorough review of the Office of Internal Affairs report, and a hearing of direct testimony, if necessary, from employees and witnesses.

The Firearms Discharge Review Board shall develop findings and make recommendations to the Chief of Police in the following areas:

1. Whether the shooting was within policy, out of policy, or negligent;
2. Whether the incident was avoidable;
3. Training considerations;
4. Quality of supervision;
5. Disciplinary considerations; and
6. The post-shooting investigative process and quality.

Members of the board shall include:

1. The Deputy Chief of Professional Standards Division or his/her designee (Chair);
2. The commanding officer of the employee who discharged the weapon;
3. A minimum of four additional Captains (For the purpose of this Board, a lieutenant serving as an acting Commanding Officer for a period of 30 days or more may serve in lieu of a Captain);
4. The Range Supervisor or current firearms instructor.
5. A designated City Attorney

The investigator from the Office of Internal Affairs shall present the case to the Board. The employee who discharged his/her weapon will be invited to attend, and to present any additional statement to the Board, but will not be compelled to attend or to make a statement. The employee’s immediate supervisor may accompany the employee but may not speak without permission of the chair. The Board may summon other witnesses. Witnesses who are employees may be compelled to attend and to make statements or answer questions of the Board.

The board shall meet within thirty (30) working days after the post-investigative process is completed. Recommendations shall be forwarded to the Chief of Police within five (5) working days of the board meeting.

**Annual Review of Disciplinary Action**

The Office of Internal Affairs will conduct an annual review of all department disciplinary action imposed as a result of administrative investigations during the previous year to monitor consistency and to ensure that disciplinary action is imposed within departmental and city guidelines. The report will be provided to the Chief of Police, who will disseminate as he/she feels appropriate.
Sample Reprimand

INTER-OFFICE MEMORANDUM

DATE:   May 16, 2014
TO:     Officer John Doe
FROM:   Sergeant York
SUBJECT: Reprimand, Failure to Appear in Court

On May 3, you failed to appear in traffic court according to the report received from the court liaison officer. This violated General Order 1.05, Department Rules, Rule 23, Reporting for Duty or Court.

This is not the first time this has occurred. You missed court on two prior occasions, the last occasion being in February of this year, and at that time you and I discussed the importance of appearing in court. I recommended that you maintain an appointment calendar and refer to it daily.

In this instance you advised me that you had forgotten to write this court date in your calendar, and that’s why you missed court. This is not a satisfactory reason.

The previous counseling has failed to correct this problem, so disciplinary action has become necessary to ensure that you recognize the importance of this issue. This memorandum will serve as a reprimand. You are cautioned that a further violation will result in more severe disciplinary action.

You have the right to appeal this disciplinary action through the City’s open door policy, Policy No. 4.05, or the City’s grievance procedure, Policy No. 4.04, however, you may not use both procedures. Please note that if you elect to grieve this action through the City Grievance Procedure, your appeal must be received by the Department of Human Resources within twenty calendar days of receipt of this notice of disciplinary action, as outlined in City Policy 4.04. Please see me if you wish to do so.

Your signature below will acknowledge receipt of this memorandum only and will not be deemed an admission or concurrence with the contents set forth herein.

cc: Personnel File

Employee’s Signature ___________________________ Date __________
Sample Memorandum of Charges

INTER-OFFICE MEMORANDUM

DATE: November 15, 2014
TO: Officer A. B. Charles
FROM: Sergeant X. Y. Zebra
SUBJECT: Memorandum of Charges – Excessive Force

On September 30, 2014, you were involved in an arrest situation in which it is alleged that you used Capstun on a handcuffed prisoner to stop him from being verbally abusive, in violation of General Order 1.05, Department Rules, Rule 46, Use of Physical Force.

This allegation was made by Mr. John Q. Public and was investigated by the Office of Internal Affairs, case number 2014252cc. In your interview with Internal Affairs, you acknowledged that the prisoner was under control and posed no threat to you or other officers.

Attached you will find a five day letter. The determination of disciplinary action will take place upon receipt of your response to this memo, or after the five days has elapsed.

Your signature below will acknowledge receipt of this memorandum.

XYZ

Employee’s signature: ___________________________ Date: ______________

Attachments: Five-Day Letter
INTER-OFFICE MEMORANDUM

DATE: November 24, 2014
TO: Officer A. B. Charles
FROM: Sergeant X. Y. Zebra
SUBJECT: Notice of Disciplinary Action – excessive force

This memorandum will serve as notice of your ten (10) hour suspension to be served on November 30, 2014. This disciplinary action is being imposed in accordance with the City Policy 4.02, Discipline Policy and Procedure, as a result of your violation of General Order 1.05, Department Rules, Rule 46, Use of Physical Force. In my memorandum of November 15, 2014, you were notified of the charge against you, resulting from the September 30, 2014 incident involving the use of Capstun on a handcuffed prisoner (reference Internal Affairs file #2014-0252). You were given five days to respond to the charge.

In your response you stated that while the use of Capstun may not have been the best decision, you didn’t feel as though it violated the Use of Force rule, and you felt counseling would be sufficient to settle the issue.

In June 2013, you received a written reprimand for violation of Rule 10, Treatment of Persons. You are a tenured officer with thirteen years with the Department. You have received training on the proper use of a Capstun several times. Per your training record the last training was on May 10, 2013.

On November 24, 2012, Captain Lincoln and I conducted a pre-determination meeting with you. During this meeting, I advised you of my concern regarding this incident. I also provided you with the opportunity to present information on your behalf to be considered in making a decision regarding your discipline. After considering all of the information available to me, including the information you provided at our meeting, I have concluded that this suspension is warranted. The appropriate use of force is one of the most important judgments an officer has to make. You have not been trained to use chemical spray to quiet a verbally abusive prisoner, and in fact have been trained that this is never appropriate. Please be advised that a further violation of this nature will result in more severe disciplinary action, up to and including dismissal.

You have the right to appeal this action, through the open door policy, the City’s Grievance Procedure or the Law Enforcement Officers’ Procedural Guarantees as described in the five-day letter. Please note that if you elect to grieve this action through the City Grievance Procedure, your appeal must be received by the Department of Human Resources within twenty calendar days.
days of receipt of this notice of disciplinary action, as outlined in City Policy 4.04. If you have any questions, please see me.

Your signature below will acknowledge receipt of this memorandum only, it will not be deemed to be a concurrence with the contents set forth herein.

XYZ

Cc: Captain J. K. Lincoln
   Personnel File

Employee’s signature: _____________________________ Date: ______________
Investigation Adjudication Approval Procedures

Once the Memorandum of Charges and the Notice of Disciplinary Action have been served on the employee and signed, a copy of all applicable paperwork shall be forwarded to the Precinct or Bureau Commander.

After the Precinct/Bureau Commander’s review, a copy will be retained at the precinct/bureau, and a copy shall be forwarded to the Office of Internal Affairs. Internal Affairs will log the case and then forward it to the office of the appropriate Division Commander.

The Division Commander will review all Notices of Disciplinary Action that occur within that division for form and content and to ensure reasonable consistency within commands. The Division Commander will also assess the amount of time taken by the command to complete the corrective disciplinary process.

After the Division Commander’s review, the completed Notice of Disciplinary Action will be returned to the Office of Internal Affairs.

When appropriate, Internal Affairs will forward the Notice of Disciplinary Action to the Chief of Police for review. After the Chief of Police has reviewed the Notice of Disciplinary Action, he will return it to Internal Affairs for finalization.

Internal Affairs will verify the final determination of disciplinary action and provide copies to the Department of Human Resources, the office of the Chief of Police and to the employee’s command for inclusion into their respective personnel files.

In the event the Precint/Bureau, Division Commander or Chief of Police elect to overturn or to amend the imposition of disciplinary action, a written explanation will be provided to the supervisor who initiated the disciplinary action and to the employee who is the subject of that action.
Section 15

Routing of Investigative Case Files (CALEA 26.2.2, 26.3.3, 26.3.4 A, C)

In all administrative investigations, an investigator will enter all necessary information into the appropriate records management system. The records management system automatically generates due dates for tasks and assignments.

Forty five (45) days is allotted for the completion of the investigative process to include the submission of the final Investigative Summary. If the case is assigned to a supervisor in a command other than the Office of Internal Affairs for investigation, then the complaint information and all associated documents are compiled in the appropriate folder by an investigator and sent to the precinct/bureau for follow up. A coversheet accompanies this folder advising the command they have forty five (45) days to complete the investigation. When this is a citizen complaint, a form letter to the citizen is generated by the investigator and provided to the Administrative Assistant who acquires the signature of the Professional Standards commanding officer, documents the letter being sent and places it in the appropriate outgoing mail.

If the investigation is going to take longer than forty five (45) days, then an extension is requested in writing by the assigned investigator via their chain of command to the investigator’s commanding officer. Once approval is granted by the commanding officer, the assigned investigator is responsible for notifying the Administrative Assistant who then updates the appropriate records management system.

If the case is one that is investigated by the Office of Internal Affairs, the investigator will provide the completed file to their supervisor for review and approval. Ultimately, the file will be provided to the commanding officer of the Professional Standards Division for approval prior to being distributed outside of the Office of Internal Affairs. Upon approval, the file is provided to the Administrative Assistant who logs the file and distributes it to the commanding officer of the accused employee for adjudication. In order to ensure timely delivery of the file, the administrative assistant and commanding officer of the accused employee’s command are notified by e-mail that the file is ready for pick up. The case file is packaged in an envelope or blue security bag addressed to the command and is stamped “confidential” with the report number and date at the bottom of the right hand corner. At the time the file is picked up by a command representative, the file is signed out in the Administrative Assistant’s office and the recipient is required to sign acknowledging receipt.

From the date the file is distributed to the accused employee’s command, the command has twenty (20) days to review the investigation, determine what action to take with respect to the allegation(s), and return the file to the Office of Internal Affairs. If the precinct/bureau adjudicates a case and imposes disciplinary action, and the accused employee decides to exercise their right to a grievance, there will most likely be a delay in the file being returned to the Office of Internal Affairs. The delay can cause issues with respect to properly notifying the complainant or other accused employee(s) of the status of the case. For this reason, the Administrative Assistant in the accused employee’s command will be made aware of the grievance and they will then notify the Professional Standards Division Administrative Assistant in writing of the expected delay.
When the command/bureau is finished with the adjudication process, the case is routed back to the Professional Standards’ Administrative Assistant who will ensure all necessary documents and signatures are reflected in the file. The file is then routed to the appropriate Deputy Chief.

The Deputy Chief reviews and provides final approval on most Internal investigations. The Internals with written reprimands or less are not routed to the Chief unless the Deputy Chief feels the Chief should review the case. The Deputy Chief also finalizes Inquiries, except animal euthanasia cases, which are finalized by the commander of the Office of Internal Affairs.

Once the Deputy Chief has reviewed and signed the case, it is returned to the Professional Standards’ Administrative Assistant once again to be checked for signatures and to determine if the case is to be routed to the Chief for review and signature. All Citizen Complaints, Internal Investigations dealing with employee against employee allegations, and all suspensions are to be routed to the Chief as a matter of policy.

Once the Deputy Chief or Chief has provided final approval of the file, the case is sent back to the Professional Standards’ Administrative Assistant for finalization. This finalization includes:

- The preparation of all letters and/or memos where signatures are required.
- For all Citizen Complaints a letter detailing the disposition of the case is prepared for the commanding officer of the Professional Standards Division signature and is sent by certified mail to the complainant. This letter denotes the type of disposition of the case only and does not in any way indicate what if any disciplinary action was taken in the matter.
- For all Internal cases where allegations were made by one employee against another, memorandums detailing the disposition of the case are prepared for the commanding officer of the Professional Standards Division and are then sent via confidential inside mail to the affected employee.

The commanding officer of the Professional Standards Division may generate letters and/or memos if the complaint came through the city manager’s office and they request a reply.

Termination letters will normally be generated by the Chief’s office, but there are times when the Office of Internal Affairs may be asked to prepare one for the Chief’s signature.

Documentation of all letters/memos are placed in the case files and kept on file in the Office of Internal Affairs. Whenever possible, documents will be linked directly to the appropriate records management system.

The Professional Standards Division Administrative Assistant is tasked with completing all updates to the appropriate records management system with the appropriate case information, to include the findings, the action taken if any, and the completion date.

Completed cases are then provided to the Lieutenant of the Office of Internal Affairs who will compile a listing of all disposed cases for inclusion in the Internal Affairs Monthly Case Disposition report. Inquiries are not included in this report. After the monthly report is generated, the cases are filed in a secure location under the sole control of the Office of Internal Affairs.
Section 16

Appealing Disciplinary Action

The Virginia Beach Police Department is committed to providing a quality work life for all employees and resolving issues at the lowest level possible within the organization. The policies and programs that follow are alternatives for employees for resolving concerns relating to the work place and/or disputing disciplinary action taken by supervisors.

Open Door Policy

The City of Virginia Beach Open Door Policy is available to all employees of the Virginia Beach Police Department in accordance with (City Policy 4.05).

Procedural details on the use of the Open Door Policy may be found on the Human Resources Policy Page of the City of Virginia Beach Internal Website (BEACHnet.vbgov.com).

City of Virginia Beach Grievance Policy and Procedure

The City of Virginia Beach Grievance Policy and Procedure (City Policy 4.04) is available to all eligible employees of the Virginia Beach Police Department.

Law Enforcement Officer’s Procedural Guarantees (CALEA 22.4.1)

The Law Enforcement Procedural Guarantees are provided for by the Code of Virginia. When a sworn DCJS certified law enforcement officer, with the exception of the Chief of Police, is dismissed, demoted, suspended or transferred for punitive reasons the officer may select a hearing before a hearing officer in accordance with the Law Enforcement Officer’s Procedural Guarantees as an alternative to the City of Virginia Beach Grievance Policy and Procedure.

Procedures for requesting and conducting a hearing in accordance with the Law Enforcement Officer’s Procedural Guarantees are located in Appendix I attached to General Order 2.09, (Grievance Procedures). The officer cannot appeal discipline using both the Law Enforcement Officer’s Procedure Guarantees and the City’s Grievance policy and procedure.

The Commander of the Office of Internal Affairs shall coordinate the grievance procedures relating to the Law Enforcement Officer’s Procedural Guarantees. Records generated from Law Enforcement Officer’s Procedural Guarantees hearings shall be maintained, and access and dissemination controlled by the Commander of the Office of Internal Affairs, with copies of the grievance and findings maintained in the officer’s personnel file.
Annual Analysis

An annual analysis of all proceedings covered under this guide effecting Department of Police personnel will be conducted by the Commander of the Office of Internal Affairs, or designee.

Documents, Policies and Directives Cited in this Text

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