

ARLINGTON COUNTY POLICE DEPARTMENT DIRECTIVE MANUAL

Chapter: 5	Effective Date:	Amends/Supersedes:	By Authority of the
Procedures	February 14, 2020	May 25, 2018 June 15, 2015 September 3, 2013 March 15, 2012 November 3, 2009 March 1, 2005	Chief of Police Charles A. Penn
Accreditation Standard(s):			
ADM.18.02, ADM	I.18.03, ADM.18.04		

551.02 Complaint Processing & Investigations

I. Policy

It is the policy of the Arlington County Police Department to provide citizens with a fair and effective avenue for redress of their legitimate complaints against department employees, to protect employees from false charges of misconduct or wrongdoing, and to provide accused employees with due process safeguards.

To maintain the integrity of the department and its employees, and to ensure the ability of sworn officers to present evidence in court, the department will take appropriate action regarding employees who have violated laws, ordinances, and department rules and regulations; to dismiss employees who prove to be unfit for police work; and to dismiss unjustified or not sustained allegations against innocent employees.

Complaints will be documented, investigated and adjudicated. A record of these complaints will be kept by the Office of Professional Responsibility (OPR). These records will be kept confidential and are not subject to the Freedom of Information Act and will not be retained with any personnel record or central records system. Statistical summaries, based on the records of the OPR will be compiled on an annual basis and a report filed with the Chief of Police.

II. Definitions

- A. Complaint An allegation of employee misconduct or wrongdoing, or the expression of dissatisfaction with a department policy or practice.
- B. Investigation Any action which is taken to resolve a complaint made against an employee or the department.

III. Procedure

- A. The Office of Professional Responsibility is responsible for:
 - 1. Supervising and/or controlling the investigation of alleged or suspected misconduct within the department
 - 2. Conducting other investigations as assigned by the Chief of Police.
 - 3. Maintaining the confidentiality of internal affairs investigations and records.

- 4. Advising the Chief of Police of possible personnel actions, up to and including termination, that results from, or may arise from, internal investigations.
- B. Receiving a Complaint Procedures for registering a complaint will be available to the public. Each complainant will be made aware of the procedures at the time the complaint is made.
 - Complaints will be accepted in person, or by mail, telephone, fax, or email. If the complainant cannot file the report in person, police personnel may meet with the individual at a mutually convenient location in order to complete the report.
 - Complaints will be accepted from anonymous sources, juveniles and persons under arrest in police custody as long as the complaint contains sufficient factual information to warrant an investigation. Citizens making complaints regarding employees of other law enforcement organizations, should be referred to supervisors in those organizations.
 - 3. All citizen complaints should be recorded on the Personnel Complaint Form. Although this form is intended for complaints against an employee, it may also be used for complaints about a policy or practice of the department. Except for anonymous complaints, the complaint form should be signed by the complainant, but a signature is not mandatory to initiate an investigation.
 - 4. Registering, receiving, accepting or recording a complaint does not imply legitimacy of the complaint. No effort should be made to prevent a citizen from making a complaint which is not legitimate, nor can we always determine that the complaint is not legitimate until after it has been investigated.
 - 5. Each complaint will be acknowledged (via letter, telephone, or e-mail). The complainant will be informed of the individual investigating the complaint; the complainant will be kept informed of the status of the investigation; and the complainant will be informed of the final disposition of the complaint, including the fact that corrective or disciplinary action was taken by the department.
 - 6. The Chief of Police will be informed, through the chain of command or the Office of Professional Responsibility, of all complaints made against an employee or the department. Allegations of criminal conduct will be brought to the immediate attention of the Chief of Police. Division Commanders will be notified of complaints made against personnel assigned to their division.
- C. Conducting an Investigation Investigations will be conducted by a supervisor, an employee of the Office of Professional Responsibility, or anyone designated by the Chief of Police, Acting Chief of Police, or Division Commander. No investigation will be conducted by non-supervisory personnel without approval by the Chief of Police or the Acting Chief of Police.

- 1. Certain types of complaints shall be investigated by the Office of Professional Responsibility. These include complaints involving criminal activity, use of excessive force, discrimination, sexual harassment or as assigned by the Chief of Police or Acting Chief of Police. In cases where these investigations may be hampered by delay, they may be performed by those so designated in this procedure. In this event, the results of the investigation will be forwarded as soon as possible to the Office of Professional Responsibility for review.
- 2. Likewise, certain types of complaints will be investigated by other unit or section supervisors. These include complaints about an employee's appearance, demeanor, use of department equipment, dereliction of duty, propriety of the employee's action, or as designated by the Division or Section Commander. Completed investigations will be sent to the Office of Professional Responsibility for review.
- 3. Types of complaints not specifically mentioned above will be forwarded to the appropriate Division Commander for assignment.
- 4. Complaints about department policy can often be resolved during the initial contact with the complainant. Clarification of our policy or an explanation of our authority is sometimes all the complainant needs. If the complaint is not resolved initially, the matter will be forwarded to the appropriate Division Commander for resolution.
- 5. Early in an investigation, the department must decide whether the complaint will be investigated under administrative procedures or the criminal process.
- 6. An employee who is the subject of an internal administrative investigation is required to cooperate with the investigator. An employee who is the subject of a criminal investigation is not obligated to provide information which may later be used against the employee in support of a criminal charge unless a waiver of rights is obtained.
- 7. Under no circumstances will an investigation be conducted which employs unlawful methods, coercion or devices which, would not be upheld in a court of law. Supervisors assigned to conduct an administrative investigation into potential misconduct shall complete a thorough and professional inquiry into the allegation and submit a detailed report outlining the complaint, investigative measures and recommended findings. The failure of a supervisor to conduct an appropriate investigation as determined by Command Staff and/or the Office of Professional Responsibility may result in disciplinary action.
- 8. Each complaint shall be investigated to its logical conclusion and the investigation results properly placed into the appropriate category of completed cases.
- 9. Unless an extension is granted by the Chief of Police, an investigation will be completed within thirty (30) days. Status reports will be given to the Office of Professional Responsibility, if the investigation will require more than 30 days to complete.

- 10. Records pertaining to an investigation will be kept confidential and secure by the individual doing the investigation. Upon conclusion of the investigation, these records will be given to the Office of Professional Responsibility to be retained.
- 11. The Office of Professional Responsibility will maintain liaison with the Office of the Commonwealth's Attorney, the County Attorney, County Human Resources Department, County EEO Assistant, and other affected personnel as required by the type of investigation. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.
- 12. When an employee is notified that he or she is the subject of an Office of Professional Responsibility investigation, the employee will be given a written statement of the allegations and the employee's rights and responsibilities relative to the investigation. Investigations should be conducted in accordance with the Police Officers Bill of Rights as outlined in <u>Virginia Code § 9.1-500 et seq</u>.
- 13. An employee who is the subject of an internal administrative investigation may be required to undergo a medical or laboratory examination at the department's expense; be photographed or appear in a line-up; or submit a financial disclosure statement. These actions will be mandated only by the Chief of Police or the Acting Chief of Police after the investigator has sufficiently demonstrated the need for such action.
- 14. An employee will not be required to submit to a polygraph examination as part of the investigation unless directed by the Chief of Police or Acting Chief of Police and refusal may result in disciplinary action.

D. Completion of Investigations

- Classifications The investigator will classify the incident using one of the following:
 - a. Sustained allegation is supported by sufficient evidence to justify a conclusion of guilt based on a preponderance of evidence standard.
 - b. Not Sustained insufficient evidence to either prove or disprove the allegation.
 - c. Exonerated incident occurred, but was lawful and proper.
 - d. Unfounded allegation is false or the action did not involve a police employee.
- 2. Conclusions In addition to one of the above classifications, the investigator may note any or all of the following in conjunction with the conclusion:
 - a. Policy failure allegation is true, and although the action of the employee or department was consistent with department policy, the complainant suffered harm.

- b. Misconduct not based on original complaint incident involved improper action not previously identified.
- c. Training deficiency employee's conduct was due to inadequate or improper training.
- 3. Letters of corrective or disciplinary action or termination pertaining to sustained complaints will be placed in an employee's personnel record.
- 4. Administrative Leave or Termination of Employment An officer who has been placed on administrative leave without pay or terminated as a result of an internal disciplinary or criminal investigation shall be directed by OPR to return all department issued property. The following property items should be collected immediately:
 - a. Identification and badge case containing police identification card and badge;
 - b. Uniform badge;
 - c. Any task force badges, cover identification(s), or law enforcement identification issued or provided by another agency to the officer for execution of related duties.
 - d. Proximity card including photo identification;
 - e. Portable Radio;
 - f. Assigned vehicle, keys, and gas card;
 - g. Department issued weapon(s) *two supervisors are required to accomplish this task*;
 - h. Ballistic vest;
 - i. All uniform outerwear containing any embroidered police patches, badges, or the word "Police" imprinted on them.
 - j. Any other department issued property specified by the Chief of Police or the officer's Division Commander.

If all departmental property is not immediately available for turn-in, the employee shall be responsible for returning all remaining property to the Evidence/Inventory Management Unit within 24-hours of the suspension or termination notification and advise OPR when this task has been completed.