



# **GENERAL ORDER**

**DURHAM POLICE DEPARTMENT  
DURHAM, NC**

**NUMBER:**

**1014 R-11**

## **INTERNAL AFFAIRS**

Effective Date: 12/15/1995      Revision Dates: Revision Dates: R-1 03/01/1996; R-2 05/16/1997; R-3 07/25/2003; R-4 01/10/2005; R-5 11/22/2006; R-6 07/22/2010; R-7 01/31/2013; R-8 11/03/2014; R-9 04/17/2017; R-10 05/28/2018; **R-11 10/05/2022**

### **INTRODUCTION**

The Durham Police Department (DPD) investigates all complaints or allegations against either Department members or the Department as a whole, including anonymous complaints. The Professional Standards Division (PSD) is responsible for the receipt, recording, review and management of complaints made against the Department and department personnel. Any investigation or hearing arising from a complaint will be conducted in a fair and impartial manner with the truth as its primary objective. PSD will investigate both sworn and non-sworn members of the Department, to include reserve officers and volunteers.

### **NOTIFICATION TO THE CHIEF OF POLICE**

The Commander of the PSD reports directly to the Chief of Police.

The PSD Commander, or designee, will notify the Chief of Police immediately upon receipt of the following complaints:

- Allegations involving a violation of criminal law;
- Incidents where serious bodily injury or death to a member or another person arose in the course of a member's performance of duties;
- An allegation which by its nature if "founded" could lead to dismissal of an employee;
- Incidents reasonably likely to become high profile within the community.

### **NOTIFICATION TO TRAINING AND STANDARDS**

Within 2 business days after receiving notice of the following events, the Commander of the Professional Standards Division shall provide written notice to the Training and Standards Division:

- An officer is charged and/or arrested with any criminal offense(s), including traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- An officer pleads no contest, pleads guilty, or is found guilty of any criminal offense(s), including traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- An officer is served with a Domestic Violence Protective Order (DVPO) and/or a Civil No Contact Order issued by a judicial official against the officer.

The notification shall specify, as applicable, the nature of the offense or order; the court in which the case was handled; the date of arrest, criminal charge, or service of the order; and the final disposition. The notification shall include, as applicable, a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication.

## **RECORDS OF ADMINISTRATIVE INVESTIGATIONS**

PSD is responsible for maintaining accurate records of all administrative investigations against the Department or its members, and providing the following reports:

- Quarterly case status reports consisting of complaint dates, types, and status/dispositions for administrative investigations, citizen complaints and performance reviews conducted within the preceding quarter. The quarterly report will be submitted to the City Manager and the Civilian Review Board by the Chief of Police or his/her designee.
- Annual statistical summaries of the number of internal/external complaints made and their findings to the Chief of Police which will be made available to the public.

PSD shall maintain a database that tracks and stores administrative investigations. Access to this database and all hardcopies of the case will be restricted by PSD personnel on a need to know basis in accordance with applicable policies and laws. The PSD Commander, or designee, is responsible for ensuring that all newly generated administrative investigations are entered into the database and that each case has the appropriate assignment, case type and disposition. All cases are reviewed by PSD personnel for accuracy.

## **GENERATION OF A COMPLAINT**

Complaints are initiated by either an internal source or an external source. External complaints are initiated by a source outside of DPD and are processed as a Citizen's Complaint. External complaints may be submitted in written form, taken via telephone, fax, email or any other electronic form of communication, or in person. Complaints made to any employee, other than the Desk Officer, will result in immediate supervisor notification. Desk Officers will forward complaints directly to Internal Affairs.

Internal complaints are initiated by a member of the Department either through the employee's chain of command or directly to the Professional Standards Division. They may be submitted in written form, taken via telephone, fax, email or any other electronic form of communication, or in person. As with citizen's complaints, anonymous complaints from Department members will be investigated.

## **CASE PROCESSING & INVESTIGATIONS**

The PSD Commander, or designee, will coordinate case assignments and ensure that cases are completed with the appropriate level of thoroughness and accuracy. Only supervisory personnel will be assigned cases to investigate.

The accused employee will be notified, in writing, of the allegation(s) and their rights and responsibilities ([HRM-322 – Disciplinary Policy](#)). This notice shall also specify which policies are alleged to have been violated, as well as the date(s), location(s) and manner in which the violation(s) are alleged to have occurred.

All communications during an investigation shall be documented. A copy of written correspondence will be maintained in the case file. If the correspondence was mailed with a return receipt card, the returned card and any letters returned as undeliverable will be kept in the case file. Phone calls, including the documentation of interviews conducted over the phone and messages left, will be documented in the file to include the date and time of the call.

All investigations will be documented in a final report drafted by the investigating supervisor. Consistent formats for each report, based on the type of case, will be supplied by the PSD and must be followed. Minimally each report will identify the allegation made, relevant dates and times to the investigation, sources of information, a brief statement as to the facts and evidence obtained, conclusions drawn from the investigation, and a case finding.

Assigned investigators are expected to complete their cases and submit them for appropriate review by their chain of command in accordance with the timelines established in department policy. Extensions on the timeline may be granted by the PSD Commander on a case by case basis. All extensions must be documented to include the new date for completion and reason for the extension. Failure to complete required reports in accordance with stated time frames may constitute a violation of G.O. [4028 Report Writing](#).

Supervisors reviewing reports within a member's chain of command are expected to conduct the review and respond in a timely manner. The PSD Commander may provide supervisors who have un-reviewed reports pending with a due date for the completion of their review. Supervisors who are unable to complete their reviews in a timely manner or by the due date are required to contact the PSD to request an extension.

## **CONFIDENTIALITY OF INTERNAL MATTERS**

The member receiving the complaint for investigation or any Department member involved in the investigation shall not discuss the complaint with others, except those superiors within their chain-of-command, Professional Standards personnel or attorneys representing the City. Violation of any part of this General Order shall result in disciplinary action.

All written correspondence concerning complaints shall be sent to Professional Standards in a sealed envelope marked "CONFIDENTIAL". The member conducting the investigation will safeguard all evidence collected during any investigation and it will be their responsibility to ensure that this information does not fall into unauthorized hands.

The PSD will receive and safeguard all case files in a secured manner.

## **USE OF FORCE, ACCIDENTAL DISCHARGE & INJURY TO CITIZEN REVIEW PROCEDURES**

PSD is responsible for reviewing Use of Force, Injury to Citizen and Accidental Discharge Reports and verifying that policies and procedures were followed. The procedures for initiation of Use of Force Report and/or an Injury to Citizen Report, the timeline for the submission of such reports and the chain of command review are outlined in G.O. [4008 – Use of Force](#).

Because this type of investigation is required without any allegation that policies have been violated, the investigating supervisor is not required to notify the employee in writing unless the investigation transitions into a Performance Review or Administrative Review. PSD personnel will review the completed reports. Reports that are incomplete, have conflicting information or require further information may be returned to the investigating supervisor. If a policy violation is identified, the investigating supervisor will inform the involved employee's Commander of the violation and a Performance Review will be initiated. For potentially serious violations, PSD should be notified in order to determine whether an Administrative Review will be initiated.

## **VEHICLE PURSUIT PROCEDURES**

PSD is responsible for reviewing Vehicle Pursuit Reports and verifying that policies and procedures were followed. Vehicle Pursuit Reports will be generated in accordance with G.O. [4019 Vehicle Pursuits](#) and all appropriate information and attachments will be forwarded through the chain of command. An Administrative Review may be initiated for pursuits in which serious bodily injury or death occurs. Because this type of

investigation is required without any allegation that policies have been violated, the investigating supervisor is not required to notify the employee in writing unless the investigation transitions into a Performance Review or Administrative Review. PSD personnel will review the completed reports. Reports that are incomplete, have conflicting information or require further information may be returned to the investigating supervisor. If a policy violation is identified, the investigating supervisor will inform the involved employee's Commander of the violation and a Performance Review will be initiated. For potentially serious violations, PSD should be notified in order to determine whether an Administrative Review will be initiated.

## **DEPARTMENTAL VEHICLE COLLISIONS**

The processing of reports that result from a vehicle collision involving City owned vehicles operated by a member of the Department will be conducted in accordance with G.O. [3005 Department Vehicle Collisions](#). A member of the PSD will be responsible for serving as the chairperson for the Traffic Collision Review Board and will be responsible for documenting case information in the PSD database. An Administrative Review may be initiated for departmental collisions in which serious bodily injury or death occurs.

## **CITIZEN COMPLAINT PROCEDURES**

When a citizen complaint is received, it will be immediately forwarded to the PSD Commander who will review it and assign it for investigation. Once assigned, PSD will send written notification to the complainant, acknowledging receipt of the complaint. If a supervisor is contacted by a citizen with a concern, but the citizen does not wish to file a formal complaint, the supervisor will document the concern and any follow up in accordance with Performance Management Guidelines.

The assigned investigating supervisor is required to initiate contact with the primary complainant within five (5) business days of assignment. During the course of the investigation, the complainant will be provided with updates on the status of the investigation by the investigator at least once every twenty (20) days until the investigation has concluded. Unsuccessful attempts to contact the complainant will be documented. Updates may also be made with written communication. Investigators will submit their findings of the citizen's complaint through their chain of command to the PSD Commander within 45 days of assignment. Upon receipt of the case findings, the PSD Commander may return the case to the investigator for additional information, clarification or corrections. The investigating supervisor will address all of the identified deficiencies and return the case to PSD by the designated due date.

Once finalized, the case will be forwarded by PSD through the chain of command to the Deputy Chief for each member involved to obtain concurrence or non-concurrence with the findings. Within five (5) business days of PSD receiving a concurrence/non-concurrence from the Deputy Chief, PSD personnel will send a written notice, via certified mail return receipt requested, to the complainant with the results of the investigation. The notification will include a brief and general explanation for the finding.

## **PERFORMANCE REVIEW PROCEDURES**

A Performance Review may be initiated by a department supervisor or PSD. These complaints shall be investigated at the division or district level, and will mainly center on job performance issues or other minor potential policy violations. Division/District Commanders may designate either the Assistant Commander or the employee's immediate supervisor to serve as the investigator for the Performance Review, unless PSD or the Commander's chain of command specifies differently.

The assigned investigating supervisor is required to notify all employees who are the subject of the review within 24 hours of starting the investigation as described in the "Case Processing" section of this policy. Investigators will submit their findings of the Performance Review through their chain of command to the PSD Commander within 45 days of assignment. Upon receipt of the case findings, the PSD Commander may return

the case to the investigator for additional information, clarification, or corrections. The investigating supervisor will address all of the identified deficiencies and return the case to the PSD by the designated due date.

If, at any time during the Performance Review investigation, the investigating supervisor determines that potentially serious violations are alleged or may have occurred, they will immediately notify PSD. The PSD Commander will review the information obtained by the investigator and determine whether or not the investigation will continue as a Performance Review or whether it will transition into an Administrative Review.

Once finalized, the case will be forwarded by the PSD through the chain of command to the Deputy Chief for each member involved to obtain concurrence or non-concurrence with the findings. The employee's Division Commander will be notified of the final results of the investigation by PSD personnel within five (5) business days of PSD receiving concurrence or non-concurrence from the Deputy Chief.

## **ADMINISTRATIVE REVIEW PROCEDURES**

Serious allegations of wrongdoing, including but not limited to matters in which criminal charges are a possibility, or the actions of the employee could reasonably be expected to impugn the integrity of Department or City, will be assigned as an Administrative Review. These complaints are investigated by the Professional Standards Division.

The assigned investigator is required to notify all employees who are the subject of the review within 24 hours of starting the investigation as described in the "Case Processing" section of this policy. The employee may not be notified if the allegation is criminal in nature or, if in the opinion of the PSD Commander and the Chief of Police, notification would potentially impede the course of the administrative investigation. When it is determined that the employee will be notified, a written notification will be made by the investigating supervisor as described in the "Case Processing" section of this policy.

Investigators will submit their findings of the Administrative Review to the PSD Commander within 90 days of assignment. Upon receipt of the case findings, the PSD Commander may return the case to the investigator for additional information, clarification, or corrections. The investigating supervisor will address all of the identified deficiencies and return the case to PSD by the designated due date.

Once finalized, the case will be forwarded by PSD through the chain of command to the Deputy Chief for each member involved to obtain concurrence or non-concurrence with the findings. The employee's Division Commander will be notified of the final results of the investigation by PSD personnel within 5 business days of PSD receiving concurrence or non-concurrence from the Deputy Chief.

## **EXTERNAL INVESTIGATIVE ASSISTANCE**

Criminal investigations may be referred to an outside agency such as the State Bureau of Investigation upon a request by the Chief of Police. PSD may conduct an Administrative Review of the same alleged incident to determine violations of City or Departmental policies. Members may in no way hamper or interfere with the investigation by the designated agency.

In accordance with City of Durham Policy [HRM-708 – Anti-Harassment Policy](#) and G.O. [2016 – Sexual Harassment](#), all complaints or allegations of harassment as defined in the City's policy will be forwarded to the City Human Resources Department for investigation. Also, in accordance with City of Durham Policy [HRM-203 – Equal Opportunity Employment](#), [HRM-708 – Anti-Harassment Policy](#) and this General Order all complaints or allegations of discrimination will be forwarded to the City Human Resources Department for investigation.



## EMPLOYEE INTERVIEW PROCEDURES

All members who are the subject of (not those who are a witness to) an administrative investigation shall be required to sign an admonition form prior to any questioning. Most administrative interviews will occur in the offices of the PSD. PSD investigators will audio and video record all interviews. Other supervisors conducting administrative investigations may audio and/or video record employee interviews. No other recordings of any kind will be made by members during an interview.

Each member shall be given at least a three hour notice prior to an administrative interview, unless exigent circumstances necessitate immediate involvement by investigators. Every effort shall be made by the PSD investigator to schedule interviews at a time that is convenient for the member and is during their normal Department work schedule.

All persons who report to PSD to be interviewed shall remove all weapons from their person and secure them in a locker prior to meeting with the investigator. Weapons include, but are not limited to, the duty weapon, any secondary firearms, knives, Taser, and pepper spray. Lockers and padlocks have been provided for the purpose of securing these items. After securing all weapons in a locker using the provided padlock, the interviewee shall provide the padlock key to the investigator when he/she reports to the investigator's office. When the interview is completed, the key will be returned and the interviewee may retrieve his/her equipment and belongings. Interviewees shall then place the padlock and key back on the locker door. If law enforcement powers are suspended, the investigator shall retain possession of the key and assist the interviewee with the retrieval of any personal belongings and equipment allowed to remain in the member's possession. This directive does not apply to supervisors who are merely accompanying one of their personnel as support during an interview.

At the request of the member to be interviewed, the member's immediate supervisor may be present during any interviews with PSD. If the supervisor requested is not available to attend an interview, or if the supervisor is a party or witness to the incident being investigated, the next highest-ranking supervisor available and who is neither a party nor witness to the incident being investigated may take the place of the immediate supervisor. The observing supervisor may not be a part of the investigative process, either in the questioning or the defense of the member, and is only allowed to observe the interview. No questions, testimony, advice, or distractions shall be allowed on the part of the observing supervisor.

Privately retained attorneys shall not be present during an administrative investigation or hearing.

Supervisors conducting administrative investigations may require written and verbal statements from each member questioned.

An initial statement will be given prior to the interviewee viewing any recordings to obtain a statement regarding events being investigated. After the initial statement is made, the investigator may review recordings with the interviewee. Law enforcement recordings will be viewed in accordance with G.O. [4064 – In-Car Cameras](#), G.O. [4083 – Body-Worn Cameras](#) and G.O. [4084 – Release & Disclosure of Law Enforcement Recordings](#). After the recordings have been viewed by the interviewee, they will be given the opportunity to make an additional statement to reconcile any discrepancies that may exist between their original statement and the viewed recordings.

During the course of the investigation, employees may be called upon for more than one interview.

Members who intentionally make untrue statements in response to an internal investigation, or who fail to disclose information that a reasonable person would conclude could be materially relevant to the investigation regardless of whether or not specifically questioned about the matter will receive disciplinary action, up to and including termination of employment. This shall include any statements which are deceptive in nature in any way or reasonably likely to hinder the investigation.

No employee shall contact any complainant, complainant's witness, or other involved member in any manner without specific authorization from his or her supervisor and the supervisor investigating the complaint.

## INVESTIGATIVE SOURCES

When reasonably necessary for a thorough and accurate administrative investigation, employees may be required to submit to and/or provide any or all of the following for administrative purposes only:

- Intoxilyzer tests
- Portable breath (Alcosensor) tests
- Medical laboratory tests
- Polygraph examinations
- Employee lineup
- Photographic lineup
- Financial records
- Telephone or electronic communications

Investigating supervisors will identify, attempt to obtain, and review recordings that may be material to an investigation. This may include DPD recordings, surveillance camera footage and private citizen recordings. If a non-department member is in possession of the recording, the investigator will request a copy of the recording to include how the recording was obtained.

Failure to submit to any of the above procedures will constitute insubordination and the employee will be subject to disciplinary action, up to and including termination.

The Chief of Police may authorize the lawful surveillance, photographing or filming of employees during complaint investigations.

## CASE FINDINGS

Case findings will be classified as either:

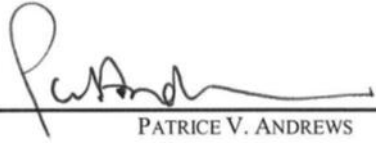
- **Unfounded** - The incident did not occur or the officer investigated was not involved.
- **Not Sustained** - There is insufficient evidence to either prove or disprove the allegation.
- **Exonerated** - The incident occurred but was lawful and proper.
- **Sustained** - The allegation is supported by sufficient evidence to indicate the allegation is true.
- **Withdrawn** – The complainant withdraws the allegation before conclusion of the investigation or finding of fault.
- **Discontinued** – Circumstances arise which cause the investigation to cease prior to the case being finalized.
- **Policy Failure** - The allegation is true; however, there is currently no written policy governing the conduct or performance in question. The Division should strive to be aware of changes in policies, procedures, rules and regulations that may prevent future allegations of misconduct, as well as the need to modify or expand training. Without compromising the integrity of any confidential information, the PSD Commander shall notify the Accreditation Manager of the circumstances surrounding any findings of this type, so that any Departmental policy deficiency may be addressed.

## CITIZEN'S APPEAL

Citizens who are not satisfied with the final disposition of a case may appeal the findings to the Civilian Police Review Board. The right to appeal and instructions for doing so are provided to the complainant when he/she is notified of the results of the investigation.

## CASE OVERVIEW MEETING

In cases where discipline has been recommended, the member may, at his or her request, meet with a PSD staff member, who will review the case involving the member. The member may read the case file in the presence of a PSD member, and may ask for and receive general information that led to the case findings. Members are restricted from making a photocopy or removing any portion of the case file from PSD, but may make written notes if desired. No information will be divulged to the member if it would violate any law or any other City or Department policy. The purpose of this meeting is to better equip the member with information to use during the pre-disciplinary conference described in [HRM-322 – Disciplinary Policy](#) and G.O. [2001 – Disciplinary Procedures](#).

  
PATRICE V. ANDREWS  
CHIEF OF POLICE