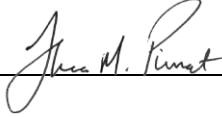


LEESBURG POLICE DEPARTMENT REGULATIONS AND GENERAL ORDERS MANUAL		
General Order Number: 115	Section: ADMINISTRATION	Effective Date: FEBRUARY 2023
Title: ADMINISTRATIVE INVESTIGATIONS		
Accreditation Standards: ADM.18.01, ADM.18.02, ADM.18.03, ADM.18.04, ADM.18.05, ADM.18.06, ADM.20.02, PER.02.02, PER.09.03, PER.09.05		
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I. ADMINISTRATIVE INVESTIGATION'S FUNCTION

- A. Administrative Investigations (AI) are established to ensure the integrity of the Leesburg Police is maintained through an administrative system where objectivity, fairness, and justice are assured by impartial investigations. These investigations are to clear the innocent, confirm guilt, and facilitate fair, suitable, and consistent disciplinary action.
- B. All complaints made against the Department or any of its employees will be reviewed and investigated when appropriate. Complaints may originate internally or from the public.
- C. Supervisors have the responsibility and authority to investigate complaints of minor employee misconduct, or complaints of general dissatisfaction with police services. Supervisory or command personnel will initiate investigations into observed infractions or complaints received which fall within the scope of their authority.
- D. All complaints shall be reviewed by the appropriate Division commander and if warranted, investigative findings shall be forwarded to the Chief of Police.
- E. Complaints alleging serious misconduct or criminal activity shall be investigated by a Command Staff member. Prior to instituting any administrative investigation into criminal or potential criminal activity, consideration must be given to preserving the opportunity to proceed with a criminal prosecution. If a criminal prosecution is anticipated, then the criminal case shall take precedence over the administrative investigation.
- F. All complaints of bias-based policing shall be thoroughly investigated through the agency's internal affairs process.

II. ADMINISTRATIVE INVESTIGATIONS RESPONSIBILITY

- A. The administrative investigation function will be the responsibility of a supervisor, assigned by the Chief of Police or designee.
- B. The Administrative Investigation responsibilities include, but are not limited to:
 - 1. Recording, registering, and controlling the investigation of complaints against employees/officers;
 - 2. Supervising and controlling the investigation of alleged or suspected misconduct within the Department;
 - 3. Maintaining the confidentiality of the administrative investigations and related records; and
 - 4. Ensuring that the investigation is consistent with the provisions of the Law Enforcement Officer's Procedural Guarantees, Virginia Code §9.1-500 through 9.1-507 as applicable.

III. NOTIFICATION OF THE CHIEF OF POLICE

- A. Complaints requiring immediate notification.
The Chief of Police will be immediately notified of complaints that allege:
 - 1. Corruption;
 - 2. Brutality;
 - 3. Misuse of force;
 - 4. Breach of civil rights;
 - 5. Criminal misconduct;
 - 6. Discrimination;
 - 7. Bias-based policing; and
 - 8. Any other case by its nature that may cause serious harm to the Department's reputation.
- B. Complaints Where Notification May Be Delayed.
All other complaints, which are deemed less serious in nature.
- C. Notification Procedures.
 - 1. If the Chief of Police is unavailable or cannot be reached, the notification intended for the Chief of Police will be made in the following manner, and without delay:
 - a. Deputy Chief of Police; if no response,
 - b. Field Operations Division Commander; if no response,
 - c. Administration and Support Services Commander; if no response,
 - d. Command Duty Officer.

IV. COMPLAINT INVESTIGATION

- A. The Department will conduct appropriate investigations of all complaints, including anonymous complaints against the Department or its employees. Deliberately false or malicious accusations will be fully investigated to determine criminal wrongdoing in order to protect the integrity of the Department and its employees. Citizens will be assisted in making a complaint and may be provided with a Citizen Complaint Form (LPD Form 121). Supervisors are encouraged to try to resolve minor dissatisfaction complaints by reviewing the information readily available and when appropriate, offering a professional explanation about the staff member's actions. If the complainant is satisfied with the informal response and there is no indication of misconduct on the part of the employee(s) or officer(s), these complaints will be documented by the appropriate supervisor in a Dissatisfaction with Service Complaint Form (LPD Form 122).
- B. Complaints requiring Administrative Investigation.
 - 1. As directed by the Chief of Police or designee, an administrative investigation will be conducted, pursuant to the provisions of the Law Enforcement Procedural Guarantees, if:
 - a. A complaint is made against an officer, and
 - b. If sustained could lead to disciplinary action (dismissal, demotion, suspension, or transfer for disciplinary reasons).
 - 2. Examples of these types of complaints include, but are not limited to:
 - a. Allegation(s) of corruption;
 - b. Brutality;
 - c. Excessive force;
 - d. Discrimination;
 - e. Bias-based policing;
 - f. Discharge of a firearm by an officer whether or not injuries or death is involved (excluding authorized discharges for training or to end an animal's suffering);
 - g. Criminal misconduct
 - h. Departmental vehicle crashes where there is serious personal injury; and
 - i. Any other type of complaint or information of which the Chief of Police is made aware, against a department employee, and for which the Chief of Police or designee, directs that such an investigation be conducted.
 - 3. Administrative Investigation cases will be assigned an **AI#** by the Office of the Chief.

C. Outside Agency Investigations.

1. If deemed appropriate by the Chief of Police or designee, an outside agency (i.e., Virginia State Police, Critical Incident Response Team (CIRT), etc.) will be requested to assist with an investigation or conduct the investigation in its entirety.
2. Pursuant to the terms and conditions enumerated in the various Mutual Aid Agreements and Memoranda of Understanding between this Department and other law enforcement agencies, whenever a complaint is made against a member of this Department and a member of another agency arising from the same incident, the Department will investigate the action(s) of its officer and the outside agency will investigate the action(s) of their officer.

D. Potential Criminal Violations.

When the act in question is a crime that may have resulted in an arrest if the perpetrator had been a private citizen, the Chief of Police shall be consulted.

The Chief of Police or designee, and the investigating officer shall confer with the Commonwealth's Attorney whenever an administrative investigation reveals that an employee is or has been involved in criminal conduct. If it is necessary to obtain an arrest warrant for an employee, the Chief of Police will be notified without delay. If a complainant seeks a warrant for a police officer, that officer's division commander will consult with the complainant and request a delay so that an administrative investigation may be conducted. If the complainant declines to permit a delay in the issuance of a warrant, the division commander will ask the Commonwealth's Attorney for a delay to permit the departmental investigation to occur. The division commander will notify the Commonwealth's Attorney prior to serving the warrant.

Absent the above, any employee who has been served a warrant shall notify their division commander, as soon as practical.

E. Records of Complaints.

1. The Office of the Chief will maintain a record of all complaints (AI numbers) against the Department or its employees, and to protect their confidentiality, will maintain such records in a secure file location separate from the Department's central records storage.

F. Complaint Processing.

1. Administrative Investigations.
 - a. The complainant will be informed, by the most practical means, of the Department's receipt of the complaint. If the complainant has completed the Department's complaint form (LPD Form 121) a copy will be provided to the complainant, which will be signed and dated by the receiving department member.
 - b. The assigned investigator will ensure that an AI number has been issued by the Office of the Chief.
 - c. The assigned investigator will send a letter to the complainant or make direct contact via telephone, email, or personal visit to acknowledge receipt of the complaint. During the course of the investigation, the investigating officer will periodically update the complainant as to the investigation's status when appropriate.
 - d. The complainant shall be informed of the outcome upon completion of the investigation. All written complaints will require a written disposition letter to the complainant upon conclusion of the investigation.
 - e. The investigating officer will ensure that the involved officers are notified in accordance with Section V, part A.

V. CASE STATUS NOTIFICATION

A. Employee Notification.

1. An employee who becomes the subject of an administrative investigation shall be notified as soon as possible of the existence of the investigation and the employee's rights and responsibilities relative to the investigation. This notification shall be made by the person conducting the investigation and shall include the nature of the investigation, the name and rank of the investigating

officer, and the identity of any other individuals who will be present during questioning. The Notice of Investigation (LPD Form 127) shall be used to make the notification. Notification may be delayed if in the opinion of the investigating authority, notifying the employee may jeopardize the ability to conduct a thorough investigation. An example when notification may be delayed would be when an investigation requires follow-up such as surveillance, which would be ineffective if the subject of the investigation were notified.

2. Each employee of the Department shall cooperate fully with personnel who are conducting an administrative investigation.
3. It is the responsibility of all employees to answer fully and truthfully any question asked by competent authority that pertains to any investigation, possible infraction of law or regulation, or action taken by the employee that may affect the standing or reputation of the Leesburg Police Department.
4. During the course of an administrative investigation, employees do not have the right to refuse to answer any question concerning their performance of duty or their adherence to departmental rules and regulations. Admissions by the employee cannot be used in any subsequent criminal prosecution. As soon as it appears the investigation may lead to a criminal prosecution, the administrative investigation should be temporarily paused and consultation with the Chief of Police or designee prior to continuing the administrative or initiating a criminal investigation.
5. Involved employee will be notified in writing of the outcome upon the conclusion of the investigation.

B. Complainant Notification.

At the conclusion of the investigation, the Chief of Police will send written notification to the complainant regarding the disposition of the investigation. The degree of specificity of the notification will be at the discretion of the Chief of Police or designee.

VI. INVESTIGATION TIME LIMIT

- A. The impact of an administrative investigation on the integrity of the Department and on employee morale necessitates a speedy resolution of such issues.

However, because justice is not served unless a thorough and fair investigation is conducted (even if necessary to prove allegations false) the Department will strive to set a 30-day time limit for Administrative Investigations.

- B. There are exceptions to the “30-day time limit” based upon extenuating circumstances which include, but are not limited to:
1. An unresolved court action/hearing/trial;
 2. Advice of Town legal counsel; and
 3. Unforeseen circumstances beyond the investigator's control, such as awaiting critical documents or other evidentiary items needed for a proper investigation.

VII. CONDUCT OF INVESTIGATION

- A. All investigations conducted by the Administrative Investigations function will be in accordance with the provisions of Sections 9.1-500 through 9.1-507 (Law Enforcement Officers Procedural Guarantees), when the involved employee is a sworn staff member.
- B. The involved employee shall submit a memorandum setting forth their statement of what occurred. In addition to the employee's memorandum, the investigating authority may take a statement from the involved, which may be recorded for later transcription. If the investigating authority determines statements from witnesses would assist in the investigation, witnesses will be asked to provide a written statement of the event and/or may be requested to provide a recorded statement. Any questioning of an officer shall follow these procedures:
1. At a reasonable hour, preferably when the officer is on-duty, unless the seriousness of the investigation is of such a nature that an immediate interview is required;

2. At Police Headquarters, in the office of the investigating officer, or a location designated by the investigating officer;
 3. In such a manner that questions directed to the officer under investigation shall be asked by and through one investigator, if there are multiple investigators present;
 4. In such a manner that the interview runs for reasonable periods and shall be timed to allow for personal necessities and rest periods as are reasonably necessary;
 5. Objectively, so that the officer being interviewed is not threatened with transfer, dismissal, or disciplinary action; and
 6. So that a complete record either written, taped, or transcribed of the complete interview of the officer is maintained, to include all recess periods. A copy of the record shall be available to the officer upon request.
- C. The Chief of Police will be advised by the investigating officer of new information developed during the course of an administrative investigation, which may necessitate reassigning the involved employee. The reassignment may be to duties that would ensure closer supervision or separation from the public or other employees, or for relieving the involved employee from duty or placing the employee on administrative leave.
- D. The final report of the administrative investigation will be in the form of a memorandum to the Chief of Police to include all supporting documentation and recommendations.
- E. If during an administrative investigation, it is clear the complaint is unfounded, the investigation shall be terminated. All relevant information supporting the termination of an investigation shall be documented in the investigator's report.
- F. Upon completion of an administrative investigation, it shall be classified as:
1. Unfounded – The investigation of the allegation or complaint indicates that the act(s) did not occur.
 2. In compliance – The allegation did occur, but the actions of the agency employee were legal, justified, proper and in accordance with the law and/or LPD policy and procedure.
 3. Not Sustained – The investigation failed to produce a preponderance of evidence to either prove or disprove the allegation.
 4. Sustained – The investigation produced a preponderance of evidence that positively proved the allegation did in fact occur and is in direct violation of the law and/or LPD policy and procedure.
 5. Policy Failure – The incident did occur, but there was an omission of policy or the established policy was insufficient or ineffective.
- G. The standard of care in administrative investigations is the “preponderance of evidence” rather than the criminal standard of “beyond a reasonable doubt.” Preponderance of the evidence has been described as a “slight tipping of the scales of justice,” more than 50 percent, or more likely to have occurred than not.

VIII. ADMINISTRATIVE INVESTIGATION EXAMINATIONS AND TESTING

- A. An officer will be required to disclose financial information only when such information is necessary and in accordance with the Code of Virginia, §9.1-503. “Personal Assets of Officer”.
- B. If, during the course of an administrative investigation, the investigating officer determines cause exists to justify an employee's submission to a medical, physical, psychiatric, laboratory, or polygraph examination, the employee shall submit to such test or exam. These tests may include breathalyzer, blood or urine tests, the taking of photographs or attendance at physical lineups, the submitting of voice or handwriting samples, or polygraph examination(s). The division commander supervising the investigation will be responsible for consulting with the Chief of Police for approval for such tests or exams, except in cases where a time delay would directly affect the outcome of the test such as a test for blood alcohol content. If the Chief of Police is unavailable the appointed designee shall be consulted.

- C. Testing blood or urine specimens to determine whether sworn employees have used drugs or alcohol shall be in accordance with the Code of Virginia, §9.1-501 (3), "Conduct of Investigation."
- D. Use of Employee Photographs
 - 1. All employees of the Department are photographed as a part of their employment.
 - 2. The photograph may be used in conjunction with a "photo array" or "photo line-up," if there is a need for their use during the course of an administrative investigation.
 - 3. The use of photographs must be approved by the Chief of Police or designee.
- E. Employee Participation in Line-Ups

An employee may be required to participate in a "line-up" if this action is material to an administrative investigation being conducted by the Department and at the direction of the Chief of Police or designee.
- F. Acquisition of Employee's Electronic Mail and Internet Activity
 - 1. Any requests for querying the Town of Leesburg's electronic mail system or Internet access on computers owned by the Town must be approved by the Chief of Police or designee. A signed copy of the TOL Internet/E-mail Policy and Agreement is maintained in the employee's file that is located in the Human Resources Department.

IX. RELIEF FROM DUTY

- A. Any sworn supervisor may immediately relieve from duty any sworn or civilian employee of subordinate rank, regardless of the organizational assignment of either party, when it appears such action is essential to protect the interests of the Department. The period of relief shall continue until a hearing is held with the Chief of Police, or designee. The relieved employee shall remain in an on-call status during this period. A civilian employee may be relieved from duty by any supervisor, sworn or civilian.
- B. A supervisor who relieves any employee from duty shall complete a detailed memorandum of the incident, including the date and time of the relief of duty and the alleged violation that resulted in the relief. The memorandum shall be expeditiously submitted through the chain of command to the Chief of Police within 24 hours.
- C. When an employee is relieved from duty all police authority is suspended until reinstated.
- D. The Chief of Police or designee shall, within three business days, hold a hearing to determine the status of the employee.

A separate memorandum shall be given to the relieved employee prior to departure from the hearing.

This memorandum will describe the nature of the allegation and list all equipment removed from the relieved employee and serve as a receipt for the equipment relinquished. A sworn employee relieved of duty shall relinquish their issued weapon, credentials, and badges. The memorandum shall further serve as notice to the employee that they are relieved of duty. Copies of these memoranda shall be forwarded to the appropriate division commander or designee. A completed copy of the notification of allegations shall be given to the employee.

- E. Procedures pertaining to relief from duty are not to be considered solely for investigations of a disciplinary nature. These procedures shall also apply to administrative actions, such as investigations into the use of deadly force. Employees who are relieved from duty shall be placed on administrative leave until a disposition has been reached by the Chief of Police.

X. DISCIPLINARY HEARING

- A. Prior to discipline being imposed, the Chief of Police or designee shall conduct a pre-disciplinary hearing with the involved law enforcement officer. During the hearing, the law enforcement officer shall be afforded the opportunity to hear and respond to the charges against them prior to a decision being made on the level of discipline to be imposed.

- B. Before any discipline that includes dismissal, demotion, suspension without pay or transfer for punitive reasons, is imposed the following rights shall be afforded to the law enforcement officer:
 - 1. The Chief of Police or designee will notify the employee of the imposed discipline within two business days of completion of the hearing.
 - 2. The law-enforcement officer shall be notified in writing of all charges, the basis therefor, and the action which may be taken.
 - 3. The law-enforcement officer shall additionally be given written notification of their right to initiate a grievance under the grievance procedure established by the local governing body pursuant to §§ 15.2-1506 and 15.2-1507.
 - 4. In response, the law-enforcement officer shall be given an opportunity, within a reasonable time limit after the date of the written notice provided for above, to respond orally and in writing to the charges.

XI. ADMINISTRATIVE INVESTIGATIONS ACTIVITIES

- A. Control Log.
 - 1. Administrative Investigation.

All investigations will be assigned a control number from the Administrative Investigations Control Log. The Office of the Chief of Police shall maintain this ledger. The log will list:

 - a. AI Control number;
 - b. Date and nature of complaint;
 - c. Name of person filing complaint;
 - d. Name of officer/employee involved;
 - e. Name of investigating officer and date assigned; and
 - f. Findings and nature of action taken.
- B. Division commanders shall direct all administrative investigations under their respective command which may include but are not limited to procedural violations, cruiser crashes, and complaints regarding an employee's demeanor or actions. The Chief of Police or a designee is responsible to supervise and manage all administrative investigations conducted regarding allegations of serious misconduct.
- C. All Administrative Investigation records shall be considered confidential. The Office of the Chief of Police shall be the repository of all administrative investigation records. All records shall be maintained in a locked cabinet in a secured area. Only the Chief of Police (or his/her designee), Deputy Chief of Police, and the Division commanders shall be authorized to access the records of this section.

XII. PUBLISHING ANNUAL STATISTICAL SUMMARIES

- A. The Department may publish statistical data at it relates to Administrative Investigations in its Annual Report.
- B. The statistical summaries will not contain the names of any officer/employee who was the subject of an administrative investigation, but will list the following information:
 - 1. The number of complaints
 - 2. The nature of the allegation; and
 - 3. Investigative findings by category.