

	TYPE OF DIRECTIVE GENERAL ORDER	NUMBER G-36-21
	SUBJECT INTERNAL AFFAIRS	EFFECTIVE DATE 06/14/21
	REFERENCE G-65, RP-09, RP-25, RP-44 CALEA	RESCINDS G-36-16

PURPOSE

To ensure the integrity of the Police Division and protect its members from false allegations.

AUTHORITY

The Internal Affairs Unit is a staff unit established to exercise staff supervision over investigations of complaints or allegations against members of the Division.

DEFINITIONS

Administrative Investigation – An internal investigation conducted by an authorized Division member to determine if there is a violation of County or Police Division policy.

Allegation – A claim not yet proven to be true.

Complaint – Any allegation against a Police Division member, whether generated internally or externally, alleging misconduct on the part of the Division member, violations of Police Division directive, policy, or procedure, violation of Henrico County Personnel Policies and Procedures, or violations of law.

Misconduct – Actions that impede the proper operation of the Police Division and/or may reflect discredit upon the member or the Police Division.

Secondary violation(s) – Violations uncovered during the investigation that were not part of the original complaint.

PROCEDURES

I. GENERAL

- A. Information about the Police Division’s complaint process shall be made readily available to the public through the Police Division website. Additionally, pamphlets describing the Division’s complaint procedure shall be clearly visible in display racks located in the lobby of the Public Safety Building, Fair Oaks Station, Villa Park Station and the Henrico County Government Center Administration Buildings.
- B. Complaints may be made in writing, by email, in person, by telephone, or through the online form found on the Police Division website (<https://henrico.us/police/>). Complaints made anonymously will be investigated to the extent that the available information allows.

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- C. Complaints may also be generated as a result of Division personnel reporting observed actions that are, or appear to be, in violation of the provisions of the Directives Manual or the Henrico County Personnel Policies and Procedures.
- D. All Division members shall be familiar with the Henrico Police Complaint Procedure. Any Division member taking a complaint should determine if the complaint is the result of a lack of understanding by the complainant of Division or statutory requirements as opposed to an impropriety by the affected member, and if so, attempt to resolve the misunderstanding. If the complaint remains or if there is an allegation of misconduct involving a Police Division member, a supervisor shall be notified immediately. Division members shall do nothing to discourage anyone from making a complaint.
- E. All complaints or allegations of misconduct, including those made anonymously and those reported by a Division member, shall be recorded on a Complaint Form (HCPD-069) and forwarded electronically to Internal Affairs (police-ia@henrico.us).
- F. Upon receipt of the HCPD-069, Internal Affairs will ensure that the applicable potential policy or law violation(s) has/have been identified and assign the complaint to the proper authority for investigation. Provided that contact information is available, Internal Affairs will notify the complainant that the complaint has been received and assigned. This does not preclude the investigating supervisor from making contact with the complainant as needed during the investigation.
- G. Internal Affairs shall conduct administrative investigations of complaints involving the following allegations:
 - 1. Bias against any protected class;
 - 2. Excessive and/or unnecessary force;
 - 3. Violation of an individual's constitutional rights;
 - 4. Corruption; and,
 - 5. When a violation of law is alleged.
 - a. Information pertaining to potential violations of law by Division members shall be reported to the Chief of Police immediately.
 - b. If criminal action is indicated, criminal investigators may, upon direction of the Chief of Police, perform an investigation to guarantee due process of law and protect the member's constitutional rights.
 - c. All information and any physical evidence collected by members involved in the criminal investigation shall be made available to Internal Affairs personnel.
 - d. Information received during an administrative investigation arising from or as a result of a compelled statement shall not be disclosed to anyone

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conducting a criminal investigation of the member.

- H. Internal Affairs may direct an investigation to be initiated when:
1. A violation of the provisions of the Police Division Directives Manual or the Henrico County Policies and Procedures is alleged.
 - a. Internal Affairs shall consult with Henrico County Human Resources upon notification of potential violation of Henrico County Policy 13.2 Equal Employment Opportunity Policy and Policy against Harassment.
 - b. Investigations involving violations of Henrico County Policies and Procedures may be conducted by Human Resources, may be conducted jointly with Internal Affairs, or may be handled exclusively by the Police Division.
 2. A member feels threatened by an accusation they believe is false or a situation they believe is contrived and requests intervention by the unit.
 3. When so directed by the Chief of Police.
- I. Assignment of administrative investigations involving complaints or allegations other than those listed in section E. above will be made by the Commander, Internal Affairs and notification will be provided to the Division member's Commanding Officer.
- J. Complaints shall be investigated within 21 days, unless an extension is granted by the Commander, Internal Affairs. Requests for extensions should be submitted via e-mail to the Commander, Internal Affairs prior to the investigation's due date and should indicate the progress of the complaint investigation to date and the reason for the request. Extensions will be granted on a case-by-case basis for a period of 21 days, unless there are extenuating circumstances.

II. ADMINISTRATIVE INVESTIGATIONS

- A. All administrative investigations shall be kept confidential. Additionally, all administrative investigations shall be reasonable, objective, thorough, timely, and unbiased.
- B. At the appropriate time during the administrative investigation, the investigating supervisor or member of Internal Affairs shall notify the member in writing that he is the subject of an administrative investigation and the rights and responsibilities of Division members relative to administrative investigation. At times, it will be necessary to conduct some or all of the investigation prior to this notification, but notification shall be made prior to any interview with the affected member.
- C. Any questioning of a Division member shall take place at a reasonable time and place as designated by the investigating supervisor or member of Internal Affairs.
- D. It shall be the responsibility of the investigating supervisor, or Internal Affairs when applicable, to keep all non-Police Division member complainants, affected Police Division

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members, and the Police Division member's operational chain-of-command apprised of case status, particularly if the investigation exceeds the 21-day investigation time limit.

- E. Secondary violations noted during the course of an administrative investigation that were not part of the original complaint will be investigated and may result in an additional, independent finding. However, secondary violations of a very minor nature may be deferred to the member's supervisor to be handled with a coaching at the discretion of the Chief of Police. Coachings shall be documented and maintained in accordance with RP-25.
- F. In determining a conclusion, the investigating supervisor will look at the totality of the circumstances. The standard of proof in an administrative investigation is the preponderance of the evidence. When sustaining a complaint, policy violations shall be based on the facts of the case and not chosen solely for the range of discipline according to the Code of Conduct, Table of Penalties.
- G. Upon completion of the investigation, the investigating supervisor will complete the "Summary of Investigation" (to include the specific policy or policies violated, if applicable) and "Finding of Investigation" sections of the HCPD-069, located on the second page, and forward it, along with all investigative documents (i.e., inter-office memorandum from the affected member, internal investigation warning, recorded interviews, etc.) to Internal Affairs.
- H. The Commander, Internal Affairs will review all administrative investigations for quality control, adherence with Division policy and the complaint process, and to ensure consistency.
- I. The Commanding Officer, Professional Standards will forward the findings of all administrative investigations to the Chief of Police for review and approval.
- J. The Chief of Police will assign all sustained complaints to the Disciplinary Review Manager for discipline. Any disciplinary action that results from an internal investigation/complaint shall be done in compliance with RP-25 and documented on a Notification of Charges/Disciplinary Due Process form (HCPD-062).

III. INDIVIDUAL RESPONSIBILITY

- A. It shall be the responsibility of all members to answer fully and truthfully all inquiries from any authorized Division member pertaining to administrative investigations.
- B. During the course of an administrative investigation, a member does not have the right to refuse to answer any question concerning the performance of his duty, adherence to provisions of the Police Division Directives Manual and/or the Henrico County Policies and Procedures, or his fitness to perform duties; however, in accordance with *Garrity v. New Jersey*, 385 U.S. 493 (1967) and related cases, any admission of guilt obtained, or any information disclosed, will not be used against a member in a subsequent criminal prosecution if its use would violate the member's constitutional rights.
- C. Upon approval of the Chief of Police, a member may be required to submit to a medical or laboratory examination, participate in a lineup, or be photographed at the Police Division's

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expense, when such is specifically, directly, and narrowly related to the performance of duty and/or fitness for duty.

- D. A member may be required to disclose any item of his property, income, assets, source of income, debts, or personal or domestic expenditures, including those of any member of his family or household, or records thereof if:
 - 1. Such information is necessary in investigating a possible conflict of interest with respect to the performance of his official duties;
 - 2. Such disclosure is required by law; or,
 - 3. Such information is related to an administrative investigation.
- E. No Division member will interfere with any administrative investigation. Except as authorized, any member who is the subject of or a witness to an administrative investigation shall not communicate with other persons involved in the investigation regarding any part of the investigation nor shall they disclose any information related to the investigation. No recording of any interview related to an administrative investigation shall be made except for the official recordings made by authorized Division members.

IV. POLYGRAPH EXAMINATIONS

- A. Only the Chief of Police may require a member to submit to a polygraph examination and only if the following conditions are met:
 - 1. The Chief of Police's order requiring the member to submit to a polygraph examination is written in language easily understood that fully explains with particularity:
 - a. The specific incident or activity being investigated;
 - b. The basis for testing the particular member;
 - c. The basis of the Chief of Police's reasonable suspicion that the member was involved in the incident or activity under investigation; and
 - d. When the investigation involves property, the member's access to that property.
 - 2. The polygraph examination is administered in connection with an ongoing administrative investigation involving misconduct.
- B. The Police Division shall maintain a copy of the examination for at least one year and shall have it available for inspection at the request of the Virginia Department of Labor and Industry.
- C. The analysis or interpretation of any polygraph test charts produced during any polygraph examination administered to a member shall not be submitted, referenced, referred to, offered, or presented in any manner in:
 - 1. A Notification of Charges/Disciplinary Due Process (HCPD-062) as the basis, in

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whole or in part, for any charge; or

2. Any proceeding, including a pre-disciplinary conference, conducted pursuant to the Henrico County Employee Grievance Procedure, or a hearing conducted pursuant to the Law Enforcement Officers Procedural Guarantee Act.

V. ADMINISTRATIVE ASSIGNMENT

- A. An administrative assignment is the temporary removal of a Police Division member from their normal assigned duties. An assignment may be to an administrative or support position and may be imposed upon any member by any supervisor within the chain-of-command when a continuation of duty is against the best interest of the public, the involved member, and/or the Police Division.
- B. Pursuant to Henrico County Policies and Procedures, Human Resources Authorized Leave is to be used on a case-by-case basis, and at the sole discretion of the Director of Human Resources. Typically, the employee is removed from duty (at the request of an agency head) pending an investigation or due to an incident that has occurred on the job, but not related to a Worker's Compensation issue.

VI. TIMELINES

All timelines set forth in this directive are aspirational and may be lengthened with approval by the Chief of Police or his designee.

VII. RECORDS MANAGEMENT

- A. Internal Affairs will monitor all administrative investigations for consistency, timeliness, and compliance with Division policies and procedures related to the complaint process. They will be tracked in IAPro and the Complaint Log will be maintained in Internal Affairs. Each case will include:
 1. The control number;
 2. The nature of the complaint;
 3. The name of complainant (anonymous complaints will be marked as such);
 4. The name of the affected member;
 5. To whom the complaint is assigned for investigation; and,
 6. The result and final disposition of the investigation.
- B. All complaints documented on a HCPD-069 and/or in writing from a citizen, any and all materials related to an administrative investigation, and corrective actions not placed on an HCPD-062 shall be maintained in the Internal Affairs Office. All HCPD-062 forms shall be returned to the Commander, Internal Affairs, who will distribute them as necessary. No copies of any of the above-mentioned paperwork shall be maintained at a unit level.
- C. Final dispositions are classified as:
 1. Unfounded – The allegation is false.
 2. Exonerated – The incident reported was found to have occurred as described or in a

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reasonably similar fashion, but the member acted lawfully and properly.

3. Not Sustained – The evidence is insufficient to either prove or disprove an allegation of misconduct.
 4. Sustained – Allegation is supported by sufficient evidence.
 5. Sustained Secondary Violation - Substantiated violation not alleged in the original complaint but disclosed during the investigative process.
 6. Policy Improvement – The information gathered during the investigation revealed a shortcoming in policy, training, or practice of the Police Division. The Division member may not be in violation of policy or law, but the conduct has been identified as not a best practice option for future operations and will be further examined by the Chief of Police or his designee for future modification.
- E. Internal Affairs will send out all appropriate letters to officers and complainants upon conclusion of the administrative investigation.
- F. Administrative investigation and all Internal Affairs records are confidential. Access to Internal Affairs records is limited to:
1. The Chief of Police;
 2. The Chief of Staff;
 3. Internal Affairs personnel;
 4. Disciplinary Review Manager; and,
 5. Those designated by the Chief of Police for purposes narrowly and specifically defined by policy.
- G. Internal Affairs records will be purged annually according to the Division's Document Retention Schedule.
1. Internal Affairs records include:
 - a. The Internal Affairs Log entry;
 - b. The investigative file;
 - c. Interview recordings;
 - d. Complaint Form (HCPD-069);
 - e. All discipline files for current and separated Division members.
 2. Per the Library of Virginia Retention Schedule, records of all complaints will be destroyed in their entirety after they are no longer administratively useful. Any sustained complaint file marked for destruction concerning a current Division member will be entered and scanned into IAPro prior to destruction. All records will be destroyed in accordance with G-65.
 3. Responsibility for the destruction of these records rests with the Chief of Police (or his designee) or the Commander, Internal Affairs.

VIII. ADDITIONAL DUTIES

- A. Internal Affairs shall investigate shooting incidents in accordance with RP-09 and RP-44.
- B. Maintain the complaint hotline.
- C. Internal Affairs shall provide notification to other law enforcement agencies when the Division becomes aware of an allegation of misconduct involving one of their members.
- D. The Commander, Internal Affairs shall compile an annual statistical summary and analysis of complaints and administrative investigations and prepare a report for the Chief of Police. The analysis shall include a review of trends and patterns, identify any issues and concerns, and formulate a plan to resolve any identified areas of concern.
- E. The Commanding Officer, Professional Standards shall annually prepare an analysis of the Division's grievances and policies and procedures relating to grievances for the Chief of Police. The analysis shall compare past and current grievances, review trends and patterns, identify any issues and concerns, and formulate a plan to resolve any identified areas of concern.
- F. The Commanding Officer, Professional Standards shall maintain a routine liaison with the Commonwealth's Attorney's Office, the County Attorney's Office, and County Human Resources.
- G. Nothing in this directive is intended to prevent any member of this Division or the general public from making Internal Affairs aware of potential violations of the Police Division Directives Manual, Henrico County, or any law. Conversely, nothing in this directive is intended to preclude Internal Affairs or any Division supervisor from making a preliminary inquiry into rumors or reports of circumstances that may involve violations of policy in order to determine if there is sufficient fact to warrant an administrative investigation.
- H. The Commanding Officer, Professional Standards will report to the Chief of Police on matters that require the Chief's personal attention and knowledge pertaining to this office.

By Order of:

Eric D. English
Chief of Police