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Richmond Police Department

Office of Professional Accountability

Overview of the Internal Affairs Division

**Presentation to the Task Force for the creation of the
Civilian Review Board - 6/9/2021**

Today's Overview

1. Understand how Internal Investigations are conducted and the IAD process
2. To cover some of the additional duties of IAD

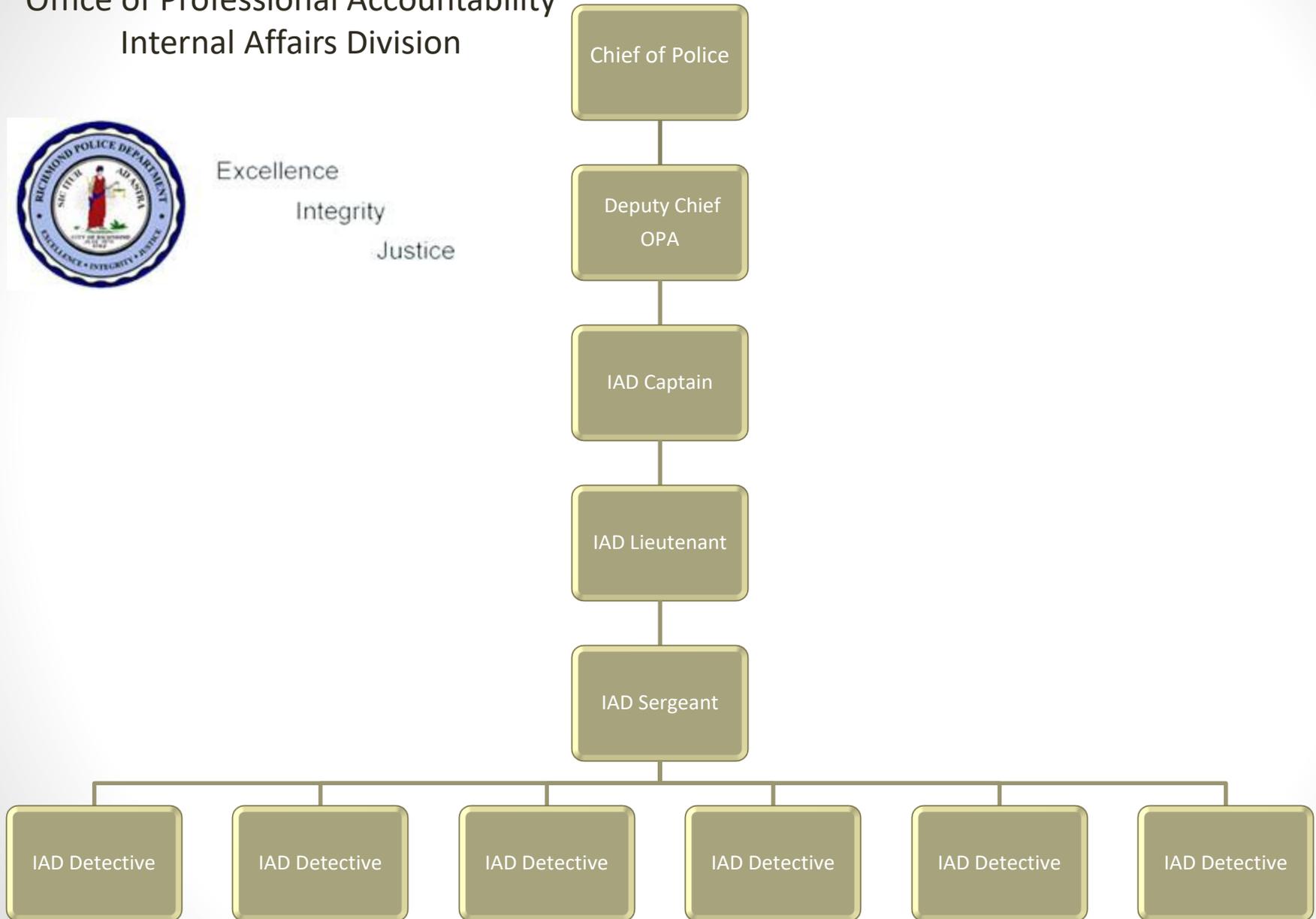
Goals of IAD:

- ... to impartially investigate all complaints of alleged employee misconduct, equitably determine whether the allegations are valid or invalid and take appropriate action.
- Investigations will be conducted in a fair and impartial manner to ensure that the quality and/or integrity of the investigations are not compromised.

Richmond Police Department
Office of Professional Accountability
Internal Affairs Division



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IAD Personnel & Job Duties Overview

- IAD Personnel focus solely on internal and external complaints pertaining to Richmond Police Department employees, both criminal and administrative in nature, and have an extensive knowledge of departmental policy, city regulations and State law.

Sample of Types of Complaints

ON DUTY **and** OFF DUTY

- Criminal
 - Excessive Force
 - Domestic Violence
 - Sex Offenses
- Traffic Offenses
- Failure to take action
 - Reports
 - Follow-ups
- Code of Conduct
 - Courtesy – Respect
 - Truthfulness
- Policy Violations
 - Social Media
 - BWC Violations
- HR Related Investigations

Complaint Intake

- RPD's goal is to make it as simple as reasonably possible for anyone to make a complaint without unnecessary burden
- The process by which complaints are received:
 - Internally
 - At the scene
 - By telephone
 - Walk-ins
 - Letters
 - Email or Internet
 - Anonymously

Duty to Report

- Any employee, after observing or learning of alleged misconduct, or policy violation shall notify IAD by the end of his/her tour of duty.
- All employees have the right and the ability to make such notifications to IAD without fear of reprisal or retaliation.
- All employees, when made aware that an individual wants to make a complaint about a police employee, will immediately notify a supervisor.

Duty to Report Continued

- All police supervisors will accept any complaint of misconduct against any Richmond Police officer/employee, regardless of the circumstances under which the complaint is made or whether it is made anonymously or how the information is relayed. Supervisors are not to direct citizens to another location to file a complaint.

It doesn't matter...

- Whether the employee is assigned to you.
- Whether the incident happened in a different precinct.
- Whether it happened off-duty.
- Whether it occurred during a different shift.

PER POLICY, SUPERVISORS SHALL TAKE THE COMPLAINT.

Complainant Expectations:

- To be treated with professionalism, courtesy, and respect.
- Should receive a follow-up on their initial complaint via letter advising that complaint has been received, is being investigated and the name/contact information of the assigned investigator.
- The investigator shall maintain contact with the complainant.
- Will receive a final disposition letter once the investigation is completed.
- Will receive notification if the investigation time-frame has been extended.

Investigative Timeframes:

- Forty-five (45) calendar days for Service Level Investigations
- Forty-five (45) calendar days for Internal Affairs Investigations
- Once the investigation is complete, a Final Report is submitted through channels to the Chief of Police for a final disposition.
- Things that may lead to extended timeframes –
 - Cases reviewed by the Chief of Police or Commonwealth's Attorney's Office for possible criminal violations
 - Instances where the complainant does not wish to make a statement until the related court case is completed
 - Other extenuating circumstances as approved by the Chief of Police

Two Categories of Complaints:

Administrative/Fact Finding -

- May lead to internal discipline and/or corrective action.
- Can be Citizen or Departmentally generated

Criminal -

- Reasonable suspicion to believe that an officer committed a crime either on or off-duty.
- May lead to prosecution and jail time.

Administrative/Fact Finding

- Employee must make a statement, doesn't have a right to counsel, must be open and honest.
- During an IAD interview, rank is not a factor.
- All statements made on internal administrative documentation are available to the investigator.
- Garrity Rights
- Any self incriminating information that results from interview cannot be used criminally against the employee.
- Duty status *may* change.
- Purpose to determine if any Departmental policies or procedures were violated

Criminal Investigations

- Officer presented with Miranda Warning(s) and has the right to refuse to make a statement, as all citizens.
- Statements made via other means (required administrative documentation) aren't provided to the criminal investigator because they are "compelled."
- Witness officers don't have the same rights, they will be required to make a statement following administrative procedures.
- Duty status may change.
 - Chief of Police makes this determination, not IAD.
- Typically, once the criminal investigation is over, the administrative investigation begins (when incident occurred in the City).

Criminal Investigations Cont'd

- For incidents occurring in the City of Richmond, a preliminary report is submitted to the Chief of Police. A determination is then made to handle administratively or forward to the Commonwealth's Attorney's Office for consideration of applicable charges.
- In cases involving potential criminal conduct, the 45 day requirement does not begin until the case is returned to IAD by the Chief of Police or the Commonwealth's Attorney's Office declines prosecution or at the conclusion of criminal court proceedings.
- If the Commonwealth's Attorney's Office self initiates a criminal investigation, we cooperate fully.

Anatomy of a “Services” Complaint

A complaint is received by Patrol/Support/Business Services

- Upon review of the complaint, a determination is made who will investigate the complaint.
 - IAD will normally refer complaints of rudeness, harassment, improper or unlawful arrest, failure to take necessary action and minor code of conduct violations to the affected service area to be investigated, unless the following or other factors indicate that IAD should conduct the investigation:
 - the seriousness of the alleged violations
 - a previous history of similar complaints against the accused employee and/or

Anatomy of a “Services” Complaint Continued

The affected service area is tasked with investigating the complaint. Service complaints are always administrative in nature.

- Investigator interviews and/or obtains statements from the complainant, witnesses and all involved officers.
- Other investigative avenues explored applicable to the complaint via external and internal resources.
- Final Investigative Report submitted to the Services Chain of Command, then to Internal Affairs to the Deputy Chief (OPA) and Chief for review, comment(s) if any and disposition
- If there are violations, the Disciplinary Review Office (DRO) receives and their process begins
- If there are no violations then the complainant will be made aware via letter of the findings

Anatomy of an IAD Complaint

Administrative Investigation:

- Investigator interviews and/or obtains statements from the complainant, witnesses and all involved officers.
- Other investigative avenues explored applicable to the complaint via external and internal resources.
- Final Investigative Report submitted to the IAD Chain of Command for review, comment(s) if any and disposition
- If there are violations, the DRO receives and their process begins
- If there are no violations then the complainant will be made aware via letter of the findings

Anatomy of an IAD Complaint Continued

Criminal Investigations pertaining to Richmond Police Department employees :

- When criminal investigator attempt to interview the accused employee, Miranda Warning(s) will be provided
- Criminal investigator interviews the complainant and any witnesses
- Gathering of information through allowable means
- Preliminary Report submitted to the Chief through channels to determine if it is presented to the Commonwealth Attorney's Office. If a decision is made by the Chief to forward to the CA then that action takes place. If a decision is made by the Chief NOT to forward then it is handled administratively.
- If CA's office declines prosecution, it then becomes an administrative investigation.

Anatomy of an IAD Complaint Continued

Criminal Investigation:

- If the CA's office charges then we continue the criminal investigation and investigate to conclusion
- At the conclusion of the Criminal investigation then it begins to be handled as an Administrative investigation to determine if any departmental policies or procedures were violated.
- Regardless of whether there are any criminal charges, if there are administrative violations, the DRO receives and their process begins

Dispositions

- **Substantiated** – The allegation is true.
- **Unfounded** – The allegation is false.
- **Exonerated** – The incident occurred, but the employee acted lawfully and properly.
- **Exonerated, other violations noted** – Employee exonerated of the initial charge, but violation not alleged in the complaint, but disclosed during the investigative process.
- **Not Substantiated** – The evidence is not sufficient to prove or disprove the allegation.
- **Secondary Violation Substantiated** – Substantiated violation not alleged in the complaint, but disclosed during the investigative process.

Use of Force

- IAD member sits on the Use of Force Review Board
- In addition, IAD will review all Use of Force Reports and any O.C. Spray/Medical Services Rendered Form, if applicable, for completeness and policy compliance

Use of Force

- In all cases of **deadly force**, the Department will conduct an administrative and a criminal investigation of the incident(s). The **OIIT** (Officer Involved Incident Team) will conduct a purely criminal investigation, which will be forwarded to the Commonwealth's Attorney's office for a criminal review. At the conclusion of the criminal investigation, IAD will conduct an administrative investigation to determine if there are any violations of Department policy or procedures.
- **OIIT** is comprised of members of the Major Crimes Division to include the Cold Case Homicide Team, Forensics, on-call Homicide Team and the Aggravated Assault/Sex Crimes team working that day and/or others as directed by the Chief.
- The Academy's Use of Force Instructor will serve as an advisory member.
- A prosecutor from the Commonwealth's Attorney's Office will serve as a liaison to the team and will report directly to the Commonwealth's Attorney.

Use of Force

- Whenever any department-issued less than lethal weapon is used, per policy, whether the contact was intentional or unintentional, officers shall complete a Use of Force Report. Every one of these are reviewed by the chain of command, the Use of Force Review Board (UFRB) or investigated by IAD.
- In incidents where non-deadly force was employed, the Department may either institute an administrative investigation, a criminal investigation or both.
- Officers shall immediately notify a supervisor in all situations where a Use of Force Report is required and shall complete same prior to the end of tour when any type of force is used, other than handcuffing or normal restraint, regardless of whether there is an injury or a complaint of injury.

Use of Force Review Board

- The Use of Force Review Board (UFRB) reviews incidents of uses of force, in which a Use of Force Report was required to be completed. Excessive Force complaints that are investigated by IAD may be forwarded to the UFRB at the discretion of the Chief of Police.
- All O.C. Spray cases will be reviewed by the UFRB. All cases involving the deployment of an OC Fogger shall be heard by the UFRB as well.
- The role of the UFRB is to decide whether the force used in the incident under review was in accordance with the guidelines of the Richmond Police Department's General Orders and Code of Conduct policy, (henceforth referred to as "In Policy") or when outside of the guidelines (henceforth referred to as "Out of Policy").

Use of Force Review Board Continued

- The Use of Force Review Board consists of the following: Major, Captain, Lieutenant, Sergeant, Employee Peer and 1-2 Citizen Members
- Also in attendance at the UFRB are representatives from Legal Counsel, Internal Affairs and the Training Division (Academy)
- The UFRB, upon completion of its review and deliberations, shall make a written report to the Office of the Chief of Police regarding its findings of “In Policy” or “Out of Policy.”
- If there is an “Out of Policy” finding, then it is forwarded to the Disciplinary Review Office (DRO).
- The UFRB shall render its recommendations by consensus and submit same to the Office of the Chief of Police for final determination.

Early Intervention Tracking System

Designed to show *possible* patterns of undesirable behavior.

- Generated when there are three (3) significant incidents in six (6) months:
 - Complaint Investigations
 - Vehicle Pursuits
 - Police Vehicle Accidents
 - Discipline Imposed
 - Officer Injury
 - Use of Force
 - Missed Court

Additional Duties

- IAD coordinates and cooperates with the City Auditor when requested
- IAD cooperates with federal investigations
- IAD coordinates random testing for Substance Abuse
- Participates in cases before both internal/external venues and criminal trials

Additional Duties Continued ...

- Annual review/analysis of Internal Affairs complaints
- Annual review/analysis of the Department's practices concerning Bias Based profiling
- Annual review/analysis of the Early Warning System (JPEITS)
- Annual review/analysis of all Assaults on Law Enforcement Officers
- Annual review/analysis of Use of Force incidents



***DISCIPLINARY REVIEW OFFICE
(DRO)***

HUMAN RESOURCES DIVISION

***PRESENTATION TO THE TASK FORCE FOR
THE CREATION OF THE CIVILIAN REVIEW
BOARD***

6/9/21

Disciplinary Review Office

The DRO processes documentation of misconduct, improper action or violations of the City of Richmond's Administrative Regulations, Department General Orders, Executive Orders, City of Richmond's Personnel Rules, City of Richmond's Ordinances and laws of the Commonwealth of Virginia or the United States of America.

Overview

The Disciplinary Review Office (DRO) facilitates the *administration of discipline* for the Richmond Police Department.

It is a function of the Human Resources Division and was created to make appropriate recommendations and enforce the directives of the Chief regarding discipline, corrective action and to ensure uniformity and consistency within the disciplinary process. The DRO is the *Discipline Authority* referred to in policy.

“*Disciplinary Authority* – A supervisor in the Department who is authorized to administer a corrective action within the Chain of Command. If the supervisor is absent and has designated an authorized subordinate to act in his or her place, the designated person may exercise the supervisor’s disciplinary authority.”

Functionality – Duties

- Create DRO recommendation for the Chief
- Prepare counsels and reprimands
- Facilitate pre-disciplinary conferences
- Administer suspension dates
- Administer demotion, reduction in pay, termination process
- Attend personnel board hearings (*grievance process*)
- Conduct policy review
- Prepare:
 - Counsels
 - Reprimands
 - Notification of Violation of Rules / Pre-Disciplinary Conferences
 - Records of Action
 - Notification of Suspension <10 days
 - Notification of Suspension 10 days or >, demotion, reduction in pay or termination
 - Suspension Letter
 - Request HR Authorization (Suspension 10+, Demotion, Pay Reduction)
 - Request HR & CAO Authorization (*Termination*)
- Serve demotion, reduction in pay and termination paperwork

*Upon receipt of a substantiated violation (**Internal Affairs/Field Services, Accident Review Board-ARB, Use of Force Review Board-UOFRB, General Counsel**) the investigation is give to the DRO Sergeant for proper processing.*

Examples of Policy Violations:

- *Complaints (citizens, internal, other agencies, etc.)*
- *Vehicle Accidents & Vehicle Pursuits*
- *Use of Force*
- *Court related Violations*
- *General Orders, City Admin. Regulations & Personnel Rules*
- *Criminal Offenses*

DRO Recommendation:

*Following the violation review, a **recommendation** is written to the Chief of Police regarding disciplinary or corrective action to be taken.*

G.O. 1-1 Code of Conduct – Penalties

No action may be taken against any member of the Department except for cause.

Two Types of Actions

Corrective (Not Grievable)

Counseling

EAP

Training

Performance Improvement Plan

Disciplinary (Grievable)

Reprimand

Suspension

Reduction in Pay

Demotion

Termination

DISCIPLINARY REVIEW OFFICE

STEP 1

**REVIEW THE INTERNAL AFFAIRS
INVESTIGATION AND PROVIDE A
DISCIPLINARY RECOMMENDATION
LETTER TO THE CHIEF OF POLICE,
DEPUTY CHIEF OF BUSINESS
SERVICES AND THE HUMAN
RESOURCES DIVISION CHIEF.**

DISCIPLINARY REVIEW OFFICE

STEP 1

**THE CHIEF OF POLICE CAN AMEND
THE DRO'S RECOMMENDED
DISCIPLINE OR CORRECTIVE
ACTION.**

Disciplinary Recommendation Letter



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DISCIPLINARY REVIEW OFFICE

DATE:

To: Chief of Police

Thru: Deputy Chief
 Business Services

Human Resource Division Chief
 Business Services Personnel

FROM: Captain
 Disciplinary Review Office – Human Resources

SUBJECT: **DISCIPLINARY RECOMMENDATION FOR**
CURRENT VIOLATION

Offenses/Violations of:	Class	First Offense	Second Offense	Third Offense

Disciplinary Matrix

	First Offense	Second Offense	Third Offense
A Offense	Level 1	Level 2	Level 3
B Offense	Level 2	Level 3	Level 4
C Offense	Level 4	Level 5	Level 6
Exceptions:	Rule 34 Truthfulness – Level 6 Rule 47 INEFFICIENCY- Level 6	Rule 34 Truthfulness – Not Applicable Rule 47 INEFFICIENCY- Not Applicable	Rule 34 Truthfulness – Not Applicable Rule 47 INEFFICIENCY- Not Applicable

- Level 1 – Corrective action
- Level 2 – Reprimand
- Level 3 – Reprimand to 3 day suspension
- Level 4 – 4 to 10 day suspension
- Level 5 – 11 day suspension up to termination
- Level 6 – Termination



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DISCIPLINARY REVIEW OFFICE

Specification:

A list of all persons involved and their role in the investigation.

Summary:

A summary of the investigation conducted by the Internal Affairs Division

PRIOR VIOLATIONS

Prior violations within the last 36 months that would relate to this matter

RECOMMENDATION

Based on the evidence gathered during the course of this investigation, the Disciplinary Matrix and The Douglas Factors (Curtis Douglas v Veterans Administration)

Employee Information and Photo

Name:	
Personal:	Sex/Race/age
Duty & Uniform Status:	On or Off Duty / Uniform or Plaintiff clothes
Assignment:	
Appointed to RPD:	
Current Status:	Full Duty/Admin. Duty/Leave Without Pay

DISCIPLINARY REVIEW OFFICE

STEP 2

**SCHEDULE A PRE-DISCIPLINARY
CONFERENCE WITH THE AFFECTED
EMPLOYEE.**

DISCIPLINARY REVIEW OFFICE
STEP 3

**CONDUCT A PRE-DISCIPLINARY
CONFERENCE WITH THE AFFECTED
EMPLOYEE. THE EMPLOYEE WILL
BE INFORMED OF THE IMPENDING
DISCIPLINE AND IS AFFORDED THE
OPPORTUNITY TO PROVIDE
ADDITION INFORMATION.**

DISCIPLINARY REVIEW OFFICE

STEP 4

AFTER THE PRE-DISCIPLINARY CONFERENCE, THE AFFECTED EMPLOYEE HAS 7 BUSINESS DAYS TO SUBMIT A LETTER TO THE CHIEF OF POLICE REQUESTING A REDUCTION IN DRO'S RECOMMENDED DISCIPLINE. ONCE THE EMPLOYEE SUBMITS HIS/HER LETTER TO THE CHIEF OF POLICE, DRO WILL SUBMIT A LETTER OF RESPONSE TO THE CHIEF OF POLICE.

Disciplinary Review Office

Step 5

The DRO packet is forwarded to the Human Resources Division Chief for review. After the Human Resources Division Chief has reviewed all the information presented, the Human Resources Division Chief can concur or not concur with the recommendation of the DRO Office.

The packet is then forwarded to the Deputy Chief of Business Services for review.

DISCIPLINARY REVIEW OFFICE

STEP 6

THE CHIEF OF POLICE WILL DETERMINE TO UPHOLD OR REDUCE THE RECOMMENDED DISCIPLINE AND OR CORRECTIVE ACTION.

THE AFFECTED EMPLOYEE WILL BE NOTIFIED OF THE FINAL DISCIPLINE (COUNSEL, REPRIMAND, SUSPENSION, DEMOTION OR TERMINATION).

DISCIPLINARY REVIEW OFFICE

STEP 7

**THE DRO WILL PROVIDE A LETTER
OF CONCLUSION TO THE
COMPLAINANT**



Overview of the Grievance Process
Human Resources Division

Presentation to the Task Force for creation of the Civilian
Review Board
June 9, 2021

DEFINITION OF A GRIEVANCE

- **Pursuant to the City of Richmond's Personnel Rules for Classified Services:**
- A Grievance is a complaint or dispute by an employee relating to his or her employment, including but not necessarily limited to discipline.
- Any classified employee can file a grievance pursuant to the City Personnel Rules for Classified Services.
- When an employee files a grievance there shall be no retaliation against the employee by supervisors or management.

WHAT IS GRIEVABLE

- (i) disciplinary actions, including dismissals, disciplinary demotions, written reprimands and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance;
- (ii) the application of personnel policies, procedures, rules and regulations, including the application of policies involving ordinances, statutes or established personnel policies, procedures, rules and regulations;
- (iii) acts of retaliation
- (iv) complaints of discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin or sex;

Examples of Non-Grievable Complaints:

- Failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly.
- The methods, means and personnel by which work activities are carried on.
- The hiring, promotion, transfer, assignment and retention of employees within the city government.

PROCEDURAL COMPLIANCE

Once an employee has filed a written grievance both the employee and the organization has a responsibility to meet the grievance procedural guidelines.

Each step has a timeline and if the timeline is not met by either party a non-compliance complaint can be filed against the other party.

If the non compliance complaint is not corrected in five (5) working days the party that filed the non compliance will win a decision in their favor.

BURDEN OF PROOF

The grievant must prove by the greater weight of the evidence that the discipline imposed or the complaining action was excessive or unwarranted.

All parties are to be afforded a full and equal opportunity for presentation of their evidence.

REPRESENTATION DURING PROCESS

- With the exception of the final management step (step three) , the only persons who may be present in the management step meetings are the grievant, the appropriate City official at the level at which the grievance is being heard, a representative from the Department of Human Resources and appropriate witnesses for each side. Witnesses shall be present *only* while actually providing testimony.
- Employees who are necessary participants at a grievance hearing shall not lose pay for the time necessarily lost from their jobs and will not be charged leave because of their attendance at such hearings. During the management steps the grievance hearings shall not be recorded and recording devices are not permitted in the room in which a grievance hearing is being heard.

REPRESENTATION DURING PROCESS CONT.

- At the final management step (step three) the grievant may, at his or her option and expense, have present a representative of his or her choice. If the grievant is represented by legal counsel, the City has the option of being represented by legal counsel. The grievant shall provide the name, mailing address, email address and telephone number of the grievant's representative or legal counsel on the City grievance form at least five (5) days prior to the grievance hearing.



STEP ONE

Informal meeting with the immediate supervisor and the employee who is filing the grievance.

This meeting has to occur within twenty (20) calendar days of the notification/action that the grievant is complaining about.

After discussing the complaint with the employee the supervisor has fifteen (15) calendar days to respond to the employee.

- If the complaint is not resolved at Step One the grievant has fifteen (15) calendar days to appeal the decision and move the grievance to Step Two.

STEP TWO



The complaint must be submitted in writing on a city grievance form.

- At this step the Appointing Authority (Agency Head) shall request a determination of grievability through Central HR within ten (10) calendar days of receiving the complaint.
- If the complaint is grievable, the grievant will meet with the Appointing Authority/Designee.
- After the meeting, the Appointing Authority or Designee has fifteen (15) calendar days to provide a written decision.

STEP THREE



If the grievant is not satisfied with the response from Step Two they have fifteen (15) calendar days to move the complaint to Step Three.

- Step Three is a meeting with the Chief Administrative Officer or designee.

The Chief Administrative Officer or designee has fifteen (15) calendar days after receipt of the grievance to meet with the employee and provide a written decision.



STEP FOUR

If the employee is not satisfied with the response from the Chief Administrative Officer (at Step Three) they have fifteen (15) days to move to Step Four.

Step Four is an appeal to the Personnel Board.

- The grievant may also be represented by Legal Counsel at this step.
- After the Personnel Board hearing the employee will get a written response within ten (10) calendar days.

DIRECT APPEALS

Terminations do not go through the grievance process. They go straight to the Personnel Board and must be filed within 20 calendar days of the event or event notification, whichever comes first.