

	<b>HARRISONBURG POLICE DEPARTMENT</b> General Orders	<b>Policy Number:</b> 808
	<b>Chapter:</b> Personnel	<b>Total Pages:</b> 5
	<b>Section:</b> Personnel Records	<b>Issue Date:</b> 07/02/2021
	<b>Issued By:</b> Kelley Warner, Chief of Police	<b>Effective Date:</b> 07/02/2021
	<b>Replaces:</b> All General Orders Previously Issued Relative to Subject	
<b>VALEAC Standards: PER.09.05</b>		

## A. POLICY AND PURPOSE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual employee's name.

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the laws of Virginia ([VA Code § 2.2-3705.1\(1\)](#)).

## B. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

## C. DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- a. Personal data, including photographs, emergency contact, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.
- b. Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- c. Original performance evaluations. These should be permanently maintained.
- d. Discipline records, including copies of sustained personnel complaints.

- e. Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment.
  - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.
  - 2. Any member response shall be attached to and retained with the original adverse comment.
  - 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- f. Commendations and awards.
- g. Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

## **D. TRAINING FILE**

An individual training file shall be maintained by the Training Officer for each employee. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas, and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- a. The involved employee is responsible for providing the Training Officer or immediate supervisor with evidence of completed training/education in a timely manner.
- b. The Training Officer or supervisor shall ensure that copies of such training records are placed in the employee's training file.

## **E. INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Professional Standards in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Professional Standards supervisor.

These files shall contain the complete investigation of all formal complaints of employee misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the employee's department file but will be maintained in the internal affairs file:

- a. Not sustained
- b. Unfounded
- c. Exonerated

## **F. MEDICAL FILE**

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the employee's medical condition and history including, but not limited to:

- a. Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- b. Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- c. Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- d. Medical release forms, doctor's slips and attendance records that reveal an employee's medical condition.
- e. Any other documents or materials that reveal the employee's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

## **G. SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures ([VA Code § 2.2-3705.1](#); [VA Code § 2.2-3706](#)).

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

### **a. REQUESTS FOR DISCLOSURE**

Any employee receiving a request for a personnel record shall promptly notify the Custodian of Personnel Records or other person charged with the maintenance of such records. Requests shall be made on 213- Request to Inspect Personnel File.

Upon receipt of any such request, the responsible person shall notify the affected employee as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to an employee's personnel records shall be logged in the corresponding file with either a signed waiver or HPD form.

### **b. RELEASE OF PERSONNEL INFORMATION**

The Department may release any factual information concerning a disciplinary investigation if the employee who is the subject of the investigation (or the employee's representative) publicly makes a statement that is published in the media and that the member (or representative) knows

to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement.

The Department shall respond to a request from another law enforcement agency or jail for information related to a former officer's prior arrests, prosecutions, criminal conduct, excessive use of force, official misconduct, civil suits, or adverse employment actions, and provide the information required and permitted by law within 14 days ([VA Code § 15.2-1705](#)).

## **H. EMPLOYEE ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any employee may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files ([VA Code § 2.2-3705.1\(1\)](#)). Requests shall be made on 213-Request to Inspect Personnel File; [VA Code § 8.01-413.1](#)

Any employee or former seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the employee with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the employee's request and the written response from the Department shall be retained with the contested item in the employee's corresponding personnel record. The City Human Resources Department will also be notified to remove their file.

Employees may be restricted from accessing files containing any of the following information:

- a. An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline.
- b. Confidential portions of internal affairs files that have not been sustained against the employee.
- c. Criminal investigations involving the employee.
- d. Letters of reference concerning employment/appointment, licensing, or issuance of permits regarding the employee.
- e. Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- f. Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for Department planning purposes.
- g. Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- h. Records relevant to any other pending claim between the Department and the employee that may be discovered in a judicial proceeding.

## **I. RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

- a. During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.
- b. If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.
- c. If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.