

# CHARLOTTESVILLE POLICE DEPARTMENT



Note: This directive is for internal use only and does not enlarge an officer's 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. Violations of this directive, if proven, can only form the basis of a complaint by the Charlottesville Police Department and then only in a non-judicial administrative setting.

Type of Directive: GENERAL ORDER	Number: 52-99
<b>Rules and Regulations- Code of Conduct Guidelines</b>	Date: October 7, 2019
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Authorization: Chief R.M. Brackney <i>Rm Brackney</i>	Follow-up Date: As Needed

## I. PURPOSE

The purpose of this directive is to establish a basis of conduct for all members of the Charlottesville Police Department. It is recognized that rules, regulations, policies and procedures cannot be prescribed for every specific action or circumstance encountered by Department members. In emergencies, or situations not addressed in this order, the individual is expected to use their own discretion governed by sound judgment. The Charlottesville Police Department is authorized and governed by the City of Charlottesville Charter, codified through ordinances of March 15, 1999 (Supplement #17, Update #1) in Article I, Section 2-3, (1) and Section 14, Number 20 and the Code of Virginia as defined in 15.2-1700, 15.2-1701, 15.2-1704 and other relevant sections.

## II. POLICY

It is the policy of the Charlottesville Police Department to ensure that the performance of its members is characterized by lawful police actions that are carried out in an exemplary fashion. To this end, the Charlottesville Police Department expects its personnel to maintain the highest standards of appearance and conduct at all times, while on duty or off duty.

Violations of the Code of Conduct, General Orders, Executive Orders, City of Charlottesville's Personnel Rules, City of Charlottesville's Ordinances, and/or laws of the Commonwealth of Virginia or the United States of America shall result in disciplinary or personnel action as defined in this policy. The disciplinary action taken will depend on the severity of the offense, the record of the offender, and the seriousness of the consequences of the violation. If employee misconduct results in dismissal, the employee will be provided with a statement citing the reasons for dismissal and the effective date of the dismissal

## III. DEFINITIONS

A. COMPLIANCE WITH RULES - Members of the Department are required to comply with any rule that corresponds with their level of authority and responsibility.

- B. HARASSMENT - A course of action or conduct composed of a series of aggravated acts, over a period of time, however short, which indicates a continuity of purpose directed at a specific person or group of persons which serves no legitimate purpose.
- C. RULES OF CONDUCT - The governing rules of conduct for the ethical, legal, and moral conduct of all members of the Charlottesville Police Department.
- D. MEMBERS OF THE DEPARTMENT - The term "Member of the Department" is inclusive of both sworn and non-sworn personnel whether full-time, part-time, grant-funded or contractual.
- E. SWORN OFFICERS - The term "Sworn Officer" is inclusive of all sworn police positions within the Charlottesville Police Department.
- F. DISCIPLINARY ACTIONS - May include a written reprimand, suspension, demotion, or termination.
- G. PERSONNEL ACTIONS - May include probation, counseling, training, demotion or termination.
- H. APPROPRIATE CITY OFFICIAL – For the purpose of this directive, the term "appropriate City Official" shall mean an individual's immediate supervisor, any other supervisor or superior officer within the individual's chain of command, or the City Director or Human Resources.

#### IV. PENALTIES

- A. COUNSEL - A verbal statement, followed in written form and acknowledged by the employee, made to the employee intending to improve job performance or job related behavior. Counseling is not a disciplinary action and is not able to be grieved.
- B. REPRIMAND - A written disciplinary statement by a supervisor made to their employee concerning the employee's job performance or job related behavior. Each such reprimand shall be confirmed by memorandum from the person imposing the reprimand on the employee, with a copy of the memorandum being placed in the employee's personnel file in the Office of the Chief of Police, the Office of Professional Standards, and delivered to the employee. This memorandum shall provide reasons for the reprimand and specific examples of violations, infractions, and performance issues or personal conduct. The reprimand shall become a permanent part of the employee's personnel, and Professional Standards files, if applicable. The employee may attach written correspondence for inclusion in the record within seven (7) calendar days of receipt of a written reprimand. Reprimands are subject to the grievance process.
- C. SUSPENSION - The temporary removal of an employee from duty and pay status for cause. All disciplinary suspensions are without pay and are for a specified period of time. Suspensions are subject to the grievance process.
- D. DEMOTION - The placement of an employee in a position in a lower class for which a lower maximum rate of pay is authorized. As a disciplinary measure, the Chief of Police may recommend that an employee be demoted to a lower classification. Disciplinary demotions are subject to the grievance process.

- E. **TERMINATION** - The removal of an employee from city service. Once it has been determined that an employee's conduct/behavior warrants separation, the Chief of Police shall recommend to the City Manager that the employee be terminated/dismissed. The employee shall be informed in writing of the charges and shall be given the opportunity for a pre-disciplinary/pre-termination conference.

**V. RESPONSIBILITIES**

- A. It shall be the responsibility of each member of the Charlottesville Police Department to comply with the Rules of Conduct as defined within this document. All employees of the Department shall become thoroughly familiar with these rules and regulations and the contents of the Manual, and all employees will be expected to conform and abide by them. Lack of knowledge shall not constitute a defense to any disciplinary action.
- B. The positive public image, which the City of Charlottesville strives to develop with citizens, is fashioned by our adherence to high standards of personal conduct. Police officers yield considerable power over the public in order to provide our services. The Department's enforcement responsibilities and activities result in our members being the most visible form of government representing the City of Charlottesville. Police powers are carefully balanced and circumscribed by federal, state, and local laws, and, ultimately, by the U.S. Constitution and Bill of Rights. Police powers to arrest, seize property, and lawfully interfere with the lives of citizens must be accomplished with public trust. We regard this trust as vital to our success and we must protect this confidence through exemplary performance at all times.

**VI. LAW ENFORCEMENT CODE OF ETHICS**

All sworn officers are required to swear to an oath of office upon becoming a member of the Charlottesville Police Department and shall be provided with a copy of the Code of Ethics at the time of their new officer orientation, thoroughly read the Code of Ethics and sign a copy of the document. The signed copy shall be placed into the new members Department personnel file. This oath includes a pledge to lead their lives in accordance with the Law Enforcement Code of Ethics. Charlottesville Police Officers shall manage their affairs in such a manner as to maintain a high degree of integrity in their public and private lives, as required by the Law Enforcement Code of Ethics:

**"As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all men to liberty, equality, and justice.**

**I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law of the land and the regulations of my Department. Whatever I see or hear of a confidential nature that is confided to me in my official capacity will be kept ever secret, unless revelation is necessary in the performance of duty.**

**I will never act officiously or permit personal feelings, prejudice, animosities, or friendships to influence my decisions with no compromise for crime and with relentless prosecution of criminals. I will enforce the law courteously and appropriately without fear or favor, malice, or ill will, never employing unnecessary force or violence and never accepting gratuities.**

**I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust, to be held so long as I am true to the ethics of police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession--law enforcement."**

## **VII. RULES OF CONDUCT**

⌘ 01 VIOLATION OF RULES – Department members shall not commit any acts or omit any acts that constitute a violation of any of the rules, regulations, directives, or orders of the Department, whether stated in this rule or elsewhere.

*(This section makes it a disciplinary offense for a member to violate any rule of the Department. Thus, by inclusion of this section, the Department avoids the cumbersome process of specifying in every rule that “violation of the rule subjects the violator to disciplinary action.” It is necessary to be specific when drafting charges; thus, it would not be sufficient to charge an employee with a violation of ⌘ 1 alone. The particular offense committed and the specific rule violated must always be specified.)*

⌘ 02 AUTHORITY OF ORDERS/INSUBORDINATION – Members of the Department will obey all lawful orders issued to them by supervisors of a higher rank. This includes orders relayed from a supervisor by an employee of the same or lesser rank. Unjustified bypassing of rank in the chain of command or the non-existent circumvention of the chain of command may constitute insubordination.

*(Failure to obey a lawful order is a clear case of misconduct. The only question that may arise is whether the order is lawful or is in conflict with another order. This situation is addressed in ⌘ 4.)*

⌘ 03 ISSUING LAWFUL ORDERS – Department supervisors will not knowingly or willfully issue any order in violation of a law, ordinance, rule or order of the United States, Commonwealth of Virginia, City of Charlottesville or the Charlottesville Police Department.

⌘ 04 CONFLICTING OR ILLEGAL ORDERS

A. Employees, who are given an otherwise proper order that is in conflict with a previous order, rule, regulation or directive, shall respectfully inform the supervisor issuing the order of the conflict. If the supervisor issuing the order does not alter or retract the conflicting order, the order shall stand. Under these circumstances, the responsibility for the conflict shall be upon the supervisor. Employees shall obey the conflicting order and shall not be held responsible for disobedience of the order, rule, regulation or directive previously issued. At the first opportunity the employee may report in writing

the full facts of the incident to the Chief of Police through the chain of command.

- B. Employees shall not obey any order which they know or should know would require them to commit any illegal act. If in doubt as to the legality of an order, the employee shall request the issuing supervisor to clarify the order or to confer with higher authority.

*(This section provides procedures for an employee to follow if they are given an order that conflicts with other orders or is issued an order that the employee considers being illegal. If an employee receives conflicting orders, the employee must notify their supervisor so that the conflict may be resolved. Failure to do so may render the employee liable for disobedience of both the order and this section. An employee who receives an order that they reasonably believes would require them to commit an illegal act must at least question that order, and refuse to obey it if not satisfied as to its legality. An employee may not be disciplined for questioning the legality of an order.)*

- ⌘ 05 IMMORAL OR UNBECOMING CONDUCT – Department members shall maintain a level of moral conduct in their personal and business affairs which is in keeping with the highest standards of the law enforcement profession. Members shall not participate in any incident involving moral turpitude that impairs their ability to perform as law enforcement employees or cause the Department to be brought into disrepute. Members shall conduct themselves at all times, both on and off duty, in such a manner as to reflect favorably on the Department. Conduct unbecoming shall include that which brings the Department into disrepute or reflects discredit upon the employee as a member of the Department, or that which impairs the operation or efficiency of the Department or employee.

*(It is difficult to define with any exactness what immoral conduct is. An acceptable standard must be established against which to judge the morality of the conduct. First, there is the “highest standard of the law enforcement profession”. This phrase may have meaning through the officer’s oath of office, the Law Enforcement Code of Ethics, or his/her status as an officer of the court. Second, the concept of “moral turpitude” is well established in the law and has a fairly precise meaning. Third, impairment of ability to perform as a law enforcement employee refers to the individual’s loss of respect among the community or other employees to the point that the notorious nature of the individual’s personal character overshadows the authority of their office so that they can no longer effectively exercise that authority. Fourth, causing the Department to be brought into disrepute refers to the same situation as the third factor above, with the exception or addition that the individual’s conduct reflects adversely on the Department as a whole, where, for example, the individual’s conduct is generalized by the community to involve the entire Department, and thus interferes with every employee’s effectiveness. It is important to note that when an employee is charged with conduct which interferes with the effectiveness or the reputation of the employee or the Department, it is necessary to prove, as one of the elements of the offense that damage has, in fact, been done to the effectiveness or reputation of the Department or the employee. Rules on “conduct unbecoming” are extremely controversial today. In some cases,*

*courts have struck them down as being unconstitutionally vague and, in other cases, such rules have been upheld. This rule must be distinguished from §01 that relates to violations of any other defined rules of the Department. The basic purpose of an “unbecoming conduct” rule is to serve as a catchall, prohibiting acts that are not otherwise prescribed. Because the Department cannot possibly define in advance all the acts that are inappropriate for a police employee, it is essential to have such a general rule. In each instance, before charging an employee with “unbecoming conduct”, the supervisor should examine all other rules to ascertain whether a specific rule violation is applicable. If a particular rule applies, it should be used instead of “unbecoming conduct”.)*

## ⌘ 06 CONFORMANCE TO LAWS

- A. Employees shall obey all federal, state laws and regulations. They will also obey all laws and ordinances of the City of Charlottesville and any other jurisdiction in which they are present, whether on-duty or off-duty.
- B. Conviction of a crime involving moral turpitude will constitute a basis for disciplinary action and may subject the employee to job forfeiture. Further, any other conviction of the violation of a law shall be prima facie evidence of a violation of this section.
- C. Any member of the Department who is charged with a traffic infraction (excluding parking violations), or learns that they may be the defendant in any criminal action, shall report such action to the Chief of Police, in writing through channels, without delay. (The Policy and Procedure Manual outlines the responsibilities of employees who are served with lawsuit papers.)

*(This section is also a general provision. Subsection A is intended to establish clearly that violation of any law is a departmental disciplinary offense as well as an illegal act subjecting the violator to criminal penalties. It is not necessary, under this section, to establish that the illegal act in any way affects Department operation or that the employee may be convicted of the crime. However, the rule must be applied with caution, especially where the criminal act is minor (e.g., minor non-hazardous traffic violations.)*

- D. Employees shall notify the Chief of Police when they are involved in a civil case, either as a witness or as a party.
- E. Employees shall notify the Chief of Police and the Commonwealth’s Attorney when they have been subpoenaed by the defense to testify in a criminal case involving the commonwealth.

## ⌘ 07 HARRASSMENT

- 1. Employees shall maintain a professional working relationship with fellow employees at all times.
  - a. Comments and/or conduct which constitute or contribute to harassment or discrimination due to a person’s race, sex, color, age, religion, national origin, sexual orientation or any other non-job related-factor will not be tolerated.

- b. Supervisory employees will initiate corrective action, as necessary, to ensure a work environment free of discrimination or harassment. Division Commanders will notify the Chief of Police of all complaints concerning harassment or discrimination of any type. Complaints of sexual harassment shall be handled per General Order 517.03.
- 2. Members are reminded that their conduct is also governed by the City Personnel Policies (Personnel Regulations, Section 3.2).
  - a. The above City Personnel Policy (Section 3.2) includes, in addition to other rules and regulations, prohibitions against discrimination and sexual harassment. Accordingly, all members will:
    - 1. Eliminate the intrusion of personal prejudices and less-than-objective conduct in their daily interactions with fellow members, City employees and the public.
    - 2. Ensure a bias-free working atmosphere and take appropriate action to correct situations, which involve harassment and discrimination.
    - 3. Prevent and refrain from making slurs, jokes, epithets, or other comments, which appear to be discriminatory or harassing in nature.
  - b. Any member who believes that he or she is a victim of discrimination or harassment should immediately report the incident(s) to an appropriate City official (see Section III for definition of “appropriate city official”).
    - 1. A Department supervisor or superior officer receiving a complaint of any type of employee harassment, including sexual harassment or discrimination shall immediately initiate an investigation using the procedure outlined in Department General Order Number 517.03, Sexual Harassment.

All investigations concerning harassment, including sexual harassment and/or discrimination shall be handled in accordance with the confidentiality and investigative procedures outlined in General Order Number 517.03.

- ⌘ 08 **REPORTING FOR DUTY** – Department members shall report for duty at the time and place required by assignment or orders and shall be physically and mentally fit to perform their duties. They shall be properly dressed and equipped in accordance with Department guidelines. As appropriate, while on duty, members shall have in their possession: police identification, a valid driver’s license while operating a motor vehicle, an approved service weapon (sworn officers), and be cognizant of information required for the proper performance of duty so that they may immediately assume their duties. Every member reporting for duty shall acquaint themselves with events that have taken place since the beginning of their last tour of duty.

Judicial subpoenas shall constitute an order to report for duty under this Section.

*(Because many police operations function on a shift basis around the clock, it is important that members going on duty be prompt and prepared to assume their duties as soon as the earlier shift is relieved. Also, while there are judicial penalties for ignoring a subpoena, this section provides for administrative action if an employee fails to respond to a subpoena.)*

⌘ 09 LEAVE – All members absent from duty will be placed in an official leave status as prescribed by the City of Charlottesville’s Personnel Rules. Department members shall be present for duty, unless a supervisor has approved the leave. Employees who, for any reason, are unable to report for assigned duty shall report off duty with the Shift Commander’s office; i.e., the Shift Commander, or any on-duty supervisor. In emergency situations, Department members will notify their supervisors, as soon as practical and request leave.

⌘ 10 FICTITIOUS ILLNESS OR INJURY REPORTS – Unless incapacitated, all members of the Department will notify their immediate supervisor, as soon as practical, of any injury or illness occurring while on duty. Members shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the Department as to the condition of their health.

*(While there is a specific rule for reporting illness, with medical certification required in some instances, this section adds administrative penalties to the false report of illness or injury. The section is also aimed at preventing false claims of injury for purposes of workman’s compensation or disability retirement.)*

⌘ 11 UNFIT FOR DUTY – Any supervisor may temporarily relieve from duty an employee under their supervision for a period of not more than one workday on the grounds that the employee is unfit for duty. “Unfit for duty” may include any physical or mental condition which might, in the judgment of the supervisor, render the employee incapable of adequately performing duties, or performing them in such a way as to embarrass or discredit the Department or jeopardize the safety of any person or property. The supervisor shall immediately notify the appropriate Division Commander regarding any action under this section. *(If it is determined that the officer’s police powers shall be suspended, refer to General Order 517.06, Suspension of Police Powers.)*

A. A supervisor, who relieves an employee from duty under this Section, may direct that the employee be carried on sick leave, vacation, or other appropriate leave with pay.

B. Under normal circumstances, a Shift Lieutenant, Captain, or the Chief of Police can require an officer, who has been relieved from duty, to surrender their weapon, shield, cap badge, and identification card. Only under extenuating or emergency circumstances, may a supervisor of lesser rank than listed above require the surrender of an officer’s weapon, shield, cap badge, and identification card.

C. Fitness for Duty Medical/Physical and Psychological Examination

Any employee who is directed to take a mandatory medical, physical and/or psychological examination shall do so at no expense to the employee.

- ⌘ 12 **NEGLECT OF DUTY** – Department members, while on duty, shall not engage in any activities or personal business that would cause them to neglect or be inattentive to duty.
- (This rule refers to conducting personal business or attending to personal pleasures which might distract employees from their responsibilities or hamper them from responding to calls for service.)*
- ⌘ 13 **LEAVING DUTY POST** – Department members shall not leave their assigned duty posts during a tour of duty except when authorized by proper authority. Officers shall keep the Emergency Communications Center (E.C.C.) advised of any change in their location. *(An officer’s failure to remain on his/her assigned post can have serious repercussions that endanger the safety of other officers and the public.)*
- ⌘ 14 **SLEEPING ON DUTY** – Department members shall remain awake while on duty. If unable to do so, an employee shall so report to their supervisor, who shall determine the proper course of action.
- (Sleeping on duty is a serious problem for some Police Department employees. Irregular hours, emergency situations, and long periods of relative inactivity take their toll on the human body. However, sleeping on the job is not only dangerous, it is harmful to the reputation of the Department, when a sleeping employee is discovered by a citizen. If an employee is not able to stay awake on the job, the supervisor should take appropriate action such as relief from duty, reassignment or disciplinary measures.)*
- ⌘ 15 **SEXUAL ACTIVITY ON DUTY** – Engaging in sexual activity while on duty is prohibited.
- (Engaging in sexual activity while on duty is harmful to the Department’s reputation and a breach of the public’s trust. It is prima facie evidence of neglect of duty.)*
- ⌘ 16 **MEALS** – Department members shall be permitted to suspend patrol or other assigned activity, for the purpose of having meals during their tours of duty, but only for such period of time as established by Department guidelines. As a general rule, employees shall not congregate in any location that would tend to give the appearance of inefficiency.
- (This rule is necessary to ensure that employees on the same shift do not suspend patrol or other assigned activity at the same time, and that they do not congregate at eating establishments.)*
- ⌘ 17 **UNSATISFACTORY PERFORMANCE** – Department members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the employee’s rank, grade, or position; the failure to take appropriate action on the occasion of a crime, disorder, or other

condition deserving police attention; or absence without leave. In addition to other indicia of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directives or order of the Department.

*(This rule covers unsatisfactory performance and includes several methods of establishing unsatisfactory performance or incompetence. Most of the occasions for use of this rule will arise from an employee's failure to perform as required. Failure to perform or inaction is usually more difficult to prove than a specific act of misconduct. If specific acts amounting to neglect of duty are present, § 12 should be charged. If a pattern of poor evaluations or rule violations is present, this rule applies. Other instances covered by this section are spelled out.)*

- ⌘ 18 DERELICTION OF DUTY – Police employees will not display any behavior that indicates dereliction in the line of duty. Unless incapacitated, members of the Department will aid, assist, and protect fellow Department members and citizens in time of danger or under conditions where danger is imminent.
- ⌘ 19 POSSESSION AND USE OF DRUGS – Employees shall not possess or use any controlled substances, narcotics, or hallucinogens, except when prescribed in the treatment of the Department member by a physician or dentist. If a Department member is required to take prescription medication, it shall be their responsibility to ascertain if the medication could affect or impair the employee's ability to perform their duty. If so, the Department member shall notify their supervisor.

Members charged with not following these rules may request or be required to submit to a drug screening at the City's expense. Evidence obtained may be used in any administrative hearing pertaining to such charges. Any member refusing such a test shall be automatically relieved from duty pending a hearing before the Chief of Police.

*(Since possession of a prescription medication without a prescription, or use of controlled substances is, in most cases, a criminal act, this section does not add to any prohibition not applicable to the general public or applicable to the Department member through § 6. However, this section is specific to drugs, and it requires the Department member to notify the Department of any authorized medical use of such substances, if such substance could affect or impair their ability to perform their duty. This notification alerts the Department to possible physical or mental effects of drug use and gives the Department an opportunity to take appropriate action.)*

- ⌘ 20 ALCOHOLIC BEVERAGES AND DRUGS IN POLICE FACILITIES – Employees shall not store or bring into any police facility or vehicle any alcoholic beverages, controlled substances, narcotics or hallucinogens, except those which are held as evidence or investigation.

*(Police employees should not have drugs in police facilities, unless the drugs are to be processed as outlined in the Policy and Procedure Manual.)*

- ⌘ 21 USE OF ALCOHOL WHILE ON DUTY OR IN UNIFORM - Department members shall not consume intoxicating beverages while on duty or while in uniform. Members shall not purchase alcoholic beverages while wearing the Department uniform or identifiable parts thereof, whether on or off duty. It is recognized that certain undercover and/or investigative operations may necessitate an officer to consume moderate amounts of alcohol; however, they may do so only while acting under proper and specific orders from a commanding officer.

Members shall not appear for duty, or be on duty, while under the influence of intoxicants to any degree whatsoever, or with an odor of intoxicants on their breath.

*(This section prohibits employees from drinking alcohol while on duty or in uniform except when under orders to do so. The rule also applies to off-duty drinking which impacts in certain ways upon the employee's duty time.)*

- ⌘ 22 USE OF ALCOHOL OFF-DUTY - Members of the Department, who are on an "on-call" status, will not drink alcoholic beverages or consume any other intoxicants. Members who are on a consistent on-call status (e.g. S.W.A.T., CNT, Evidence Techs, etc.) may consume alcohol while off duty, but will inform their supervisor of having consumed alcohol in the event of a call out. No adverse action shall be taken if, in an emergency recall situation, the employee believes themselves to be incapacitated for duty, says so, or is determined to be so by a supervisor, prior to actually going on duty.

Members of the Department while off-duty shall refrain from consuming intoxicating beverages to the extent that it results in the impairment, intoxication, or obnoxious or offensive behavior which discredits them or the Department, or renders the employee unfit to perform their next regular tour of duty.

- ⌘ 23 USE OF TOBACCO – Members of the Department will observe all existing City policies and regulations regarding smoking in the workplace. Further, members of the Department will not use any tobacco products, while in direct contact with the public, while operating a city vehicle, while in a public building or a police facility, or in an official capacity. In addition, sworn personnel who were hired after October 1, 1986, by contractual agreement shall not from the effective date of hire, and during their tenure of employment, utilize and tobacco or nicotine products, e.g.: cigars, cigarettes, pipes, smokeless tobacco, electronic cigarettes or other products that provide nicotine to the body. This agreement has been made a pre-condition of employment as part of the City of Charlottesville's awareness of the special requirements of Police personnel as stated by the heart/Lung Laws (Virginia Code 65.02-402). Employees shall not use smokeless tobacco products on duty, except as may be required for undercover work or other special assignments.

- ⌘ 24 GIFTS AND GRATUITIES

A. It is against City policy for any employee to accept any gift of value from any person or firm interested in business dealings with the City, or any gift or favor that might influence the employee in the impartial discharge of their duty.

- B. Every member of the Department is prohibited from accepting free foods, goods, or services when such offers are made with an expectation of police services as a direct result of their employment with the Police Department.
- C. Every member of the Department is positively forbidden to receive or accept a reward or present of any kind directly in connection with any official duty or act without the permission of the Chief of Police. Any member of the Department who receives a gift without prior knowledge (ex. receiving a gift certificate in the mail, etc.) will immediately notify the Chief of Police upon receipt.
- D. Every member of the Department is positively forbidden to receive or accept directly or indirectly, any gift or present from any person engaged in or suspected of any illegal activity.

*(This order reflects the City's policy of prohibiting employees from accepting any gift or favor that might influence the employee in the impartial discharge of their duty. This revision prohibits police personnel from accepting free or discounted food, goods, or services when such offers are a result of their employment with the Police Department. The integrity of our police employees must be above reproach. An employee must avoid any conduct that might compromise integrity and thus undercut the public's confidence in our Department.)*

⌘ 25 FINANCIAL DISCLOSURE – Officers shall submit financial disclosure statements, when ordered to do so by the Chief of Police or designee, and when such order is within the limitations set forth by Virginia Code 2.1-116.3. These statements are to be maintained by the Chief of Police and shall not be available for public disclosure. Upon appropriate orders, or when an employee is the subject of an internal investigation, the employee may be required to submit personal financial data. (Not applicable to School Crossing Guards or Community Service Officers)

⌘ 26 ABUSE OF POSITION

- A. Department members shall not use their official position, official identification cards or badges for personal or financial gain, for obtaining privileges not otherwise available to them except in the performance of duty, or for avoiding consequences of illegal acts. Members shall not lend to another person, their identification cards or badges or permit them to be photographed or reproduced without the approval of the Chief of Police.
- B. Department members shall not authorize the use of their names, photographs, or official titles that identify them as police employees, in connection with testimonials or advertisements of any commodity or commercial enterprise, without the approval of the Chief of Police.
- C. Employees shall not expend any money or make any financial obligations in the name of the Department without prior knowledge and permission from the Office of the Chief of Police.

*(This section prohibits an employee from lending or abusing identification cards or badges, as well as commercial exploitation of official position.)*

- ⌘ 27 ENDORSEMENTS AND REFERRALS – Department members shall not recommend or endorse in an official capacity the employment or procurement of a particular product, professional service, or commercial service (such as an attorney, towing service, bondsman, mortician, etc.). In the case of ambulance or towing service, when such service is necessary and the person needing the service is unable or unwilling to procure it or request assistance, employees shall proceed in accordance with established Department procedures.

*(In order to avoid any possibility of the appearance of conflict of interest or “kickback” arrangements, employees must be prohibited from recommending particular products or services related to the performance of their duties. Usually, this section will apply to an employee’s dealing with persons outside the Department. Although general information may be provided, there must be no appearance that the employee or the department has taken any part in selecting the product or service, except as stated.)*

- ⌘ 28 CLAIMS FOR DAMAGES - Every member of the Department shall immediately notify the Chief of Police of any claim for compensation or damages that they make against any person or entity, which arises out of or relates to the performance of their duties.

- ⌘ 29 ASSOCIATIONS – Employees shall avoid regular or continuous associations or dealings with persons, whom they know or should know, are under criminal investigation or indictment, or who have a reputation in the community or the Department for involvement in felonious or criminal behavior, except as necessary to the performance of official duties, or where unavoidable because of their personal relationships to the employee. No Department member shall knowingly communicate, by any means, to any person, information which may assist any person to escape arrest or punishment, prepare for raids, destroy or conceal evidence (money, property or information sought by the police).

*(The underlying policy that this section seeks to implement is that persons of notoriously bad character or reputation must be avoided because of the appearance of impropriety and the danger of contaminating an employee’s character or reputation. Some flexibility is allowed in unavoidable personal relationships, such as when the employee’s spouse or child is included with the prohibited associations.)*

- ⌘ 30 VISITING PROHIBITED ESTABLISHMENTS – Employees shall not knowingly visit or frequent an establishment wherein the laws of the United States, the state, or the local jurisdiction are regularly violated, except in the performance of duty or while acting under proper and specific orders from a supervisor.

*(Except in the performance of duties, a law enforcement employee should not be in a place where the employee knows illegal activity is taking place. If the employee has no reason to know of illegal activity, they should not be held strictly accountable.)*

⌘ 31 GAMBLING

Employees shall not engage or participate in any form of illegal gambling at any time, except in the performance of duty and while acting under proper and specific orders from a supervisor.

⌘ 32 STATEMENTS AND APPEARANCES

- A. Employees shall not criticize or ridicule the Department, its policies, or other employees by speech, writing, rumor, or other expression, where such speech, writing, rumor, or other expression is defamatory, obscene, and unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity.
- B. Department members shall not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or a periodical, release or divulge investigative information, or any other matters of the Department, while presenting them as representing the Department in such matters, without the authority of the Chief of Police.
- C. No member of the Department shall speak in a disrespectful manner of, or to, any judge, magistrate or other officer of any court. When addressing judges, magistrates and other officers of the court, members of the Department shall conduct themselves in a dignified manner that will reflect positively on the Department, even in circumstances in which a judge, magistrate or other officer of the court denies the request of a member or declines to make a decision desired by the member.
- D. Except as part of an active investigation directed by the Chief of police, no member of the Department shall make, or attempt to make, an audio or video recording of any nature of any conversation or interaction with another member of the department, without that person's prior knowledge and consent. The verbal consent of all parties to the conversation or interaction shall be recorded at the beginning of the taping. Any person who is allowed to make such a recording shall, upon request, make it available to all other participants in the conversation for the purpose of making additional copies.

*(This section recognizes the employee's First Amendment rights to freedom of speech, as well as the need for the Department to operate without unlawful or destructive criticism. A blending of these factors is present in the rule, which has been upheld in the courts. The second and third segment of the rule limits employees' statements, when employees are holding themselves out as representing the Department.)*

⌘ 33 PERSONAL APPEARANCE – Department members shall maintain their appearance in compliance with General Order 400.15 “Personal Appearance and Grooming”.

⌘ 34 IDENTIFICATION

- A. Sworn members shall carry their badges and identification cards on their persons at all times within the boundaries of the City of Charlottesville, except when impractical or dangerous to their safety or to an investigation.
  - B. Members shall furnish their name and badge number to any person requesting that information when they are on duty or while representing themselves as a police employee, except when the withholding of such information is necessary for the performance of duties or is authorized by proper authority.
  - C. Members shall display their identification card and badge when necessary in the course of Department business.
  - D. Employees shall not at any time use or attempt to use their official badge, position, or official identification card for personal or financial gain.
  - E. Employees shall not use their position, or attempt to use their position, to influence any official or other person to alter facts or the law for the benefit of any employee or other person.
  - F. Employees shall not permit any other person to use their badge or identification card. Employees shall report the loss of a badge or identification card immediately.
- ⌘ 35 CITIZEN COMPLAINTS – It is the responsibility of each Department member to facilitate the convenient, courteous, and prompt receipt and processing of citizen complaints. Employees shall not interfere, discourage, or delay the making of, or the investigation of citizen complaints. Although an employee may attempt to explain an incident or a Department policy to a citizen, the employee shall adhere to the procedure for handling citizen complaints as outlined in the Policy and Procedure Manual.
- ⌘ 36 COURTESY – Employees shall be tactful in the performance of their duties, shall control their tempers, and exercise the utmost patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation. In the performance of their duties, employees shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race, religion, politics, national origin, lifestyle, gender, or any personal characteristics.
- (More citizen complaints result from police discourtesy than from almost any other cause. Discourtesy may include overt rudeness, annoyance, abusive or insulting language, racial or ethnic slurs, overbearing attitude, sexual or social references, disrespect, or a lack of proper attention or concern. In the performance of their duties, employees must maintain a neutral and detached attitude, without indicating disinterest or that a matter is petty or insignificant.)*
- ⌘ 37 REQUESTS FOR ASSISTANCE – When any person applies for assistance or advice, or makes complaints or reports, either by telephone or in person, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon consistent with established Department procedures.

*(Discourtesy, inattention, delays in response or failures to respond to requests for assistance are major causes of complaints against a police department. To the party requesting assistance, the matter is of paramount importance and an attitude indicating a lack of concern or a failure to respond efficiently is irritating. If the employee knows that a request cannot be handled immediately, the requesting party should be informed of the nature and reason for the delay. It is improper for an employee to intentionally fail to respond to or delay response to a call for service.)*

## ⌘ 38 POLITICAL ACTIVITY

- A. Any member of the Department, either individually or as a member of a group or political organization, may take part in a campaign of any political organization seeking the election of candidates or any individual political candidate for office provided that the Department member is off duty and not on the Department's premises. Uniformed members may not be in uniform when engaging in such activity. No such political activities by a member of a group or organization shall be carried on in the name of the City or any department, bureau, division or agency thereof, or by any group of employees in the Police Department.
- B. No member of the Department shall use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, and no member of the Department shall directly or indirectly coerce, attempt to coerce, command, or advise another member of the Department, or any employee of the City, to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
- C. No sworn officer in either a classified or unclassified position with the City shall continue in such position, after being elected to any public office elected by voters of an election district which includes all or a part of the City of Charlottesville, or by the voters at large of the city for a constitutional office serving only the City of Charlottesville.
- D. No non-sworn employee in either a classified or unclassified position with the City shall continue in such position, after becoming a candidate for nomination or election to any public office elected by voters of an election district which includes all or a part of the City of Charlottesville, or by the voters at large of the city for a constitutional office serving only the City of Charlottesville.
- E. Department members shall not use Department or City funds, supplies for political purposes or solicitation for activities or causes not related to their job.
- F. Electioneering in any City office, building or premises during working hours is prohibited.
- G. Employees who have questions concerning political activity shall refer to City Personnel Regulation 5.2.1 and the Federal Hatch Act, 5 USC Section 1902. Further questions should be referred to the City Attorney.

- H. Employees shall not join or belong to any organization, which has as a purpose the overthrow by force of the established government.

⌘ 39 LABOR ACTIVITY

- A. Employees have the right to join labor organizations, but nothing shall compel the Department to recognize or to engage in collective bargaining with any such labor organizations except as provided by law.
- B. Employees shall not engage in any strike. “Strike” includes the concerted failure to report for duty, willful absence from one’s position, unauthorized holidays, sickness unsubstantiated by a physician’s statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purposes of inducing, influencing or coercing a change in conditions, compensation, rights, privileges or obligations of employment.

*(Public employees have a constitutional right to join labor organizations. Laws prohibiting such actions are void. Persons may not be punished for exercising a constitutional right. However, while the Constitution allows police officers to join a union, it does not require the employer to recognize or negotiate with that union. An “employee association” is not substantively different from a union unless it is purely social and does not seek to represent members’ interests with an employer.)*

- ⌘ 40 Telephone and Address – Department members shall furnish the Department with a permanent address and telephone number, where they may be reached in the event of an emergency. The employee’s current telephone number and home street address are to be on file with Information and Management Services.

*(This rule is necessary so that the Department is able to contact employees in the event of a civil disturbance or other Department related business.)*

Employees shall not use the Police Department address for the receipt of personal correspondence. Employees may use the police phone for personal long distance calls when it is not practical to make the call from another location and will be responsible for any charges for the calls.

- ⌘ 41 CHANGE IN DOMESTIC STATUS – Department members shall report to their direct supervisor, by the member’s next workday, any change in domestic status with reference to marriage, legal separation, divorce, or death of spouse. The immediate supervisor shall document any changes in address, contact numbers, etc. and forward this information through the chain of command. *(This rule is necessary in order that the Department be kept current regarding next of kin.)*

- ⌘ 42 CONFIDENTIALITY (Dissemination of Information) – No member shall reveal police information outside the Police Department except as provided elsewhere in this manual or as required by law or competent authority. Information contained in police records, information ordinarily accessible only to members, names of informants, complainants, witnesses and other persons known to the police are considered confidential. Unauthorized copying or duplication of official records is prohibited.

*(Police employees regularly come into possession of information of extreme sensitivity. The confidentiality of this information must be maintained. Confidential information must not be used to the employee's personal benefit, or to damage the reputation of any person, or to assist any person in avoiding the consequences of criminal acts.)*

⌘ 43 INTERVENTION/INTERFERENCE – Officers shall not interfere with cases being handled by other officers of the Department or by any other governmental agency unless:

- A. Ordered to intervene by a supervisory officer, or
- B. The intervening officer believes beyond a reasonable doubt that a manifest injustice would result from failure to take immediate action.

*(Each police officer in the Department draws their authority from the same source, generally the state law. Within the confines of whatever administrative restrictions may be placed upon him/her, each officer's power to make arrests is exactly the same as every other officer's power.)*

⌘ 44 COOPERATION – Department members shall cooperate with and assist each other at every opportunity and shall not publicly criticize the work performance of any other member. In time of emergency, employees are expected to be calm and resolute and cooperate with others so that mutual protection is afforded and maximum efficiency is attained. While on duty, employees shall aid and/or reasonably assist persons within the City whenever such aid or assistance appears to be called for and is not in conflict with the general principles of law enforcement or in violation of legal statutes or departmental rules and regulations. When rendering assistance, employees shall neutralize hazardous situations or remain on the scene until the hazard is eliminated, giving due consideration to calls for service elsewhere.

⌘ 45 TRUTHFULNESS – Employees are to speak the truth at all times and under all circumstances. In cases where it is not allowed by law or by Department regulations to divulge facts and/or opinions within their knowledge, they will not speak on the subject. EXCEPTION: Undercover investigations or toward lawful objectives during an investigation.

⌘ 46 POLYGRAPH, MEDICAL EXAMINATIONS, PHOTOGRAPHS AND LINEUPS:

- A. Polygraph Examinations. Employees shall adhere to the Department's polygraph policy as outlined in General Order 517.01 "Internal Investigations and Citizen Complaints".
- B. Medical Examination, Photographs, and Lineups. Upon the order of the Chief or the Chief's designee, employees shall submit to any medical, ballistics, chemical or other tests, photographs, or lineups. All procedures carried out under this subsection shall be specifically directed and narrowly related to a particular internal investigation being conducted by the Department.

*(An employee may be compelled to submit to a polygraph examination for purposes of an internal investigation concerning allegations of misconduct or criminal activity. When an employee is ordered to submit to a polygraph exam, the questions asked must be directly related to the matter under investigation. An employee shall not be ordered to submit to a polygraph exam if he/she is the subject of a criminal investigation. Only if the employee is given Miranda warnings and then consents, should a polygraph be given in a criminal case. Frequently a citizen complains of abuse by an employee, but there are no witnesses or other outside evidence, and the employee denies the offense. In a “one-on-one” situation, there may be no more reason to suspect the employee of lying than to suspect the complainant of doing so. In such cases, it may be unfair to require the employee to submit to a polygraph, unless the complainant is also willing to submit. Just as a criminal suspect may not refuse to give “non-testimonial” evidence against him/herself, an employee in an internal investigation may be required to give such evidence. The only restriction is that the evidence be related to the particular investigation.)*

- ⌘ 47 RESPECT – Department members shall treat superiors, subordinates and associates with respect. They shall be courteous and civil at all times in their relationships with one another. When on duty and in the presence of the public, officers shall be referred to by rank. Supervisors are forbidden to injure or discredit those under their authority by tyrannical or capricious conduct or by abusive language. Members shall work in harmony with each other and will not engage in disputes or altercations. They shall not spread rumors, which may be detrimental to the Department or to any member of the Department.
- ⌘ 48 USE OF FORCE – Officers shall not use more force in any situation than is reasonably necessary under the circumstances. Officers shall use force in accordance with law and Department procedures. *(General Order 537.00)*
- ⌘ 49 TREATMENT OF PERSONS IN CUSTODY – Officers shall not mistreat persons, who are in their custody. Officers shall handle such persons in accordance with law and Department procedures.
- ⌘ 50 PRISONER SAFETY – The arresting officer is responsible for the custody and safety of their prisoner, until competent authority relinquishes custody, and the arresting officer no longer has constructive control over the prisoner. This responsibility extends or transfers to any officer involved in transporting a prisoner, and includes the prevention of acts by any other officer or person, which violates the law or Department directives.
- ⌘ 51 CONSTANT POLICE RESPONSIBILITY – Off duty police officers are subject to duty at all times and are encouraged to carry their approved firearms, while in their jurisdiction. Officers are reminded that they have a constant police responsibility, but should temper that knowledge with discretion. (Not applicable to School Crossing Guards or Community Service Officers)

*(This rule establishes that officers are subject to duty at all times. While not making it an absolute requirement, the rule encourages the wearing of an approved firearm while off duty and in their jurisdiction. The Department does not expect its officers to be armed when they have been drinking or are engaged in recreational activities.*

*The reminder that they have a constant responsibility does not necessarily mean they are mandated to take direct action if wisdom and judgment should dictate otherwise. In some instances, requesting police assistance from the Emergency Communications Center can fulfill “constant police responsibility”. The rule requests that the officer review General Order 537.30, Weapons Training.)*

⌘ 52 CARRYING FIREARMS - Officers shall carry firearms in accordance with law and established Department policies and procedures. Officers who desire to carry personal firearms during off-duty hours must qualify with said firearm by department firearms Instructors. Officers who wish to carry personal firearms while working must register such weapons and obtain approval in compliance with Department policy. Not applicable to School Crossing Guards or Community Service Officers.

⌘ 53 USE OF WEAPONS – Officers shall not use or handle weapons in a careless or imprudent manner. Officers shall use weapons in accordance with law and Department procedures.

*(No weapons should be handled improperly. Department procedures establish the proper methods for use and care of weapons.)*

⌘ 54 USE OF DEPARTMENT EQUIPMENT – Members of the Department shall utilize Department equipment only for its intended purpose, in accordance with established procedures, and shall not abuse, damage, or handle Department equipment in a careless manner. All equipment issued to employees shall be maintained in proper order. Department employees shall not leave issued equipment such as weapons or portable radios in the passenger compartment of any unoccupied Department vehicle or personal vehicle. Members who lose or damage any Department equipment shall immediately report the loss or damage to their supervisor. Members who leave either by resignation or discharge shall deliver all issued or assigned equipment to the Charlottesville Police Department Quartermaster.

*(Employees are entrusted with a great deal of very valuable equipment and must exercise the utmost caution in its use and maintenance. Also, especially in the case of vehicles, employees should not be permitted to use Department equipment for personal business, except where specifically provided for by the Department.)*

⌘ 55 VEHICLES –

The following pertains to vehicle operation by members of the department:

A. Employees shall operate official vehicles in a careful and prudent manner, and shall obey all laws and all orders pertaining to such operation. Revocation or suspension of Virginia Operator’s license shall be immediately reported in writing to the Chief of Police.

B. Employees shall examine any vehicle assigned to them and report any operational deficiencies, damage or defect to their immediate supervisor. Operation of the vehicle will create presumption an inspection was made and that no damage or defects were found, and therefore the employee is responsible for same.

- C. Members assigned to operate police vehicle shall be responsible for the cleanliness of such vehicles.
  - D. Employees shall wear safety seat belts at all times when operating or riding in a city owned vehicle/leased vehicle. Note: This rule shall not apply to law enforcement personnel when circumstances would render the wearing of a safety belt impractical.
  - E. Employees who are involved in an accident with a Department Vehicle shall immediately report the accident to their supervisor.
  - F. Employees who become involved in an accident while on duty (operating a Department vehicle or otherwise) shall make no statements as to responsibility and shall not advise other parties involved that the City will pay and damages resulting from said accident, even though they may be at fault. Any questions concerning liability shall be directed to the City Attorney. Any claims against the City must be filed in writing with the Finance Department.
- ⌘ 56 OFFICIAL NOTICES/DEPARTMENT BULLETIN BOARDS – Members shall not mark, alter or deface any posted notice of the Department. Posted notices shall not contain derogatory or profane statements directed to any individual or group of persons.
- ⌘ 57 ARREST IN PERSONAL SITUATIONS – Police officers shall not make arrests in their own situations or those of their families, except under grave circumstances that would justify them in using measures of self-defense.
- ⌘ 58 PRIVACY - No member shall duplicate, cause to be made, or allow to be made a copy of a key pertaining to the official business of the Charlottesville Police Department or the City of Charlottesville without authorization from proper supervisory authority. No employee shall enter the office, filing cabinets or computer file of another, except for official business or line/staff inspections.
- ⌘ 59 INSPECTIONS – Line and Staff Inspections of members’ appearance, uniform, equipment, or compliance with directives may be made at any time by a designated authority, except that formal inspections are pre-announced. Such inspections may include, but are not limited to, examination of police vehicles, lockers, desks, computer files, or other space on departmental premises used by any member. A reasonable effort shall be made to have the owner of lockers, desks, computer files or other private areas present or notified of the inspection.
- ⌘ 60 CONFLICT OF INTEREST – Members of the Department will not engage in any activity, which conflicts in any way with the objectives of the Department, damages the Department’s image, or compromises its law enforcement authority.
- ⌘ 61 DUTY TO INFORM – Employees shall communicate to their immediate supervisor any violation of the Rules and Regulations, the infraction of which would bring discredit to the Department. Employees will communicate promptly, before end of tour of duty, to a supervisor, any information regarding tips on crimes or criminal activity, or any other relevant law enforcement information, which may come into their possession. Officers shall report to a supervisor any contact with any City,

State or Federal Officials or their immediate families promptly or before end of tour of duty.

*(The Department does not expect its employees to inform regarding minor infractions. The rule does require employees to bring to the Department's attention, instances and behavior that are likely to bring the Department into disrepute.)*

⌘ 62 FULL DISCLOSURE – All Police employees shall cooperate with any official internal investigation. Therefore, it is the duty of all employees to answer questions of an official nature completely and candidly. Failure to disclose information pertinent to any internal investigation, when requested by a supervisor, either verbally or in writing, shall be considered a violation of Department policy.

⌘ 63 OFFICIAL RECORDS AND DEPARTMENTAL FILES

- A. Members shall not release any criminal history record information without complying with the rules and regulations set up by the Department of Criminal Justice Services of the Commonwealth of Virginia.
- B. A member of the Department shall not destroy or remove any official record or report from any file or take any official record from the office where it is kept except in the performance of their duties, in accordance with due process of law or with permission of the member in charge.
- C. Members shall not use official Department stationary for personal use.
- D. Members of the Department when filling out Departmental forms or other official documents or when signing any official document shall only use a ball point pen or ink cartridge pen that contain black or blue-black colored ink.

⌘ 64 CONVERSION OF EVIDENCE/PROPERTY

Members shall not under any circumstances withhold, destroy, remove from the scene, or convert to their own use, any physical evidence, monies, or other material found, seized, or confiscated in connection with an investigation of a crime or involved in any official police action. Members shall not convert to their own use any property, material or monies belonging to the Department.

⌘ 65 DUTY TO INTERVENE WHEN WITNESSING UNCONSTITUTIONAL OR OTHERWISE UNLAWFUL CONDUCT ON THE PART OF ANOTHER LAW ENFORCEMENT OFFICER:

Law enforcement officers have a constitutional duty to intervene when a citizen's constitutional rights are being violated by the actions of another law enforcement officer. This is especially important under circumstances in which an officer witnesses an excessive use of force against another. The failure to

intervene when having the ability to do so may subject the witnessing officer to criminal, civil, and administrative sanctions.

In addition to a duty to intervene, officers are required to immediately report their observations to a supervisor and prepare a written report outlining those observations.

Upon immediate response to the scene, the supervisor will begin an investigation into the alleged violation and take immediate personnel action, to include a suspension of police powers of the accused officer, if deemed appropriate. In all such circumstances, notification shall be made to the respective division commander and the Chief of Police for further direction.

Civilian personnel, who may not have the ability to intervene, are required to immediately call for a supervisor to respond to the scene at which time they will report their observations.

All employees are required to immediately request the assistance of emergency medical personnel when they have come upon a citizen who is in need of medical attention.

## ⌘ 66 OFF-DUTY POLICE ACTION

Taking police action while off duty can be a difficult situation for a law enforcement officer. More often than not, the officer may not have the necessary equipment to take police action. The absence of protective body armor, a radio, handcuffs, chemical irritant, and other less lethal or non-lethal tools may place the off-duty officer at greater risk and escalate force options. In addition, the presence of family members or other civilian personnel may limit the off-duty officer's options and place others at unnecessary risk of harm.

Unless circumstances require that an off-duty officer act to protect others from imminent risk of physical assault, serious bodily harm, or death, the off-duty officer shall contact the ECC and request the assistance of on-duty personnel. The off-duty officer shall advise the call taker of any and all information necessary for the responding officers to locate the suspect, potential victim, and the off-duty officer (location, physical descriptions, presence of weapons, and any other information responding officers could benefit from).

If circumstances require the off-duty officer to take immediate action pending the arrival of on-duty officers, the off-duty officer shall immediately identify himself to the first on-duty officer who arrives on the scene, cooperate with any and all direction provided, and submit to show of authority if ordered until such time as the situation is stabilized.

It is important to realize that responding on-duty personnel MAY NOT recognize you as an off-duty officer. Therefore, you must cooperate with any direction you are given.

## ⌘ 67 CHALLENGING OF LAW ENFORCEMENT AUTHORITY

“The rights of individuals to verbally oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state.” Houston v. Hill, 482 U.S. 451 (1987).

Officers are reminded that the United States Constitution, First Amendment, protects *inter alia* the freedom of speech. Such speech includes questioning and even challenging law enforcement authority. This does not mean that citizens have the right to obstruct a law enforcement officer from conducting their lawful duties, but that obstruction can never be solely based on the free expression of speech. Such obstruction typically requires an overt act that goes beyond mere words.

“There is widespread misunderstanding of police authority to arrest individuals who passively or verbally defy them. There is abundant evidence that police overuse disorderly conduct and similar statutes to arrest people who “disrespect” them or express disagreement with their actions. These abusive arrests cause direct and significant harm to those arrested and, more generally, undermine the appropriate balance between police authority and individual prerogative to question the exercise of that authority”.<sup>1</sup>

The arrests that fall within the category outlined above are considered “contempt of cop” arrests. Such arrests, and the behavior that supports and condones them, are not only hereby a violation of departmental policy, such behavior is inconsistent with our public duties and responsibilities, and contrary to law. Officers who engage in such behavior may be subject to liability and separation from employment.

In addition to “contempt of cop” arrests, there is the potential for yet another form of improper and unconstitutional behavior, the “cover” arrest.

A cover arrest helps to justify or otherwise explain an officer’s use of force or other exercise of authority where there may have been no legitimate justification for that exercise of authority. Like “contempt of cop” arrests, such behavior is inconsistent with policy, public expectation, and law.

## ⌘ 68 CODE OF SILENCE

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<sup>1</sup> Disorderly (mis) Conduct: The Problem with Contempt of Cop Arrest, by Christie Lopez, June 2010.

A code of silence refers to affirmative acts or omissions by an agency or its' membership which insulate and protect its employees from accountability and criticism.

Departmental personnel who knowingly and willfully take action with the intent to insulate and protect employees from accountability for unlawful and inappropriate actions will be subject to adverse personnel action, to include separation from employment.

The notion of a code of silence within the Charlottesville Police Department is inconsistent with policy, law, and the values of the policing profession. Condoning or otherwise participating in such conduct will result in separation from the department.

#### ⌘69 ABUSE OF AUTHORITY

Departmental personnel shall not use their official position or their lawful authority for personal gain or in any manner that is inconsistent with departmental policy or law.

Using one's official position or lawful authority to acquire goods or services, to access law enforcement records or criminal justice indices for personal use, or in a manner with the intent to threaten, intimidate, or harass others is strictly prohibited and could result in criminal, civil, and administrative sanctions.

#### ⌘ 70 MALFEASANCES, MISFEASANCE AND NONFEASANCE OF DUTY

Malfeasance is the performance by a public official of an act that is legally unjustified, harmful, or contrary to law, or especially wrongdoing of an act in violation of a public trust.

Misfeasance is the performance of a lawful act in an illegal or improper manner; specifically, the performance of an official duty in an improper or unlawful manner, or with an improper or corrupt motive.

Nonfeasance is the failure or omission to do something that should be done or especially something that one is under a duty or obligation to do.

Members of the department are forbidden from all forms of malfeasance, misfeasance and nonfeasance as all will detract from the public trust in the profession of policing and the government in general.