



**CITY OF CHARLOTTESVILLE**  
"A World Class City"

**Police Department**  
606 E. Market Street • Charlottesville, Virginia 22902  
[www.charlottesville.org/police](http://www.charlottesville.org/police)

April 26, 2019

Dear Ms. Burke,

This correspondence is in response to the CRB's questions submitted on April 8, 2019, as a follow-up to my presentation on March 12, 2019. For ease, my responses are in blue.

**Questions regarding the IA process:**

Who conducted the audit into your Internal Affairs Process?

The audit was conducted by a Captain assigned to the Administration Division and the Corporal assigned to the Accreditation Unit.

We appreciate efforts to own up to prior mistakes within the Department. In that vein, when will the results of that audit be made public?

The results were distributed to the CRB via email on Friday, March 8, 2019 2:47 PM. In addition, the results are posted on the Charlottesville Police Departments' website:  
<http://www.charlottesville.org/departments-and-services/departments-h-z/police-department/crime-statistics>

Did you seek community input regarding how the IA process could be improved (once you were made aware that the process was not going according to your written procedure and expectations)?

Community input was not sought to determine input as the process and procedures are best practices and standards.

If you sought community input, please let us know what the findings were from the community. Why was the CRB not invited to be involved in that process and/or the community engagement about the complaint process and IA?

The process was an internal audit to determine if CPD complied with its stated policies. To date, the community has not complained about the process, they have voiced their concerns regarding timeliness. However, I would encourage CRB members or the community to submit any concerns regarding the CPD in person, by phone, email or online at <http://www.charlottesville.org/departments-and-services/departments-h-z/police-department/quality-of-service>

What *systems* are in place to ensure that the prior problems with the IA process are no longer going to occur?

A compliance team was formed to support our Accreditation Unit.

You mentioned that there was a verbal understanding that you—as the Police Chief—would get what you asked for from your officers, but we want to see written documentation of the expectations you have of your IA team moving forward.

I did not mention a verbal understanding existed to elicit compliance from my personnel. I indicated, as the Chief of Police, it is expected officers given directives would comply with those directives. More specifically, our personnel operate under General Order 400.00(VII)(2) Authority of Orders and failure to obey directives subjects officers to discipline under those general orders.

What new information, data, or communications (if any) are going to be tracked and monitored with your improved process?

We will continue to track the date of the complaint, the nature of the complaint, the date the complaint opened, the date the complaint closed, the findings of the complaint, and the officer involved in the complaint.

With what frequency do you intend on providing the public with information about IA status and complaints?

Complaints will be continually updated on our website at <http://www.charlottesville.org/departments-and-services/departments-h-z/police-department/crime-statistics>

As part of the audit or as part of your general review of the IA process, did you gather information as to whether the IA Department was conducting its "early intervention" process appropriately? If so, we ask that you share that information with the CRB and the public

The Internal Affairs Unit was properly conducting the "Early Intervention" process.

You mentioned that you are making changes to the "Early Intervention System" in your General Orders to streamline it and make it more appropriate.

When can the public expect to see those changes in writing?

The Early Intervention System was not being streamlined as categorized in the above question. The classifications are being reviewed to be more inclusive and less narrowly focused.

Will the public's input be sought prior to making those changes?

No, public input will not be sought.

**Questions regarding General Order 517.01:**

Currently, GO 517.01 does not provide a specific timeline by which the receiving supervisor must provide the complainant with a copy of the Complaint Form (along with the phone number

for IA). In your opinion, what is an acceptable timeline for this communication and how will this timeline be documented and monitored?

Currently, there are no plans to change this provision.

It is not explicitly stated in the GO 517.01 that an IA investigation stops when a criminal investigation begins.

What is the current policy?

Criminal Investigations supersede Administrative Investigations.

Does all investigation into possible criminal-conduct get referred outside of IA?

All Criminal Investigations are moved outside of Internal Affairs.

When does the case return to IA?

Criminal cases are returned to IA once the Commonwealth Attorneys' Office indicates in writing that the case will not remain under its jurisdiction.

Similarly, what is the process by which IA refers cases to the Commonwealth Attorney's Office and communicates with the CWA when there may be a criminal basis for prosecution of an officer?

All cases in which criminality is alleged or suspected are reviewed by the Commonwealth Attorney's Office.

GO 517.01 states that the department must maintain a log of all complaints.

What format is this log kept in?

Excel

Is it a machine-readable document?

The document format will continued to be maintained in the form of an Excel spreadsheet.

Who maintains it?

Internal Affairs Office

Are complainant communications part of this log?

Communications include dates and times correspondences are sent to the complainant.

How is the Department keeping track of officers who receive numerous complaints against them (whether the complaint was sustained or not)?

Complaint logs include the officers' names for tracking.

We also were not provided with information about if IA has had to refer cases to the Chief when an officer has numerous complaints filed against him (as is stated in the GO), and whether action has had to be taken, including corrective interviews or other possible actions. (Note: we are aware that specific disciplinary action will not be provided. But we don't even know if the IA department and CPD in general is implementing their own Early Intervention tactics.)  
Can that information be provided to us and the public? If so, when?

We will not be providing any information regarding these cases. However, per policies there are opportunities to intervene if an officer meets a threshold to include training, counseling, reprimands, remediation and discipline.

Furthermore, the GO states that "justified and/or unfounded complaints will be counted when reviewing an employee's records to determine if the established criteria have been met."  
What system is being used to track these "unfounded" complaints against officers?

See stated responses regarding tracking

Do unfounded complaints stay in the officer's personnel file? If not, how are they aggregated when determining if an officer is engaging in a pattern of behavior, even if he is not formally disciplined?

See stated responses regarding tracking

**Questions regarding IA and Complaint Data that was recently provided:**

When collateral violations are found in an IA investigation, is the complainant notified of such findings?

Yes

Will the CPD provide data regarding Investigative Detentions and IA complaints in a machine-readable medium similar to the way the arrest data is now provided via the Open Data portal? If not, why not?

No, Investigative Detentions are manually mined to extract data, compared against audio, video and triangulated against other qualitative mediums.

There are obvious errors in the data. For example, one complaint supposedly was resolved prior to the date the complaint itself was filed, another was supposedly resolved in May 2019 (a date that is obviously in the future), while others are still pending final resolution but have a "closed date."

Again, regarding possible errors in data or in tracking data:

Sarah Burke sent a FOIA to CPD for information about the number of civilian complaints filed in 2018. She was told in April 2018 that there was **one** complaint filed to date. This document indicates that, by that date, **five** complaints had actually been filed.

What accounts for the difference in these numbers?

And how, specifically, is the process ensuring that complaints are being tracked properly?

As with any system, which relies on human input, errors can occur. As for the difference in numbers, I arrived in June of 2018, after Sarah Burke's April 10, 2018 request; therefore, I will not speculate as to the differences.

The total number of 2017 complaints in your report also differs from the number Sarah was previously provided with through FOIA (On 4/10/18, Sarah was told that 19 complaints were taken in by the CPD and 5 were investigated by IA in 2017). Why are these numbers different? Even if you (1) remove the "internal investigations", which were not part of my 2018 FOIA request; remove Case 2017-02 (due to the fact that it was technically received in 2016); and remove the two cases that were improperly classification as a complaint, there are still **23** remaining IA investigations in this list.

How is it possible that the number of IA investigations that stemmed from civilian complaints (23) **outnumbers** the total number of complaints Sarah was told were filed in that year (17)?

[See previous answer](#)

In 2018, **eight** of your IA cases are listed as "Internal Investigation." **Five** are listed as such in 2017. Please explain what this term means and what areas of investigation it covers?<sup>1</sup>

[Internal Investigations are initiated within the department.](#)

*Note: we decided not to get into questions of delays in IA investigations from 2017 and 2018 due to the fact that the City has already taken ownership of those failures. Thank you for taking that ownership.*

#### **Use of Force Data:**

The 2018 report indicates that the CPD "deployed force on twenty (20) occasions." But it doesn't seem like all incidents are included. For example, why isn't the following instance of use of force not included?

- <https://wtvr.com/2018/08/12/charlottesvilleofficerattackedduringprotest/>  
(This would clearly qualify as a "hands on" and "take down," right?)

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<sup>1</sup> In February 2019, Sarah Burke emailed the Chief and City, asking for "the total number of internal affairs investigations in 2018. Specifically, I was asking for the number of investigations that were initiated by someone other than a civilian (including internally-made allegations within the CPD). Again, I'm not asking for specific details regarding these internal investigations or their outcome." Chief Brackney replied, "IA addresses external complaints against the officers. If there is an internal conflict, it is rerouted to HR or to a higher ranking supervisor." We also note that your General Orders specifically state that the "above procedure (regarding complaints and IA process) may also be used when department employees desire to enter a complaint against any other employee governed by this order."

I am unable to retrieve this video.

Sometimes, the Use of Force report includes factual assertions.

Where do these factual assertions come from?

Is the officer who used force taken at his/her word?

Are these facts products of a factfinding process (including, but not limited to, IA investigations)?

All Use of Force Cases are reviewed through the Chain of Command per policy. The summaries offered were to provide context. The facts are derived from incident reports, witness statements, BWC footage, officer interviews and other evidentiary sources.

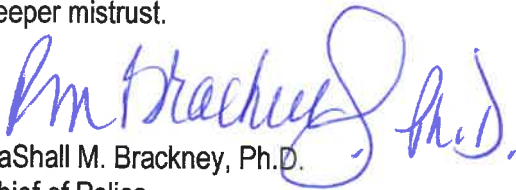
With respect to factual assertions, sometimes facts are conclusive and fairly non-descriptive (e.g., “June 18, 2018: Officer attempted to take a suspect into custody for domestic violence. During the arrest, the suspect resisted and was taken to the ground”), but sometimes facts are more descriptive (“During the detention of an individual attempting to elope [sic] from a treatment program, the officer took the suspect who attempted to stab him with a pen and bite him to the ground”).

Why are we sometimes given more facts and sometimes fewer?

How are decisions made about what facts ought to be included—and at what level of granularity?

The summaries offered were to provide context. The facts are derived from incident reports, witness statements, BWC footage, officer interviews and other evidentiary sources.

In conclusion, the Charlottesville Police Department is committed to engaging the community and the CRB as you complete your work. And, we are in agreement that misrepresentation by any party will lead to deeper mistrust.



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