



# Virginia Department of Corrections

## Authority, Inspection, and Auditing

### Operating Procedure 030.4

#### *Special Investigations Unit*

#### **Authority:**

Directive 030, *Audits and Investigations*

**Effective Date: November 1, 2021**

**Amended:** 3/1/22, 11/1/22, 2/1/23

#### **Supersedes:**

Operating Procedure 030.4, October 1, 2018

**Access:**  Restricted  Public  Inmate

#### **ACA/PREA Standards:**

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## REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

*The content owner reviewed this operating procedure in October 2022 and necessary changes have been made.*

*The content owner reviewed this operating procedure in October 2023 and determined that no changes are needed.*

## COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

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## DEFINITIONS

**Administrative Violation** - Any violation of the Department of Corrections Standards of Conduct or established directives or operating procedures

**Community Corrections Facility** - A residential facility operated by the Department of Corrections to provide Community Corrections Alternative Programs (CCAP)

**Contraband** - Any unauthorized item prohibited or excluded by law, rules, regulations, conditions, instructions, or any authorized item in excess of approved amounts

**Criminal Offense** - Any violation of a criminal statute of the Code of Virginia or the United States Code

**Custodial Interrogation** - Any interview conducted by a Special Agent in which the circumstances of the interview would lead a reasonable person to consider themselves to be in custody and during which the Special Agent takes actions or asks questions that are reasonably likely to elicit responses from the individual that could incriminate them.

**DOC Property** - Any land, state correctional facility, building, room, furnishings, machines, vehicles, apparatus, or equipment purchased or leased by the DOC and occupied for the use to which it is lawfully dedicated

**Electronic or Wire Communication** - Any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wireless, wire, cable, or other like connection including the use of such connection in a switching station furnished or operated by any person engaged in providing or operating such facilities for the transmission of communications and includes electronic storage of such communication.

**Facility** - Any institution or Community Corrections facility

**Gang/ Security Threat Group** - A group of individuals who: (a) possess common characteristics that distinguish them from other persons or groups of persons and who, as an entity, pose a threat to the safety and security of staff, the facility, inmates or the community; (b) have a common distinctive goal, symbolism or philosophy; (c) possess identifiable skills or resources, or engage in unauthorized/illegal activities. Criminal street gangs, terrorists (domestic & international), radical extremists, hate groups, cults, and neighborhood cliques are examples of a Gang/STG.

**Gang Member or Associate** - A person whose self-proclamation, activity, behavior, or status as a recognized gang leader, member, or associate, or whose activity or behavior indicates gang involvement.

**Illegal Drug(s)** - Any drug or substance found in Code of Virginia §54.1-3401, *Definitions* and Schedules I through VI of §54.1-3446 through §54.1-3456, or Section 202 of the Controlled Substances Act (21 U.S.C. 812 *Schedules of controlled substances*); this also includes illegal or un-prescribed use of controlled substances to include prescription drugs, marijuana, cannabis oil, and related products.

**Inmate and Probationer/Parolee** - A person who is serving a state responsible sentence or under community supervision with the Virginia Department of Corrections or other release authority.

**Incident** - An actual or threatened event or occurrence outside the ordinary routine that involves:

- The life, health and safety of employees, volunteers, guests, or inmates/probationers/parolees
- Damage to state property
- Disruption or threats to security, good order, and discipline of a facility or organizational unit.

**Institution** - A prison facility operated by the Department of Corrections - includes major institutions, field units, and work centers

**Institutional Investigator/Intelligence Officer** - The Corrections Officer (of any rank) or other personnel assigned by an Organizational Unit Head as the primary party responsible to conduct administrative inquiries and gather facts and information regarding matters requiring managerial review

**Intercept** - Any aural or other means of acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device

- Consensual Interceptions - The interception of a wire or oral communication by a person who is a party to the communication or is one of the parties who has given prior consent to the interception



- **Nonconsensual Interception** - The interception of any wire or oral communication, where none of the parties to the communication has given prior approval or consent to such interception

**Investigation** - An official inquiry and assessment of facts and circumstances pertaining to a possible violation of law, regulation, policy, or rule. Investigation includes the gathering and protection of facts and evidence and report of findings.

**Natural Death** - Death of an inmate or CCAP probationer/parolee occurring from illness, disease or old age rather than by accident, or by an act of violence

**Oral Communication** - Any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectations but does not include any electronic communication

**Organizational Unit** - A DOC unit, such as a correctional facility, regional office, probation and parole office, Virginia Correctional Enterprises, Academy for Staff Development, Corrections Construction Unit, Agribusiness Unit, and individual headquarters unit (i.e. Human Resources, Offender Management, Internal Audit)

**Organizational Unit Head** - The person occupying the highest position in a DOC organizational unit

**Physical Evidence Recovery Kit (PERK)** - An examination administered by specially trained professional medical practitioners to collect forensic evidence for criminal investigations of sexual assaults and other sexual violations; if possible, PERK examinations should be administered within 120 hours of an alleged incident of sexual intercourse and/ or sodomy.

**Point of Contact Agent** - The Special Agent assigned by the Chief of Investigations as a liaison representative with a specified organizational unit

**Serious Injury** - An injury, including self-injury that requires urgent and immediate medical treatment and restricts a person's usual activity. Generally, a serious injury involves at least one of the following criteria:

- Broken/Fractured Bones
- 9+ Stitches
- 3rd degree burns (2nd degree is up to discretion)
- Concussion
- Extended stay in outside medical (more than 24 hours)
- Restriction to usual activity (i.e., Officer cannot work due to the injury)

Note: This is not an exhaustive list of all possible injuries that may be considered serious.

**Special Agent** - An employee of the Department of Corrections, designated by the Director, with internal investigation authority to have the same power as a sheriff or law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the DOC. Such employees shall be subject to minimum training standards established by the Department of Criminal Justice Services for Law Enforcement Officers.

**Substantiated Allegation** - An allegation that was investigated and determined to have occurred (§115.5)

**Terrorist Act** - The use of force or violence against persons or property in violation of the criminal laws of the United States for purposes of intimidation, coercion, or ransom; this includes acts that provide support to any individual, organization, or government to conducting terrorist activity.

**Unfounded Allegation** - An allegation that was investigated and determined not to have occurred (§115.5)

**Unnatural Death** - Homicidal, accidental, or suicidal death of an inmate or CCAP probationer/parolee

**Unsubstantiated Allegation** - An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred (§115.5)



## PURPOSE

This operating procedure establishes the authority, responsibilities and duties of the Department of Corrections (DOC) Special Investigations Unit (SIU). Additionally, it outlines DOC requirements with regard to reporting violations, protecting evidence, and assisting Special Agents assigned to conduct official investigations.

## PROCEDURE

- I. Organization and Administration
  - A. The Special Investigations Unit (SIU) is headed by a Chief of Investigations who reports to the Department of Corrections (DOC) Director.
  - B. An Assistant Chief who reports to the Chief of Investigations is assigned to manage the Special Agents operating in each DOC Region.
  - C. The SIU must be staffed and directed by persons qualified and competent to conduct lawful criminal and administrative investigations.
  - D. The normal operating office business hours for the SIU are Monday through Friday, 8:00 am to 4:30 pm.
  - E. At all other times, a Special Agents will be assigned as “On Call” Duty Agents. The schedule of assigned Duty Agents, with telephone numbers, is sent via electronic message to the Operations and Logistics Unit (OLU). Anyone needing to contact the Duty Agent may call the OLU. The Duty Agent List can also be located by accessing the Unit’s Section on the Department’s Intranet.
  - F. Assignment of Special Agents to other DOC units:
    1. In accordance with COV §53.1-10, *Powers and Duties of Director* the Director has the authority to designate employees to have the powers of a Special Agent and to assign them as deemed appropriate, e.g., Drug Task Force.
    2. The assigned unit must provide all necessary supervision, oversight, and duty assignments.
    3. These Special Agents must have the same qualifications, authority, and credentials as those assigned to SIU.
    4. Special Agents assigned to other units must complete the same training as required for SIU Agents.
    5. This operating procedure and other SIU procedures governing investigative processes and reporting are applicable except that the Special Agents are responsible to their assigned chain of command.
- II. Investigative Authority and Responsibility
  - A. It is the role and responsibility of the Chief of Investigations to review allegations of criminal activities and serious misconduct and determine if an investigation is warranted and to report incidents and allegations of criminal acts, fraud, waste, abuse, or corruption within the DOC to the State Inspector General in accordance with COV §2.2-310, *Cooperation of state agencies and officers*.
  - B. In accordance with COV §53.1-10, the Director has the authority to designate SIU Special Agents with the same power as a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the DOC. Special Agents are authorized to conduct investigations into criminal activity, procedural and administrative violations, and employee misconduct affecting the operations of the DOC.
  - C. All Special Agents are required to be sworn police officers in the state of Virginia with full police powers and must maintain Department of Criminal Justice Services (DCJS) law enforcement certification.
  - D. The SIU is authorized to:
    1. Conduct investigations of all felony and misdemeanor violations of law committed in and against the DOC, and serious allegations of staff/employee misconduct and administrative violations. The



investigations include allegations involving economic crime and drug/contraband matters.

2. Conduct administrative and/or criminal investigations into allegations of sexual abuse or sexual harassment in DOC facilities in accordance with this operating procedure. (§115.22[d], §115.222[d])
3. Serve as the DOC resource for polygraph examinations, forensics, economic crime investigations, and digital photography.

### III. Special Investigations Unit - Investigations Policy Manual

- A. The SIU's Investigations Policy Manual (IPM) serves as the primary guide for the conduct of investigations, SIU programs, and other affairs.
  1. The Chief of Investigations develops and proposed additions, amendments, and modifications for the IPM to provide direction and establish requirements in furtherance of the efficient and effective operations and procedures of the SIU.
  2. The Chief of Investigations will maintain the IPM, review annually, and update by July 1, or as required, incorporating changes to state and federal laws, and court decisions in consultation with the Office of the Attorney General.
- B. The IPM is developed with consideration from standards published by the [\*Commission on Accreditation for Law Enforcement Agencies, Inc., \(CALEA®\)\*](#) and the *Virginia Law Enforcement Professional Standards Commission (VLEPSC)* - under the auspices of DCJS.
- C. The Chief of Investigations will issue SIU Memoranda to effect immediate additions or changes to the IPM and to make staff aware of particular circumstances or requirements that do not constitute a change to the IPM.
  1. SIU Memoranda will be consecutively numbered within each calendar year. The numbering format will be: Year (four digit) - Date (four digit) - Memo Number (four digit, resets each year). For example: SIU-2021-0001.
  2. SIU Memoranda will self-cancel one year from the date of issuance, but may be reissued if needed.
  3. SIU Memoranda must be consistent with any existing law, department operating procedure, directive, or Executive Memoranda unless intending to change prior direction.

### IV. Incident Reporting and Determining Need for Investigations

- A. The Director, Chief of Investigations, or designee, will review and assess the nature of allegations received to determine if an investigation is warranted. Attachment 1, *The Investigations Matrix* provides general guidance for determining who should investigate specific types of incidents.
  1. Special Agents are authorized to take appropriate, immediate action relative as required by law.
  2. Special Agents will review allegations with supervisors before a final determination is made that an investigation is not warranted.
- B. The Chief of Investigations for the SIU or designee may determine that an investigation should be conducted based on allegations that may impact DOC operations, safety, security, and any other factors concerning criminal or serious administrative matters.
- C. A request for investigation may be made by any individual or appropriate organizational unit authority directly to the Chief, Assistant Chief, or Special Agent assigned to the SIU. While the initial contact may be telephonic, if requested, the reporting party will provide a written request describing the related facts and circumstances as known at the time of the request.
- D. Organizational Unit Heads, or designee, may also contact the Special Agent assigned as the Point of Contact (POC) Agent for the respective organizational unit to report incidents. The POC Agent will notify the SIU "On Call" Duty Agent as needed.



- E. Employees who observe or suspect violations of laws or regulations, Operating Procedure 135.1, *Standards of Conduct*, or other established policies, procedures, or rules are required to report their observations or suspicions directly to their supervisor/manager, Organization Unit Head, or SIU.
1. Reports from employees regarding violations of DOC standards of conduct, policy violations, or other wrongdoing must be handled in confidence whenever possible and in adherence to applicable laws and regulations.
  2. Management should not attempt to identify the source of information. Any retaliation is subject to disciplinary action.
  3. Willful failure to report, when an employee knows or reasonably should have known the activities were illegal, is cause for disciplinary action.
- F. The Organizational Unit Head, or designee, will promptly notify the SIU of any allegation that involves a suspected violation of law, regulation, or serious violation of policy.
1. If an allegation involves accounting for funds or property of the Commonwealth, the Director or Acting Director may assign the Internal Audit Unit to assist in the investigation.
  2. When allegations of misappropriation or larcenies of State funds or property are received by the SIU, the Chief of Investigations must submit a written report to the Director for review and distribution to the Auditor of Public Accounts, the Superintendent of State Police, and the State Inspector General's Office.
- G. Notifications or reports of incidents made to the SIU do not relieve individuals or organizational units from reporting requirements dictated by the chain of command or other directives and procedures.
- H. Serious or unusual incidents will be reported to the OLU Operations Center in accordance with Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*. In accordance with Operating Procedure 435.1, *Special Operations Unit*, the OLU Operations Center will notify the SIU as appropriate.
- I. The SIU has authority to conduct investigations into all incidents noted below.
1. Escape or attempted escape from the custody of the DOC.
  2. Unnatural death (homicide, accident, suicide of an inmate or CCAP probationer/parolee), death by unknown cause.
  3. Hostage situations.
  4. Discharge of firearm or lethal projectile ammunition from a weapon by employees in the line of duty or by a person on DOC property. The discharge of firearms in approved activities and training programs is exempt.
  5. Serious injury to any person on DOC property, including self-inflicted injury.
  6. Disturbances or incidents that cause extensive damage to DOC organizational units or that diminish the ability to maintain adequate security.
  7. Instances of possession of illegal firearms or explosives COV §18.2-474.1, *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons*.
  8. Incidents of physical abuse, neglect, or assaults by staff on inmates/probationers/parolees, supported by credible or corroborating evidence.
  9. Allegations of "fraternization" between staff and inmates/probationers/parolees; see Operating Procedure 135.2, *Rules of Conduct Governing Employees Relationships with Offenders*.
  10. Allegations of sexual abuse or sexual harassment.
  11. Possession, use or distribution of illegal drugs or controlled substances. Illegal possession, use or distribution of marijuana and other illegal drugs or controlled substances.
  12. Fraud or misappropriation of funds, property, or assets of the Commonwealth.

13. Lost or stolen security keys or state property.
  14. Allegation of abuse or misuse of computers or information technology equipment and systems as defined in Operating Procedure 310.2, *Information Technology Security*.
  15. Extracting data from cellphones recovered at DOC facilities.
  16. Other incidents as requested by the Director, CCO, Deputy Directors, or Security and Correctional Enforcement Director.
- J. The Organizational Unit Head or the individual in charge at the scene of a serious incident must take appropriate action necessary to protect physical evidence and crime scenes until released to the responding Special Agent.
1. All staff in the immediate area at the time of a serious incident will be identified and directed to record their observations in an *Internal Incident Report*.
  2. All inmates/probationers/parolees in the area will be identified, separated, and secured.
  3. Upon learning of an allegation that an inmate or CCAP probationer/parolee was sexually abused, the first security staff member to respond to the report will be required to: (§115.64[a], §115.264[a])
    - a. Separate the alleged victim and abuser
    - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence
    - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
    - d. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
  4. . The SIU Agent is responsible for the management of evidence at the crime scene.
  5. The Organizational Unit Head must ensure that all video recordings related to incidents be stored in the facility's designated "video storage folder" in accordance with Operating Procedure 030.1, *Evidence Collection and Preservation*, and Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*.
  6. Video recordings of incidents relevant to SIU investigations or incidents that warrant SIU inquiry will be properly secured until released to a Special Agent. Destruction or disposal of video recordings relevant to SIU investigations will only be authorized upon approval of the respective Assistant Chief, Chief of Investigations, or the Director.
- K. Frequently, DOC organizational units receive requests for assistance from outside federal, state and local law enforcement agencies.
1. The SIU or OLU must be promptly notified for guidance in responding to outside law enforcement agency requests.
  2. Telephonic or verbal notifications must be documented by the reporting party via e-mail message to the Chief of Investigations Assistant Chief, POC Agent, or OLU.
  3. The SIU will maintain a retrievable record of e-mail notifications received.
- L. When an investigation involving the following activities is initiated, it must be reported by the Chief of Investigations to the Director and Director's staff, as appropriate. (Follow-ups will be provided as necessary or when requested.)
1. Major security problems.



2. Audits of alleged fraud or significant management problems.
3. Investigations of administrative staff at any management level within the DOC.
4. Inmates/probationer/parolees involved in potentially significant security breaches or substantial criminal activity.
5. Any other activity, which in the opinion of the Chief of SIU, is of sufficient magnitude to warrant referral.

V. General Investigation Procedures and Responsibilities

- A. Upon receiving an approved investigation assignment, investigators will obtain a case number as soon as practical, but within two business days.
- B. Approved investigations will be assigned, conducted, and pursued to a reasonable conclusion, consistent with applicable law and accepted professional criminal justice standards. Unit supervisors will conduct 30 day reviews of all assigned active investigations and document reasons for delays in case completion. Any investigation exceeding 60 days will be reviewed by the Chief of SIU, and every 30 days thereafter, until the investigation is closed.
- C. Special Agents will protect the legal rights of employees, inmates/probationers/parolees, and others. Special Agents will demonstrate proper respect during the conduct of investigations.
- D. Special Agents, upon case assignment and arrival on the scene of an incident, assume responsibility and lead the investigation. The Organizational Unit Head and other employees will provide assistance as necessary and reasonably required by the Special Agent.
  1. During instances of ongoing disturbances or hostage situations, the Organizational Unit Head will retain full authority and responsibility. Routinely, the SIU will not respond immediately to these events. Investigation by the SIU will not commence until the Organizational Unit Head has determined that security has been restored to the facility.
  2. Under direction of the Director, the SIU will cooperate with special committees or task force groups ordered by the Director to conduct review, assessment, or evaluation of disturbance, escape, and other serious incidents.
  3. During the investigative process, Special Agents must ensure employee constitutional rights are protected.
    - a. If an investigation reveals an allegation or possible evidence of criminal wrongdoing, individuals must be advised of their constitutional “Miranda” rights at the commencement of custodial interviews, which can be documented on a *Statement of “Miranda” Rights* 030\_F7.
    - b. The subject may waive these rights and willingly make a statement if he or she chooses.
    - c. These rights include:
      - i. You have the right to remain silent and refuse to answer questions
      - ii. Anything you do or say can, and will be used against you in a Court of Law
      - iii. You have the right to talk to a lawyer and have them present while you are being questioned
      - iv. If you cannot afford an lawyer, one will be appointed for you before any questioning if you wish and
      - v. You can decide at any time to exercise these rights, and not answer any questions, or make any statements
- E. Employees interviewed by the SIU may be expected to sign a *Confidentiality Agreement* 030\_F9 provided by the Special Agent. The *Confidentiality Agreement* requires involved persons to protect confidential and sensitive information and not disclose facts that might compromise the collection of evidence while the investigation is ongoing, and until after it has been completed.
- F. It is the responsibility of the Special Agent conducting the investigation to coordinate with the local office



of the Commonwealth's Attorney based on the nature of the criminal offense under investigation. The Special Agent will actively seek guidance from the Assistant Chief and will promptly make all required notifications. Investigations by SIU Agents will include criminal offenses that:

- Occur on DOC property or within DOC premises.
  - Are committed by an inmate/probationer/parolee, employee, contractor, volunteer, visitor, official visitor, program visitor, intern/extern, or an individual on DOC property without permission.
  - Are authorized under the authority provided in accordance with §53.1-10 (11).
1. Special Agents will regularly confer with the Assistant Chief and the local Commonwealth's Attorney regarding legal guidance throughout the investigation.
  2. The Assistant Chief will authorize release of completed *Reports of Investigation* related to criminal investigations to the Commonwealth's Attorney's Office. Reports sent to Commonwealth's Attorney will only cover criminal allegations.
  3. Administrative concerns discovered by the Special Agent during the criminal investigation will be reported to the Assistant Chief or Chief of Investigations who will inform DOC Management.
  4. Investigations declined for prosecution or further review by the Commonwealth's Attorney may be continued and completed by Special Agents as "administrative investigations" utilizing DOC administrative policies and procedures following consultation with the Assistant Chief.
- G. Under direction of the Chief of Investigations or DOC Director, a separate administrative investigation may commence prior to the completion of the criminal investigation. When this occurs, different agents will be assigned to each investigation. Compelled statements obtained for the administrative investigation will not be shared with the agents conducting the criminal investigation.
1. Employees are expected to cooperate fully during the course of administrative investigations and to respond with truthful and complete answers to all proper questions of official interest and provide Special Agents with all information or evidence that may pertain to the specific matter under investigation.
  2. During employee interviews in administrative investigations, e.g. accusations of violations of DOC procedure, Special Agents may utilize the *Statement of Intent* 030\_F8 which advises employees of the requirement to answer questions relating to the performance of official duty, that interview statements or information provided cannot be used against the employee in a Court of Law involving a criminal prosecution, but may be used in disciplinary proceedings, and that failure to answer questions truthfully and fully may subject an employee to administrative action.
  3. During administrative investigations, employee refusal to answer all official questions truthfully and provide complete information may constitute grounds for disciplinary action.
  4. Personal counsel, lawyers, or others acting on behalf of a subject of an investigation, an employee, or a witness, are not permitted to be present during SIU interviews in administrative investigations.
  5. Investigations focusing on administrative non-criminal matters that could lead to a Corrections Officer being issued a *Written Notice* with transfer, suspension without pay, demotion, or termination will be conducted in accordance with COV §9.1-508 et seq., *Correctional Officer Procedural Guarantee Act* and Operating Procedure 135.1, *Standards of Conduct*. The *Correctional Officer Procedural Guarantee Act* process is detailed in Operating Procedure 145.4, *Employee Grievances*.
  6. Prior to conducting a criminal interview with any employee the Special Agent will be inform the employee of:
    - a. The name and job title of the investigator
    - b. The name and job title of any other individual to be present during the questioning
    - c. The nature of the investigation

- H. SIU criminal offense and administrative policy violation investigations require Special Agents to:
1. Identify subjects and witnesses, conduct interviews, collect and process evidence, and submit reports
  2. Within appropriate adherence to SIU Investigations Policy Manual (IPM), keep the Organizational Unit Head apprised of the progress of investigation.
  3. Upon completion of case related investigation procedures, Special Agents will prepare and submit a proper *Report of Investigation* (ROI) and attach necessary interview statements and other relevant documents. The ROI must include reference to the specific section of criminal code and/or administrative procedure applicable to the subject investigation.
  4. Investigations based on *State Employee Fraud Waste and Abuse Hotline* complaints will avoid reference in written case reports that investigation was initiated as a result of a “Hotline” referral.
    - a. The ROI will identify the Hotline complaint as an “anonymous complaint”.
    - b. The “Hotline” complaint number will not be notated in the written report or on any of the attachments to the report.
    - c. The copy of the “Hotline” referral received at the SIU will be maintained in the SIU case file and labeled “Confidential”.
  5. The SIU maintains a Complaint File repository and database system to record and manage receipt and handling of complaints regarding inmate/probationer/parolee care, treatment, and related matters.
    - a. Complaints warranting formal investigation will be referred to the respective Assistant Chief for assignment.
    - b. The Complaint File database reference number will be reflected on all official reports submitted regarding the respective complaint.
    - c. The original letter or written complaint will be included in the investigation case file with the reference number clearly posted.
- I. Special Agents will confer with the respective Assistant Chief (or Chief of Investigations) regarding the relevant facts of probable cause prior to obtaining either an arrest warrant or search warrant. Prior to executing warrants at locations beyond or outside DOC facilities, Special Agents must submit a written operational plan for review and approval by the Assistant Chief and the Chief of Investigations.
- J. Special Agents providing operational assistance to local, state, or federal law enforcement officials are required to submit an operational plan for proposed tactical field operations, including search warrants and arrest warrants, for review and approval by the respective Assistant Chief and the Chief of Investigations.
- K. In cases where there is potential for felony conviction of a current or former VADOC employee in relation to their DOC job responsibilities, the SIU will monitor the outcome of trials from arrest/indictment through conviction. In accordance with §51.1-124.13, *Loss of benefits; certain felony convictions*, when a current or former employee is convicted of a felony for misconduct associated with the performance of DOC duties, a forfeiture of all VRS-related benefits will occur.
1. The SIU and Drug Task Force (“DTF”) Agents will notify the SIU Analysts of all current or former employees arrested or indicted for felonies associated with the performance of DOC job duties.
  2. SIU Analysts will track all prosecutions of this nature, and the SIU and DTF Agents will notify the SIU Analysts as cases are resolved in court.
  3. Upon discovery of a felony conviction meeting the criteria of this section, the SIU Chief of Investigations will notify the Human Resources Director to initiate the benefits forfeiture process, in accordance with Virginia Code Section 51.1-124.13.
  4. Unit Heads are also responsible for notifying the SIU Chief of Investigations and Human Resources Director when a current or former VADOC employee is convicted of a felony in relation to their DOC

job responsibilities.

#### VI. Interception of Wire or Verbal Electronic Voice Communications and Video Monitoring and Recording

- A. Special Agents are authorized to record conversations by wire, verbal, or video as part of an investigation without the knowledge of the other person or persons as long as the Special Agent is one of the parties to the conversation.
- B. Interception of wire or verbal communications are required to be in accordance with this operating procedure and are further governed by the Code of Virginia and the Constitution of the United States and may require a search warrant.
  - 1. Approval of the Director or Acting Director is required for all consensual and non-consensual wire or voice intercepts.
  - 2. All investigative requests for nonconsensual wire or oral interceptions or monitoring will be submitted via the SIU Chief of Investigations to the Director on *Request for Authorization of Interception of Voice Communication 030\_F10* for review and approval or disapproval.
  - 3. Request(s) for voice and wire intercepts will be submitted directly to the Chief of Investigations, who will review and forward the request(s) to the Director with recommendation(s).
- C. Covert Video Monitoring or Recording
  - 1. Requests for temporary installations of covert or hidden video equipment or cameras must be made in writing through the chain of command to the appropriate Executive Staff Member and then forwarded to the Chief of Investigations. Upon review, the Chief of Investigations will forward requests, with recommendations, to the Director for review, approval and authorization.
  - 2. Intercom systems, “Rapid Eye”, and other DOC approved security audio/video monitor equipment placed in open view, or publicly posted or announced, are not considered “covert” and do not fall under this procedure requirement.
  - 3. Covert or hidden video surveillance and recording equipment or photography techniques can serve an important evidence gathering function for investigations formally approved and conducted by the SIU. In such cases, written requests must be submitted directly to the Chief of Investigations, who will review and forward the request(s), with recommendation(s), to the Director for approval and authorization.

#### VII. Prison Rape Elimination Act (PREA) Investigations

- A. The Organizational Unit Head will ensure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. (§115.22[a], §115.222[a])
- B. When the Organizational Unit Head receives notification from another facility that an inmate or CCAP probationer/parolee was sexually abused while confined at that facility, they will ensure that the allegation is investigated in accordance with the PREA Standards (§115.63[d], §115.263[d])
- C. All allegations of sexual abuse and sexual harassment, including third-party and anonymous reports must be immediately reported to the facility designated investigator who will conduct an initial investigation and will immediately notify the PREA Analyst of the allegation. (§115.61[e], §115.261[e])
- D. Unless the facility investigator quickly and definitively determines that the allegation is unfounded, allegations of sexual abuse or sexual harassment will be referred for investigation to the SIU which has the legal authority to conduct criminal investigations. (§115.22[b], §115.222[b])
- E. SIU investigators will receive special training in sexual abuse investigations before conducting PREA investigations. (§115.71[b], §115.271[b])
  - 1. In addition to the general PREA training provided to all employees, investigators will receive specialized training in conducting sexual abuse investigations in confinement settings. Specialized



- training will include: (§115.34[a], §115.234[a], §115.34[b], §115.234[b])
- a. Techniques for interviewing sexual abuse victims.
  - b. Proper use of Miranda and Garrity warnings.
  - c. Sexual abuse evidence collection in confinement settings.
  - d. Criteria and evidence required to substantiate a case for administrative action or prosecution referral.
2. The PREA Compliance Manager will maintain documentation that the required specialized training in conducting sexual abuse investigations has been completed by SIU investigators. (§115.34[c], §115.234[c])
- F. All investigations into allegations of sexual abuse and sexual harassment will be done promptly, thoroughly, and objectively for all allegations, including third party and anonymous reports. (§115.71[a], §115.271[a])
- G. Evidence Protocol and Forensic Medical Examinations
1. SIU has an established uniform evidence protocol which maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. (§115.21[a], §115.221[a])
  2. The established protocol is developmentally appropriate for youth and is based on or similar to other comprehensive and authoritative protocols developed after 2011. (115.21[b], §115.221[b])
  3. If requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member will accompany and support the victim through the forensic medical examination process and investigatory interview. (§115.21[e], §115.221[e])
  4. With the victim's consent, forensic evidence will be collected by specially trained professional medical practitioners using a kit approved by the appropriate authority (a Physical Evidence Recovery Kit (PERK) kit is recommended). Although it is recommended that a PERK kit is collected within 120 hours, it should be used beyond that time whenever there is a possibility of evidence remaining.
- H. Investigators will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; will interview alleged victims, suspected perpetrators, and witnesses; and will review prior complaints and reports of sexual abuse involving the suspected perpetrator. (§115.71[c], §115.271[c])
- I. When the quality of evidence appears to support criminal prosecution, the agency will conduct compelled interviews only after consulting with Commonwealth's Attorneys as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. (§115.71[d], §115.271[d])
- J. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as an inmate/probationer/parole or staff. No agency will require an inmate/probationer/parole who alleges sexual abuse to submit to a polygraph examination or other truth-telling devices as a condition for proceeding with the investigation of such an allegation. (§115.71[e], §115.271[e])
- K. Administrative investigations (§115.71[f], §115.271[f])
1. Must include an effort to determine whether staff actions or failures to act contributed to the abuse.
  2. Will be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- L. Criminal investigations will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. (§115.71[g], §115.271[g])
- M. Substantiated allegations of conduct that appears to be criminal will be referred for prosecution.

(§115.71[h], §115.271[h])

- N. The departure of the alleged abuser or victim from employment of the agency or control of the facility will not provide a basis for terminating an investigation. (§115.71[j], §115.271[j])
- O. Upon completion of the investigation, the inmate and CCAP probationer/parolee will be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. SIU should report to the Facility Unit Head to inform the inmate or CCAP probationer/parolee as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. (§115.73 [a], §115.273[a])
- P. Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*, provides further information on PREA and should be consulted as needed.

#### VIII. SIU Notification of Completed Investigation for Allegations of Victimization

##### A. Employee/Contractor/Volunteer listed as victim in SIU Investigation

1. Upon an employee's/contractor's/volunteer's allegation that they have been the victim of misconduct, Agents of the SIU may initiate an investigation of that allegation.
2. Following an SIU investigation into an employee's/contractor's/volunteer's allegation that they have suffered from misconduct during DOC employment, utilizing 030\_F30, *Notification of Completed Investigation*, the employee will be informed by SIU that the investigation has been completed.
3. For an employee/contractor/volunteer who is no longer employed with or by the DOC, all such SIU notification will be mailed to the last known address of record.

##### B. Citizen listed as victim in SIU Investigation

1. Upon a citizen's allegation that they have been the victim of misconduct, Agents of the SIU may initiate an investigation of that allegation.
2. Following an SIU investigation into a citizen's allegation that they have suffered from misconduct associated with the DOC, utilizing 030\_F30, *Notification of Completed Investigation*, the citizen will be informed by SIU that the investigation has been completed.
3. All such SIU notification will be mailed to the last known address of record.

##### C. . Inmate/Probationer/Parolee listed as victim in SIU Investigation

1. Upon an inmate's/probationer's/parolee's allegation that they have been the victim of misconduct, Agents of the SIU may initiate an investigation of that allegation.
2. Following an SIU investigation into an inmate's/probationer's/parolee's allegation that they suffered from misconduct in a DOC facility or district, utilizing 030\_F30, *Notification of Completed Investigation*, the inmate/probationer/parolee will be informed by SIU that the investigation has been completed.
3. All such SIU notifications or attempted notifications must be documented and sent to the inmate/probationer/parolee in the same manner as legal mail; see Operating Procedure 803.1, *Inmate and Probationer/Parolee Correspondence*, for legal mail requirements.
4. For an inmate/probationer/parolee who has been released from custody or supervision, all such SIU notifications will be mailed to the last known address of record.

##### D. SIU Documentation of Notifications

1. The SIU Agent conducting the investigation is responsible for producing and sending any notification directly to the employee, citizen, or inmate/probationer/parolee.
2. SIU staff will ensure that a duplicate copy of the notification is maintained in the *Master Investigative Case File*, which is the official record of an investigation, and must contain all information and



documents related to the investigation.

3. If a new case is opened or if the case is reopened then a new notice will be sent when the investigation has been completed

E. SIU will retain and dispose of *Investigative Case File* records in accordance with Operating Procedure 025.3, *Public Records Retention and Disposition* and Library of Virginia Standard GS-117.

#### IX. Drug Investigations

A. If the SIU/Drug Task Force is notified that drug evidence has been obtained from an individual attempting to smuggle, or has smuggled suspected illegal drugs into a DOC facility, and the individual has been identified by DOC staff, a Special Agent will be assigned to respond to the facility.

1. The individual in charge of the facility may, after consultation with the assigned Special Agent and the Assistant Chief or Chief, identify and release the subject and secure the evidence.
2. If exigent circumstances arise, the individual in charge may contact local police or sheriff authorities or the State Police regarding the detention or release of the subject and security of the evidence.

B. Special Agents may participate, when practicable, in drug interdiction operations conducted at DOC institutions.

1. Prior to participation in formal drug interdiction operations Special Agents will ensure an operational plan has been prepared and submitted.
2. The operational plan must include a list of DOC resources to be utilized during the interdiction and name participating local, state, and other law enforcement agencies.
3. Special Agents will participate only after the Assistant Chief or Chief of Investigations reviews and approves the plan for compliance with SIU requirements.
4. Under situations when it is not feasible to submit a written plan the Assistant Chief or Chief of Investigations may give verbal approval. A written plan will be submitted as soon as feasible.

C. If the SIU makes a determination that reasonable suspicion exists to believe that a DOC employee is involved in illegal drug activity, the employee may be required to submit to mandatory drug screening, as directed by the Director, Acting Director, designee, or the facility administration; see Operating Procedure 135.4, *Alcohol and Other Drug Testing*.

D. SIU investigations that focus on criminal or administrative offenses occasionally reveal intelligence information that pertains to illicit drug activities and identifies specific employees by name.

1. Although reasonable suspicion may not be present, it may be in the best interest of the DOC to require drug screen testing of a named employee.
2. With concurrent approval of the Director or Acting Director and the Human Resources Director based on review of the nature of the intelligence, predicate offense(s) being investigated, and basis for belief that the interests of the DOC will be served by conducting the test, an employee may be directed to submit to drug screen testing.

E. Special Agents may conduct drug “field” tests of recovered suspected controlled substance or marijuana evidence prior to submission to a laboratory for analysis, as needed.

1. Misdemeanor marijuana cases will be handled in accordance with COV §19.2-188.1, *Testimony regarding identification of controlled substances*.
2. The *Report of Investigation* can be completed prior to the completion of the laboratory examinations by the Department of Forensic Science.
3. A copy of the *Certificate of Analysis* from the Forensic Laboratory will be placed in the case file upon receipt.



#### F. Forfeited Drug Asset Sharing Program

1. Since only a sworn law enforcement officer can accomplish a seizure, it is essential that illegal drug activity be reported to the SIU as soon as possible.
2. The participation of the DOC in the Forfeited Drug Asset Sharing Program will generally result from either the involvement of DOC staff in an agency support role with a designated seizing agency, or as a result of a seizure stemming from a DOC investigation, wherein the DOC is the designated seizing agency. The nature of the DOC involvement in the seizure will dictate the procedure to be followed.
3. Participation in the Forfeited Drug Asset Sharing Program can be through the DCJS or the appropriate federal law enforcement agency. If the DOC is in an agency support role, the designated seizing agency will select the process to be followed. If the DOC is the designated seizing agency, either the federal or the state process can be utilized.
4. If the DOC is not the designated seizing agency:
  - a. Any DOC employee involved in any type of investigation that could result in the forfeiture of property will submit a written report outlining the degree of participation in the investigation to the Forfeited Drug Asset Coordinator (Chief of Investigations) by the close of business on the following work day (weekends and holidays excluded).
  - b. The Forfeited Drug Asset Coordinator will ensure that the DOC has been included on [DCJS Form 998](#) by the designated seizing agency, and if the Federal Adoption Program is utilized, the coordinator will ensure all information has been forwarded to the adopting agency.
  - c. The Forfeited Drug Asset Coordinator will monitor the progress of the seizure and make reports to the Director as appropriate.
5. If the DOC is the designated seizing agency:
  - a. The decision must be made as to whether the state or federal seizure system will be utilized.
  - b. If the federal system is chosen, the appropriate federal agency will be contacted and the adoption process initiated.
  - c. The state forfeited drug asset sharing program is utilized only for seizures of U.S. currency in excess of \$250.
    - i. DCJS Forfeited Asset Sharing Program procedures and reporting requirements must be followed.
    - ii. Currency seized under this program should be handled as evidence in accordance with established operating procedures. When no longer needed as evidence and in the absence of any contrary instructions from the Court, the currency will be turned over to the DOC General Accounting Office for deposit and management in accordance with the *Commonwealth Accounting Policies and Procedures (CAPP) Manual*.

#### X. Gangs and Security Threat Groups

- A. DOC employees, volunteers, and employees of other agencies or vendors who work within the confines of a facility or who work with inmates/probationers/parolees under DOC supervision that are found to be gang members or associates will be promptly referred to appropriate administrators to be managed in accordance with Operating Procedure 135.3, *Standards of Ethics and Conflict of Interest*.
- B. Gang related intelligence or information collected by the SIU will be promptly forwarded to the OLU, which is responsible for identification of individuals, inmates/probationers/parolees, visitors, contractors, vendors, or employees associated with, or in contact with the DOC that may also be involved with gangs or other security threat groups; see Operating Procedure 435.2, *Offender Gang Identification and Tracking*.

#### XI. Incident Reports

- A. Intelligence or information regarding any serious incident or perceived threat must be promptly reported





by telephone to the OLU Operations Center (804-372-4447); see Operating Procedure 435.1, *Special Operations Unit*. The *Vital Information for Telephone Notification of Incident 038\_F1* may be used to gather critical facts for the initial telephone report.

- B. The OLU Operations Center will be responsible for additional reporting of incidents as appropriate.
- C. The OLU Operations Center will generally make immediate reports of Class I incidents to Regional staff, Central Office administrators, SIU, and other units as necessary. Follow-up notification will be made through the daily briefing report.
- D. This procedure is in addition to all other required notifications to local, state, and federal law enforcement agencies.

## XII. Investigative Detention for Inmates and CCAP Probationers/Parolees

- A. The authority to place an inmate or CCAP probationer/parolee in a holding cell rests solely with DOC institutions or Community Corrections facilities.
- B. Special Agents are not authorized to request that inmates or CCAP probationers/parolees be placed in a Restorative Housing Unit or holding cell detention during routine investigations. However, upon demonstration of investigative justification and the approval of the Chief of Investigations or designee, Special Agents may recommend that Organizational Unit Heads assign inmates or CCAP probationers/parolees for a period of not greater than 15 workdays.
- C. The inmate's and CCAP probationer's/parolee's assignment to a Restorative Housing Unit or holding cell must adhere to the DOC classification processes provided in Operating Procedure 425.4, *Management of Bed and Cell Assignments* and Operating Procedure 940.4, *Community Corrections Alternative Program*.
- D. The Chief of Corrections Operations may grant approval for an inmate to remain in a Restorative Housing Unit for an SIU investigation beyond 15 workdays, but limited to a maximum of 60 days.
- E. Inmates or CCAP probationers/parolees must receive the required ICA/Facility Review Committee (FRC) hearings as directed by Operating Procedure 830.1, *Institution Classification Management* or Operating Procedure 940.4, *Community Corrections Alternative Program*.

## XIII. Review of Inmate and CCAP Probationer/Parolee Mail

- A. For investigative purposes, Special Agents will adhere to Operating Procedure 445.2, *Facility Searches*.
- B. Incoming or outgoing inmate and CCAP probationer/parolee general correspondence may be read for content in accordance with 445.2, *Facility Searches*. Authorization to read outgoing mail is requested using *Authorization to Read Outgoing Mail 445\_F8* with approval by the Organizational Unit Head or Chief of Investigations.
  - 1. When an inmate's/probationer's/parolee's mail is part of an SIU investigation, a Special Agent should personally read all mail governed by the approval, whenever possible.
  - 2. If circumstances do not permit the Special Agent to read the inmate's/probationer's/parolee's mail, the Organizational Unit Head may assign a designee, agreeable to the requesting Special Agent (e.g. Institutional Investigator, Intelligence Officer), to read the mail in the Special Agent's absence and report relevant content to the requesting Special Agent.
- C. Inmate and CCAP probationer/parolee legal mail may be unsealed or read for content by the SIU after issuance of Court approval based upon specified probable cause that a state or federal criminal statute is being violated; or that a valid threat exists to the security of a facility, the DOC or its personnel or assets. Where such probable cause exists, the Chief of Investigations or Organizational Unit Head may direct the mail be temporarily held and withheld until a Court order or search warrant is granted.
- D. All relevant information obtained from an approved mail cover will become a permanent part of the SIU Report of Investigation file.



#### XIV. Investigative Searches

- A. The following procedures will apply in investigative searches conducted under law enforcement authority of the SIU of inmates/probationers/parolees, employees, visitors, civilians, and non-state owned property or equipment.
- B. Special Agents must be familiar with all directives and operating procedures relating to inmate and CCAP probationer/parolee, employee, visitor, and civilian searches, including Operating Procedure 445.1, *Screenings and Searches of Inmate and CCAP Probationer/Parolee Visitors* and Operating Procedure 445.4, *Screenings and Searches of Persons*. These guidelines encompass standing DOC procedure. It is noted constitutional law governing arrest, search, seizure, and investigative detention takes precedence over DOC procedures.
- C. In all criminal investigations, it is preferable that any search to discover contraband or evidence of a crime be accomplished under the authority of a search warrant issued by a Court of appropriate jurisdiction. Special Agents have the responsibility to consult with the Commonwealth's Attorney of the jurisdiction for guidance in these cases.
  1. Searches of incarcerated inmates/probationers/parolees or their property do not normally require a search warrant. However, a search warrant may be required for the collection of body fluids, blood samples, and body cavity searches.
  2. Searches of state owned property and equipment might involve situations that convey constitutional protections and legal expectation of privacy to the primary user or operator. When necessary, court approved search warrants should be obtained.
  3. Prior to data extraction or review of contents of cell phones or other electronic devices, consent of the owner to search the device and/or a search warrant will be obtained if the items was found in the possession of an inmate, in a cell, or related to an incident. Cell phones or other electronic devices that are abandoned, i.e. along the fence line or in a trash can, do not need a search warrant unless it is related to an incident.
- D. In appropriate situations and predicated upon lawful circumstances, the Special Agent may elect to proceed with a voluntary "consent to search."
  1. Refer to the *Consent to Search 030\_F11* consolidated form.
  2. In the event a request for consent to search is declined, the Special Agent will make the notation "Declined" or "Refused" on the appropriate form, and file the form with the investigative report.
  3. Original signed and executed consent forms will be maintained in the investigative case file.
- E. Under exigent circumstances, a search may be lawfully executed without a search warrant. In these cases, Special Agents must carefully weigh all of the relevant facts, circumstances, and evidence that are known at the time and apply them to the established legal guidelines governing arrest, search, seizure, and investigative detention.
  1. Special Agents should notify the Assistant Chief or Chief of Investigations of the circumstances for warrantless search.
  2. Although voluntary consent to search and pre-arrest or custodial searches for security are additional examples of warrantless searches, they do not fall under the requirements for exigent circumstance warrantless search.
- F. All evidence, facts, and circumstances supporting a warrantless search will be fully described in a *Report of Investigation*.

#### XV. Reports of Investigation

- A. The SIU will prepare, submit, and file a written, unbiased report based on the facts presented for each investigation. Reports must be completed in a manner useful for the assessment of relevant facts and



circumstances, evaluation of evidence, and to aid witness recollection for complete and truthful testimony in courts of law and administrative hearings.

- B. The original copy of the report must be maintained and protected in secure files of the SIU or as directed by the Director.
- C. Written Reports of Investigation will not be copied or distributed without written authorization from the Chief of Investigations or Director, with the following exceptions:
  - 1. Director
  - 2. Chief of Corrections Operations, Deputy Director for Administration, Deputy Director of Programs, Education and Re-entry, Security Operations and Corrections Enforcement Director, Corrections Operations Administrator, Corrections Administration Manager, or Regional Operations Chiefs
  - 3. Office of the Attorney General
  - 4. Commonwealth's Attorney
  - 5. SIU Special Agents and Administrative Personnel
  - 6. Internal Audit Manager
  - 7. Background Investigations Unit Supervisor
  - 8. Extradition and Fugitive Services Unit Manager
  - 9. PREA Unit
  - 10. OLU
  - 11. Director of Human Resources
- D. After receiving an assignment, Special Agents will, in a timely manner, conduct a complete, thorough, and independent investigation, prepare necessary reports, and as required, present evidence in a Court of law or Departmental hearing.
- E. Agents will make regular updated entries to all open investigations. Unit supervisors will conduct 30 day reviews of all assigned active investigations and document reasons for delays in case completion. Any investigation exceeding 60 days will be reviewed by the Chief of SIU, and every 30 days thereafter, until the investigation is closed.
- F. Investigations involving allegations of administrative violations against an employee require Administrative/Command review to determine dispositions of substantiated, unsubstantiated, or unfounded. Once determined the disposition will be reported to the SIU in written form. Members of the SIU will be available for consultation as to the disposition being considered, but will not provide a written recommendation.
- G. Sensitive information and other materials requiring confidential safeguards or protected by law may be disclosed to Special Agents or other SIU staff members during the course of their duties.
  - 1. SIU personnel must not release sensitive information to any persons without the approval of the Chief of Investigations or the Director, Acting Director, or designee.
  - 2. Written responses by the SIU to Freedom of Information Act (FOIA) requests must comply with established FOIA guidelines and be approved by the Chief of Investigations, Director or designee.

#### XVI. Polygraph Examinations

- A. The following procedures govern the administration of polygraph examinations, unless otherwise directed by the Director. The SIU Polygraph Program will be conducted in full compliance with guidelines established by the Virginia Department of Professional and Occupational Regulation (DPOR). Polygraph examinations must be conducted:



1. By a SIU Special Agent (or other properly licensed examiner) licensed by DPOR as a polygraph examiner.
  2. Polygraph examination of employees requires written approval of the Director or Acting Director after evaluation of the request for an examination. Verbal approval to conduct a polygraph examination will be documented in writing at the earliest opportunity.
  3. Polygraph examination of inmates/probationers/parolees requires written approval of the Chief of Investigations after evaluation of the request for an examination. Verbal approval to conduct a polygraph examination will be documented in writing at the earliest opportunity.
  4. With the written consent of the subject to be examined.
- B. Polygraph examinations administered pursuant to an authorized investigation require a copy of the examiner's "Polygraph Report" be included as a permanent attachment in the SIU investigative case file.
- C. Request for polygraph services by an SIU examiner from agencies outside the DOC must be presented to the Chief of Investigations or the Director for approval.

#### XVII. Custodial Interrogations

- A. All custodial interrogations conducted at a DOC facility should be recorded, in their entirety; see COV §19.2-390.04, *Custodial interrogations; recording*.
- B. The Special Agent assigned to the investigation should make an audiovisual recording of the interrogation, when feasible. When an audiovisual recording cannot be made, the Special Agent should ensure, at a minimum, an audio recording of the interrogation is made.
- C. All audiovisual and audio recordings of custodial interrogations must be retained until the following:
1. The interrogated individual is acquitted or the charges against the individual are otherwise dismissed and further prosecution of such charges is prohibited by law.
  2. If convicted or adjudicated delinquent, the individual has completed service of their sentence and any modification of their sentence.

#### XVIII. Training

- A. The Chief of Investigations, Assistant Chiefs, and each Special Agent must receive the professional training required by DCJS for law enforcement personnel.
- B. All SIU Special Agents will maintain compliance with DCJS requirements for in-service training.
- C. The SIU must retain all training records and ensure copies are forwarded to the Criminal Justice Academy assigned by DCJS to register and record SIU Special Agent training.

#### XIX. Security of Investigations

- A. The nature of criminal and administrative employee misconduct investigations requires they be handled in a venue of unquestionable integrity. To maintain this integrity necessitates adherence to practices and procedures that protect sensitive and confidential information.
- B. Sensitive and confidential SIU information will be maintained in strict confidence.
- C. With the approval of the Director, Chief of Investigations, or Assistant Chief, relevant information may be released to an outside law enforcement official to serve a legitimate criminal justice purpose.
- D. Authorization to release confidential and sensitive information will comply with Freedom of Information Act (FOIA) and Department of Human Resource Management (DHRM) guidelines and Operating Procedure 102.1, *Employee Records*.
- E. Information related to SIU investigations sent to or received from the OLU should be handled in

accordance with Operating Procedure 435.1, *Special Operations Unit*.

## XX. Human Resources Investigations

A. The Human Resources Unit will conduct the following investigations in coordination with the Special Investigations Unit:

1. Equal Employment Opportunity, Hostile Work Environment, and Sexual Harassment; see Operating Procedure 145.3, *Equal Employment Opportunity, Anti-Harassment, and Workplace Civility*.
  - a. The Human Resources Unit manages DOC programs to address Equal Employment Opportunity, Hostile Work Environment, and Sexual Harassment initiatives. DOC organizational units should forward all matters regarding these programs directly to HR.
  - b. Occasionally, HR will request the assistance of the SIU to conduct formal inquiry for collection of facts relevant to these programs. The SIU will only initiate inquiries regarding these programs upon written request from HR.
  - c. Reports completed by the SIU in response to requests from HR for assistance will be forwarded to the Human Resources Director or designee.
2. Workplace Violence; see Operating Procedure 135.5, *Workplace Violence*.
  - a. All employees must help establish and maintain a work environment that promotes professionalism and is free from workplace violence.
  - b. An employee who is subjected to workplace violence must immediately notify his or her supervisor, Organizational Unit Head, the Director, or SIU.
  - c. The SIU may be called upon to investigate reports of Workplace Violence.

## XXI. Administrative Procedures

- A. Nothing in this procedure is to be construed as preventing or restricting managers and administrators from making responsible inquiries necessary for the performance of duty or determination of facts to meet requirements for investigative referral to the SIU. Evidence of violations requiring investigation by SIU should be reported to the SIU as soon as practicable and without undue delay.
- B. Known or suspected irregularities in accounting for funds or property of the Commonwealth must be reported to the Director, Acting Director, or designee immediately. The Director may initiate an internal audit or investigation to determine the existence, extent, and cause of irregularities, and to gather information and evidence from accounting records after all notifications required by law and procedure.
- C. In cases of known or suspected accounting irregularities, immediate steps should be taken by Organizational Unit Heads, managers, and supervisors to protect and preserve records and assets. An appropriate course of action should be devised in consultation with the Director, the Internal Audit Manager, or the Chief of Investigations.
- D. If a Special Agent determines the visitor of an inmate or CCAP probationer/parolee may hinder or obstruct the operations or pose a threat to security of a facility, the Special Agent must inform the administration at the facility or the Director of the information, via the chain of command. The Director may recommend the Chief of Corrections Operations place the visitor on the DOC visitation suspension list.

## REFERENCES

COV §2.2-310, *Cooperation of state agencies and officers*

COV §9.1-508 et seq., *Correctional Officer Procedural Guarantee Act*

COV §18.2-474.1, *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons*

COV §19.2-188.1, *Testimony regarding identification of controlled substances*

COV §19.2-390.04, *Custodial interrogations; recording*



COV §51.1-124.13, *Loss of benefits; certain felony convictions*  
COV §53.1-10, *Powers and Duties of Director* [\(11\)](#)  
Operating Procedure 030.1, *Evidence Collection and Preservation*  
Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*  
Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*  
Operating Procedure 102.1, *Employee Records*  
Operating Procedure 135.1, *Standards of Conduct*  
Operating Procedure 135.2, *Rules of Conduct Governing Employees Relationships with Offenders*  
Operating Procedure 135.3, *Standards of Ethics and Conflict of Interest*  
Operating Procedure 135.4, *Alcohol and Other Drug Testing*  
Operating Procedure 135.5, *Workplace Violence*  
Operating Procedure 145.3, *Equal Employment Opportunity, Anti-Harassment, and Workplace Civility*  
Operating Procedure 145.4, *Employee Grievances*  
Operating Procedure 310.2, *Information Technology Security*  
Operating Procedure 425.4, *Management of Bed and Cell Assignments*  
Operating Procedure 435.1, *Special Operations Unit*  
Operating Procedure 435.2, *Offender Gang Identification and Tracking*  
Operating Procedure 445.1, *Screenings and Searches of Inmate and CCAP Probationer/Parolee Visitors*  
Operating Procedure 445.2, *Facility Searches*  
Operating Procedure 445.4, *Screenings and Searches of Persons*  
Operating Procedure 830.1, *Institution Classification Management*  
Operating Procedure 940.4, *Community Corrections Alternative Program*  
[Commission on Accreditation for Law Enforcement Agencies, Inc., \(CALEA®\)](#)  
*Commonwealth Accounting Policies and Procedures (CAPP) Manual*  
[Freedom of Information Act \(FOIA\)](#)  
*Virginia Law Enforcement Professional Standards Commission (VLEPSC)*

## **ATTACHMENTS**

Attachment 1, *the Investigations Matrix*

## **FORM CITATIONS**

*Statement of "Miranda" Rights* 030\_F7  
*Statement of Intent* 030\_F8  
*Confidentiality Agreement* 030\_F9  
*Request for Authorization of Interception of Voice Communication* 030\_F10  
*Consent to Search* 030\_F11  
*Notification of Completed Investigation* 030\_F30  
*Vital Information for Telephone Notification of Incident* 038\_F1  
*Authorization to Read Outgoing Mail* 445\_F8

