



Operating Procedure

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ACA/PREA Standards §115.5, §115.21, §115.22, §115.34, §115.61, §115.63, §115.64, §115.71, §115.73, §115.221, §115.222, §115.234, §115.261, §115.263, §115.264, §115.271, §115.273	
Office of Primary Responsibility Chief of Investigations, Special Investigations Unit	

Subject
SPECIAL INVESTIGATIONS UNIT

Incarcerated Offender Access
Yes No

Public Access Yes No
Attachments Yes #1 No

I. PURPOSE

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

II. COMPLIANCE

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

III. 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

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

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 offenders or groups of offenders and who, as an entity, pose a threat to the safety and security of staff, the facility, other offenders 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, neighborhood cliques, hate groups, cults, and domestic terrorists that meet these conditions are considered gangs. Terrorists (domestic and international) and radical extremists are considered security threat groups (STG), but the gang and STG terms are generally interchangeable.

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](#), and Schedules I through VI of [§54.1-3446](#) through [§54.1-3456](#), or [Section 202 of the Controlled Substances Act \(21 U.S.C. 812\)](#); this also includes illegal or un-prescribed use of controlled substances (prescription drugs).

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

- The life, health and safety of employees, volunteers, guests, or offenders (incarcerated or under Community supervision)
- Damage to state property
- Disruption or threats to security, good order, and discipline of a facility or organizational unit.
- Exposure of the Department of Corrections to significant media or public attention

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 a Facility 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.

Offender - An inmate, probationer, parolee or post release supervisee, or other person placed under the supervision (conditional release) or investigation of the Department of Corrections.

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 (VCE), 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 72 hours of an alleged incident of sexual intercourse and/ or sodomy.

Point of Contact Agent (POC) - 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 the person's usual activity; medical treatment should be more extensive than mere first aid, such as the application of bandages to wounds; it might include stitches, setting of broken bones, treatment of concussion, loss of consciousness, etc.

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)

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)

IV. PROCEDURE

A. Organization and Administration

1. The Special Investigations Unit (SIU) is headed by a Chief of Investigations who reports to the DOC Director.
2. An Assistant Chief who reports to the Chief of Investigations is assigned to manage the Special Agents operating in each DOC Region.
3. The SIU must be staffed and directed by persons qualified and competent to conduct lawful criminal and administrative investigations.
4. The normal operating office business hours for the SIU are Monday through Friday, 8:00 am to 5:00 pm.
5. At all other times, a Special Agent will be assigned as the “On Call” Duty Agent. The schedule of assigned Duty Agents, with telephone numbers, is sent via electronic message to the Operations and Logistics Unit. Anyone needing to contact the Duty Agent may call the Operations and Logistics Unit.
6. Assignment of Special Agents to other DOC units:
 - a. In accordance with COV 53.1-10, the Director has the authority to designate employees to have the powers of a Special Agent and to assign them as deemed appropriate.
 - b. The assigned unit must provide all necessary supervision, oversight, and duty assignments.
 - c. These Special Agents must have the same qualifications, authority, and credentials as those assigned to SIU.
 - d. Special Agents assigned to other units must complete the same training as required for SIU Agents.
 - e. 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.

B. Investigative Authority and Responsibility

1. 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.
2. 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.
3. The SIU is authorized to:
 - a. Conduct investigations of all felony and misdemeanor violations of law committed in and against the Department of Corrections, and serious allegations of staff/employee misconduct and administrative violations. The investigations include allegations involving economic crime and drug/contraband matters.
 - b. 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])
 - c. All Special Agents are required to be sworn police officers in the state of Virginia with full police

powers and must maintain DCJS law enforcement certification.

- d. SIU is the DOC resource for polygraph examinations, forensics, economic crime investigations, and digital photography.

C. SIU Investigations Policy Manual

1. The SIU's Investigations Policy Manual (IPM) serves as the primary guide for the conduct of investigations and SIU programs and other affairs.
 - a. The Chief of Investigations will maintain the IPM as a series of Local Operating Procedures and Implementation Memoranda that are specific to SIU operations and approved by the Director.
 - b. The IPM and any active SIU Memoranda are maintained on the SIU Local Operating Procedures page of the Virtual Library.
2. 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 the Department of Criminal Justice Services.
3. The Chief of Investigations develops and proposes 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.
4. Proposals for changes to the IPM will be submitted to the Director for authorization and implementation.
5. The Chief of Investigations may 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.
 - a. SIU Memoranda will be consecutively numbered within each calendar year.
 - b. SIU Memoranda will self-cancel one year from the date of issuance, but may be reissued if needed.
6. The Special Investigations Unit will not knowingly develop or revise any Procedure or SIU Memoranda in such a manner that conflicts with any existing law, operating procedure, directive, or Memoranda unless the known intent is to change prior direction. Any discovered conflict must be brought to the attention of the Chief of Investigations.

D. Incident Reporting and Determining Need for Investigations

1. The Director, Chief of Investigations, or designee, will review and assess the nature of allegations received to determine if an investigation is warranted. The *Investigations Matrix* (Attachment 1) provides general guidance for determining who should investigate specific types of incidents.
 - a. Special Agents are authorized to take appropriate immediate action relative to spontaneous or serious incidents occurring in their presence and affecting the DOC.
 - b. Special Agents will review allegations with supervisors before a final determination is made that an investigation is not warranted.
2. 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, potential for negative publicity regarding the DOC, and any other factors concerning criminal or serious administrative matters.
3. 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.
4. 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.
5. 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 or manager, or to the Organization Unit Head or to the SIU.
 - a. 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.
 - b. Management should not attempt to identify the source of information. Any retaliation is subject to disciplinary action.
 - c. Willful failure to report known questionable illegal activities are deemed cause for disciplinary action.
 6. 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.
 - a. 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.
 - b. When allegations of misappropriation or larcenies of State funds or property are received by the SIU, the Chief 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.
 7. 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.
 8. Serious or unusual incidents will be reported to the DOC Operations and Logistics Unit, 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 Operations Center will notify the SIU as appropriate.
 9. The SIU has authority to conduct investigations into all incidents noted below.
 - a. Escape or attempted escape from the custody of the DOC.
 - b. Unnatural death (homicide, accident, suicide of incarcerated offenders), death by unknown cause
 - c. Hostage situations
 - d. Discharge of firearm or lethal projectile ammunition from a weapon by employees in the line of duty or by a person on DOC property. (Discharge of firearms in approved activities and training programs is exempt.)
 - e. Serious injury to any person on DOC property, including self-inflicted injury.
 - f. Disturbances or incidents that cause extensive damage to DOC organizational units or that diminish the ability to maintain adequate security.
 - g. Absconding or attempting to abscond from a Community Corrections facility, or Probation and Parole absconders suspected of violent criminal offense(s).
 - h. Instances of possession of illegal firearms or explosives (COV §18.2-474.1)
 - i. Incidents of physical abuse, neglect, or assaults by staff on offenders, supported by credible or corroborating evidence.
 - j. Allegations of “fraternization” between staff and offenders (See Operating Procedure 135.2, *Rules of Conduct Governing Employees Relationships with Offenders*).
 - k. Allegations of sexual abuse or sexual harassment.
 - l. Illegal possession, use or distribution of marijuana and other illegal drugs or controlled substances
 - m. Fraud or misappropriation of funds, property, or assets of the Commonwealth
 - n. Lost or stolen security keys or state property

- o. Allegation of abuse or misuse of computers or information technology equipment and systems as defined in Operating Procedure 310.2, *Information Technology Security*
 - p. Extracting data from cellphones recovered at DOC facilities
 - q. Other incidents considered reportable by the Administrative Duty Officer/Headquarters Unit Head
10. 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.
- a. All staff in the immediate area at the time of a serious incident will be identified and directed to record their observations on *Internal Incident Reports*.
 - b. All offenders in the area will be identified, separated, and secured.
 - c. Upon learning of an allegation that an offender was sexually abused, the first security staff member to respond to the report shall be required to: (§115.64[a], §115.264[a])
 - i. Separate the alleged victim and abuser
 - ii. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence
 - iii. 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.
 - iv. 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.
 - d. The scene will not be disturbed until released by the responding Special Agent.
 - e. The Organizational Unit Head must ensure that all video recordings related to incidents must 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*.
 - f. 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 SIU Assistant Chief, the Chief of SIU, or the Director.
11. Frequently, DOC organizational units receive requests for assistance from outside federal, state and local law enforcement agencies.
- a. The Special Investigations Unit or Operations and Logistics Unit must be promptly notified for guidance in responding to outside law enforcement agency requests.
 - b. Telephonic or verbal notifications must be documented by the reporting party via e-mail message to the Chief, Assistant Chief, POC Agent, or Operations and Logistics Unit.
 - c. The SIU will maintain a retrievable record of e-mail notifications received.
12. 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.)
- a. Major security problems
 - b. Audits of alleged fraud or significant management problems
 - c. Investigations of administrative staff at any management level within the DOC
 - d. Offenders involved in potentially significant security breaches or substantial criminal activity
 - e. Any other activity, which in the opinion of the Chief of SIU, is of sufficient magnitude to warrant referral.

E. General Investigation Procedures and Responsibilities

1. Upon receiving an approved investigation assignment, investigators will obtain a case number as soon as practical, but within five business days.
2. Approved investigations will be assigned, conducted, and pursued to a reasonable conclusion, consistent with applicable law and accepted professional criminal justice standards.
3. Special Agents will protect the legal rights of employees, offenders, and others. Special Agents will demonstrate proper respect during the conduct of investigations.
4. The DOC possesses the authority to suspend employees under certain circumstances of alleged improper or illegal behavior.
 - a. The DOC may suspend any employee pending an official investigation or review of relevant facts and circumstances, including cases involving criminal investigations by outside law enforcement agencies, pending final outcome. (See Operating Procedure 135.1 *Standards of Conduct*.)
 - b. In SIU cases that lead to formal criminal charges stemming from indictment or issuance of a warrant for arrest, the DOC may extend suspensions pending the adjudication by a Court of appropriate jurisdiction.
5. 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.
 - a. 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.
 - b. 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.
 - c. During the investigative process, Special Agents must ensure employee constitutional rights are protected.
 - i. 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.
 - ii. The subject may waive these rights and willingly make a statement if he or she chooses.
 - iii. These rights include:
 - (a) You have the right to remain silent and refuse to answer questions
 - (b) Anything you do or say can, and will be used against you in a Court of Law
 - (c) You have the right to consult an attorney before speaking and to have an attorney present during questioning, now or in the future
 - (d) If you cannot afford an attorney, one will be appointed for you before any questioning if you wish and
 - (e) You can decide at any time to exercise these rights, and not answer any questions, or make any statements
6. 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.
7. During the conduct of assigned SIU investigations, it is the responsibility of the Special Agent conducting the investigation to coordinate with the local Office of the Commonwealth Attorney whenever a criminal offense is found to have:
 - a. Occurred on DOC property or within DOC premises, or
 - b. Been committed by a person in DOC custody or acting as an employee or an agent of the DOC, or
 - c. Matters that affect the operations of the DOC in accordance with §53.1-10 (11)

- d. Properly inform and regularly update the local Commonwealth's Attorney regarding the progress throughout investigations and confer with the Commonwealth's Attorney for legal guidance relating to investigative procedures.
 - e. Copies of completed *Reports of Investigation* related to criminal investigations will be forwarded to the Commonwealth's Attorney Office upon request.
 - f. In coordination with unit supervision, administrative concerns discovered during the criminal investigation may be reported in an additional report for DOC Management. Reports sent to Commonwealth's Attorneys will only cover the criminal allegations.
 - g. 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.
8. Under direction of the SIU Chief 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.
- a. 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.
 - b. 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.
 - c. During administrative investigations, employee refusal to answer all official questions truthfully and provide complete information may constitute grounds for disciplinary action.
 - d. Personal counsel, attorneys, 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.
 - e. 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 the Correctional Officer Procedural Guarantee Act (COV §9.1-508 et seq.) and Operating Procedure 135.1, *Standards of Conduct*. The Correctional Officer Procedural Guarantee Act process is detailed in Operating Procedure 145.4, *Employee Grievances*.
 - f. Prior to conducting a criminal interview with any employee the Special Agent will be inform the employee of:
 - i. The name and job title of the investigator
 - ii. The name and job title of any other individual to be present during the questioning
 - iii. The nature of the investigation
9. SIU criminal offense and administrative policy violation investigations require Special Agents to:
- a. Identify subjects and witnesses, conduct interviews, collect and process evidence, and submit reports
 - b. Within appropriate adherence to SIU Investigations Policy Manual (IPM)?, keep the Organizational Unit Head apprised of the progress of investigation.
 - c. 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.

- d. 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.
 - i. The ROI will identify the Hotline complaint as an “anonymous complaint”.
 - ii. The “Hotline” complaint number will not be notated in the written report or on any of the attachments to the report.
 - iii. The copy of the “Hotline” referral received at the SIU will be maintained in the SIU case file and labeled “Confidential.”
 - e. The SIU maintains a Complaint File repository and database system to record and manage receipt and handling of complaints regarding offender care, treatment, and related matters.
 - i. Complaints warranting formal investigation will be referred to the respective Assistant Chief for assignment.
 - ii. The Complaint File database reference number will be reflected on all official reports submitted regarding the respective complaint.
 - iii. The original letter or written complaint will be included in the investigation case file with the reference number clearly posted.
10. Special Agents will confer with the respective Assistant Chief (or Chief) 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.
11. 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.
- F. Interception of wire or verbal electronic voice communications and video monitoring and recording
1. Employees while on or off duty, must not record any conversation of a work related nature with another employee, either orally or telephonically, without the knowledge of the other person or persons, unless approved by the Director as described below.
 - a. Failure to comply with these instructions can result in disciplinary action under the Standards of Conduct.
 - b. Special Agents are exempt from this requirement when recording a person or persons during an approved investigation.
 2. 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.
 - a. Approval of the Director or Acting Director is required for all consensual and non-consensual wire or voice intercepts.
 - b. All investigative requests for nonconsensual wire or oral interceptions or monitoring will be submitted via the Special Investigations Unit Chief of Investigations to the Director on [Request for Authorization of Interception of Voice Communication](#) 030_F10 for review and approval or disapproval.
 - c. 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).
 3. Covert Video Monitoring or Recording
 - a. Requests by components of the DOC 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 Special Investigations Unit Chief of Investigations. Upon review, the SIU Chief will forward requests, with recommendations, to the Director for review, approval and authorization.
 - b. 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.

- c. 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.

G. Prison Rape Elimination Act (PREA) Investigations

1. The Facility Unit Head shall 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])
2. When the Facility Unit Head receives notification from another facility that an offender was sexually abused while confined at that facility, they shall ensure that the allegation is investigated in accordance with the PREA Standards (§115.63[d], §115.263[d])
3. 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])
4. Unless the facility investigator quickly and definitively determines that the allegation is unfounded, allegations of sexual abuse or sexual harassment shall be referred for investigation to the DOC Special Investigations Unit who has the legal authority to conduct criminal investigations. (§115.22[b], §115.222[b])
5. SIU investigators will receive special training in sexual abuse investigations before conducting PREA investigations. (§115.71[b], §115.271[b])
 - a. In addition to the general PREA training provided to all employees, investigators shall receive specialized training in conducting sexual abuse investigations in confinement settings. Specialized training shall include: (§115.34[a], §115.234[a], §115.34[b], §115.234[b])
 - i. Techniques for interviewing sexual abuse victims.
 - ii. Proper use of Miranda and Garrity warnings
 - iii. Sexual abuse evidence collection in confinement settings
 - iv. Criteria and evidence required to substantiate a case for administrative action or prosecution referral.
 - b. The PREA Compliance Manager shall maintain documentation that the required specialized training in conducting sexual abuse investigations has been completed by the investigators. (§115.34[c], §115.234[c])
6. All investigations into allegations of sexual abuse and sexual harassment shall be done promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. (§115.71[a], §115.271[a])
7. Evidence Protocol and Forensic Medical Examinations
 - a. 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])
 - b. 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])
 - c. If requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interview. (§115.21[e], §115.221[e])
 - d. With the victim's consent, forensic evidence will be collected by specially trained professional medical practitioners using a kit approved by the appropriate authority (PERK kit recommended). Although it is recommended that a PERK kit is collected within 72 hours it should be used beyond

that time whenever there is a possibility of evidence remaining.

8. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. (§115.71[c], §115.271[c])
9. When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. (§115.71[d], §115.271[d])
10. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. (§115.71[e], §115.271[e])
11. Administrative investigations (§115.71[f], §115.271[f])
 - a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - b. Shall 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.
12. Criminal investigations shall 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])
13. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. (§115.71[h], §115.271[h])
14. The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. (§115.71[j], §115.271[j])
15. Upon completion of the investigation, SIU should report to the Facility Unit Head to inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. (§115.73 [a], §115.273[a])
16. Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*, provides further information on PREA and should be consulted as needed.

H. Drug Investigations

1. If the SIU 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 detained by DOC staff, a Special Agent will be assigned to respond to the facility.
 - a. If a Special Agent is not available to respond in a timely manner, the individual in charge of the facility may, after consultation with the Special Agent, Assistant Chief or Chief, identify and release the subject and secure the evidence.
 - b. 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.
2. SIU Special Agents may participate, when practicable, in drug interdiction operations conducted at DOC institutions.
 - a. Prior to participation in formal drug interdiction operations Special Agents will ensure an operational plan has been prepared and submitted.
 - b. 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.
 - c. Special Agents will participate only after the Assistant Chief or Chief reviews and approves the plan for compliance with SIU requirements.

- d. Under situations when it is not feasible to submit a written plan the Assistant Chief or Chief may give verbal approval. A written plan will be submitted as soon as feasible.
3. 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*.)
4. 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.
 - a. 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.
 - b. 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.
5. Special Agents may conduct drug “field” tests of recovered suspected controlled substance evidence prior to submission to a laboratory for analysis, as needed.
 - a. Misdemeanor marijuana cases will be handled in accordance with COV §19.2-188.1.
 - b. The *Report of Investigation* can be completed prior to the completion of the laboratory examinations by the Department of Forensic Science.
 - c. A copy of the *Certificate of Analysis* from the Forensic Laboratory will be placed in the case file upon receipt
6. Forfeited Drug Asset Sharing Program
 - a. 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.
 - b. 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.
 - c. Participation in the Forfeited Drug Asset Sharing Program can be through the Department of Criminal Justice Services 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.
 - d. If the DOC is not the designated seizing agency:
 - i. 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).
 - ii. 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.
 - iii. The Forfeited Drug Asset Coordinator will monitor the progress of the seizure and make reports to the Director as appropriate.
 - e. If the DOC is the designated seizing agency:
 - i. The decision must be made as to whether the state or federal seizure system will be utilized.
 - ii. If the federal system is chosen, the appropriate federal agency will be contacted and the adoption process initiated.
 - iii. The state forfeited drug asset sharing program is utilized only for seizures of U.S. currency in excess of \$250.

- (a) Department of Criminal Justice Services Forfeited Asset Sharing Program procedures and reporting requirements must be followed.
- (b) 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*.

I. Gangs and Security Threat Groups

1. DOC employees, volunteers, and employees of other agencies or vendors who work within the confines of a facility or who work with offenders 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*.
2. Gang related intelligence or information collected by the SIU will be promptly forwarded to the Operations and Logistic Unit, which is responsible for identification of individuals, offenders, 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*.)

J. Incident Reports

1. Intelligence or information regarding any serious incident or perceived threat must be promptly reported by telephone to the Operations and Logistics Unit (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.
2. The OLU Operations Center will be responsible for additional reporting of incidents as appropriate.
3. The OLU Operations Center will generally make immediate reports of Class I incidents to Regional staff, Central Office administrators, Special Investigations Unit, and other units as necessary. Follow-up notification will be made through the daily briefing report.
4. This procedure is in addition to all other required notifications to local, state, and federal law enforcement agencies.

K. Investigative Detention for Offenders

1. The authority to impose investigative detention or segregation rests solely with DOC institutions or Community Corrections facilities.
2. Special Agents are not authorized to request that offenders be placed in investigative 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 Facility Unit Heads assign offenders to investigative detention for periods not greater than 15 workdays.
3. The Chief of Corrections Operations may grant approval of continued investigative detention of an offender beyond 15 workdays, limited to 60 days.
4. This provision does not preclude or eliminate adherence with DOC classification process.
5. Offenders must receive the required ICA hearings as dictated by Operating Procedure 830.1, *Institution Classification Management*.

L. Review of Offender Mail - For investigative purposes, Special Agents will adhere to the following procedure:

1. Incoming or outgoing offender general correspondence may be read for content in accordance with Operating Procedure 445.2, *Facility Searches*. Authorization to read outgoing mail is requested using [Authorization to Read Outgoing Mail](#) 445_F8 with approval by the Facility Unit Head or Chief of Investigations.

- a. When offender mail is part of an SIU investigation, a Special Agent should personally read all mail governed by the approval whenever possible.
 - b. If circumstances do not permit the Special Agent to read offender 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.
2. Offender 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 Facility Unit Head may direct the mail be temporarily held and detained until a Court order or search warrant is granted.
 3. All relevant information obtained from an approved mail cover will become a permanent part of the SIU Report of Investigation file.

M. Investigative Searches

1. The following procedures will apply in investigative searches conducted under law enforcement authority of the SIU of offenders, employees, visitors, civilians, and non-state owned property or equipment.
2. Special Agents must be familiar with all directives and operating procedures relating to offender, employee, visitor, and civilian searches, including Operating Procedure 445.1, *Employee, Visitor, and Offender Searches*. These guidelines encompass standing DOC policy. It is noted Constitutional law governing arrest, search, seizure, and investigative detention takes precedence over DOC procedures.
3. 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 jurisdiction for guidance in these cases.
 - a. Searches of incarcerated offenders 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.
 - b. 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.
4. In appropriate situations and predicated upon lawful circumstances, the Special Agent may elect to proceed with a voluntary "consent to search."
 - a. Refer to the [Consent to Search](#) 030_F11 consolidated form
 - b. 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.
 - c. Original signed and executed consent forms will be maintained in the investigative case file.
5. 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. Special Agents should notify the Assistant Chief or Chief of the circumstances for warrantless search. (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.)
6. All evidence, facts and circumstances supporting a warrantless search will be fully described in a *Report of Investigation*.

N. Reports of Investigation

1. The SIU will prepare, submit, and file a written report 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.
2. The original copy of the report must be maintained and protected in secure files of the SIU, or otherwise as directed by the Director.
3. Written Reports of Investigation will not be copied or distributed without written authorization from the Chief of Investigations or Director, with the following exceptions:
 - a. Director
 - b. Chief of Corrections Operations, Deputy Director for Administration, Deputy Director Programs, Education and Re-entry, Security Operations and Corrections Enforcement Manager, Corrections Operations Administrator, Regional Operations Chiefs
 - c. Office of the Attorney General
 - d. Commonwealth Attorney
 - e. SIU Special Agents and Administrative Personnel
 - f. Internal Audit Manager
 - g. Background Investigations Unit Supervisor
 - h. Extradition and Fugitive Services Unit Manager
 - i. PREA Unit
 - j. Operations and Logistics Unit
 - k. Director of Human Resources
4. 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.
5. 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.
6. 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.
7. 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.
 - a. SIU personnel must not release sensitive information to any persons without the approval of the Chief of SIU or the Director, Acting Director, or designee.
 - b. 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 SIU, Director or designee.
- O. Polygraph Examinations - 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).
 1. Polygraph examinations must be conducted:
 - a. By a SIU Special Agent (or other properly licensed examiner) licensed by the Commonwealth of Virginia (DPOR) as a polygraph examiner
 - b. 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.

- c. Polygraph examination of offenders 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.
 - d. With the written consent of the subject to be examined
2. 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.
 3. 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.

P. Training

1. The Chief of Investigations, Assistant Chiefs, and each Special Agent must receive the professional training required by the Department of Criminal Justice Services (DCJS) for law enforcement personnel.
2. All SIU Special Agents will maintain compliance with the DCJS requirements for in-service training.
3. 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.

Q. Security of Investigations

1. 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.
2. Sensitive and confidential SIU information will be maintained in strict confidence.
3. 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.
4. 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 057.1, *Personnel Records*.
5. Information related to SIU investigations sent to or received from the Operations & Logistics Unit should be handled in accordance with Operating Procedure 435.1, *Special Operations Unit*.

R. Human Resources

1. Equal Employment Opportunity, Hostile Work Environment, and Sexual Harassment
 - a. The Human Resources Unit (HR) 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, Unit Head, the Director, or SIU.
 - c. The SIU may be called upon to investigate reports of Workplace Violence.

S. Administrative Procedures

1. 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.
2. 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.
3. 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.
4. If a Special Agent determines the visitor of an offender 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

V. REFERENCES

Commonwealth Accounting Policies and Procedures (CAPP) Manual
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 057.1, Personnel 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 145.4, Employee Grievances
Operating Procedure 310.2, Information Technology Security
Operating Procedure 435.1, Special Operations Unit
Operating Procedure 435.2, Offender Gang Identification and Tracking
Operating Procedure 445.1, Employee, Visitor, and Offender Searches
Operating Procedure 445.2, Facility Searches
Operating Procedure 830.1, Institution Classification Management

VI. 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
[Vital Information for Telephone Notification of Incident](#) 038_F1
[Authorization to Read Outgoing Mail](#) 445_F8

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

Signature Copy on File

8/22/18

Harold W. Clarke, Director

Date