



VIA TRANSIT POLICE DEPARTMENT

Standard Operating Procedures



Section 302 – Complaints/ Disciplinary Procedure

Office with Primary Responsibility:	COP	Effective Date: Prior Revision Date:	March 11, 2019 December 1, 2017
Office(s) with Secondary Responsibilities:		Number of Pages:	4
Forms Referenced in Procedure:	None	Related Procedures:	Section 601 Racial/Bias Profiling

.01 ACCEPTANCE OF COMPLAINTS:

- A. The VIA Metropolitan Transit Police Department accepts and investigates all allegations of misconduct against sworn and non-sworn members of the Transit Police Department.
- B. Complaints on Sworn Officers will be accepted for investigations in writing, in person, by telephone or through the VIA CAF process. Formal Complaints must be in writing and signed by the person making the complaint. Telephone complaints will be documented in writing by the Transit Police Department personnel receiving the complaint. Complaints in any form may become the basis for further investigation action.
- C. Complaints on Security Officers will be accepted for investigations in writing, in person, by telephone or through the VIA CAF process. Formal Complaints must be in writing and signed by the person making the complaint. Telephone complaints will be documented in writing by the Transit Police Department personnel receiving the complaint. Complaints in any form may become the basis for further investigation action.

.02 CATEGORY OF COMPLAINTS: Complaints will be categorized as Internal or External.

- A. An Internal complaint is an allegation of misconduct filed by any VIA employee.
- B. An External complaint is an allegation of misconduct filed by a person other than a VIA employee.

.03 TYPES OF COMPLAINTS: Complaints will be defined and investigated as Line Complaints or Formal Complaints. All Complaints are investigated and conducted through the VIA Positive Discipline Process in compliance with the VIA Salaried Employee Manual.

- A. A Line Complaint generally constitutes disciplinary matters limited to and involving a minor variance from the routine activities and responsibilities of the sworn member in question.
 1. Line Complaints are investigated by the immediate supervisor of the subject officer.
 2. The immediate supervisor will make a recommendation through the chain of command to the Chief of Transit Police for approval.
 3. The findings of the investigation including any disciplinary actions will be documented and filed as per VIA Transit guidelines.
- B. A Formal Complaint generally constitute matters involving conduct that exhibits a significant variance from behavioral expectations or practices established through formal training, departmental rules, regulations, policies, or procedures which regulate a sworn member's conduct.
 1. Formal Complaints are investigated by the Chief of Transit Police or his designee.
 2. The immediate supervisor of the subject officer will collect reports and evidence and present them through the chain of command to the Chief of Transit Police.
 3. The subject officer will be ordered to write a report.



VIA TRANSIT POLICE DEPARTMENT

Standard Operating Procedures



Section 302 – Complaints/ Disciplinary Procedure

4. The Chief of Transit Police will determine the finding of the investigation and determine appropriate disciplinary action. All investigation findings, including any disciplinary actions will be documented and filed as per VIA Transit guidelines.

.04 PRELIMINARY COMPLAINTS INVESTIGATIONS: Supervisory Responsibilities:

- A. Immediately notify the Chief of Transit Police of any cases where an officer is involved in allegations of serious misconduct or suspected criminal activity;
- B. Immediately contact and interview the complainants;
- C. Refer the complainants to the VIA customer service line (210) 362-2020 to initiate formal complaints;
- D. Interview and obtain written reports from the subject officers of the complaints.
- E. Obtain necessary information, which assists in the evaluation of the complaints;
- F. Prepare preliminary complaint investigation packets including the information provided by the complainants, witnesses, the officers' reports, and the supervisors' reports;
- G. Supervisors will not make recommendations as to the specific rule, regulation, policy, or procedure violated, nor will they make a recommendation as to punishment. Supervisors will only recommend either no disciplinary action is necessary or the complaint should be forwarded to the Chief of Transit Police for further disposition;
- H. Route the preliminary complaint investigation packets through the chain of command to the Chief of Transit Police.
- I. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time.
- J. Supervisory Officers handling complaints of Racial Profiling will also adhere to the guidelines in Section 601 Racial/Bias Profiling. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination. A copy of the written and signed complaint must be given to the officer before any disciplinary action is taken.

.05 FORMAL COMPLAINTS INVESTIGATIONS: Upon being assigned an investigation by the Chief of Transit Police, the supervisor assigned to conduct the investigation shall:

- A. Review the complaint to identify the issues.
- B. Interview the complainant and obtain all pertinent information regarding the allegation.
- C. Notify the affected officer or employee and provide a copy of the complaint to him/her. The affected officer or employee may provide a written response to the complaint to explain their understanding of compliant and provide their understanding of the event or incident.
- D. Administer the administrative warning.
- E. Obtain a written response to the allegation from the affected officer or employee.
- F. Obtain related reports from witnesses or other sources as needed, including sworn statements.
- G. Conduct follow-up interviews as needed.



VIA TRANSIT POLICE DEPARTMENT

Standard Operating Procedures



Section 302 – Complaints/ Disciplinary Procedure

- H. Take other necessary action to complete the investigation.
- I. Prepare a written report to the Chief of Transit Police to include a complete analysis of the allegation with supporting documentation and classification of the complaint within ten (10) working days from the date of the incident or initial knowledge of the incident. If the complaint is sustained, the report must identify the Transit Police regulatory directive and/or the applicable section of the VIA Salaried Employee Manual that was violated. The report must also include a recommendation on what action to take on the complaint.
- J. If disciplinary action is intended to be taken against a Peace Officer, a copy of the written complaint must be served on that officer before any such action is taken.
- K. An internal complaint may be initiated and/or based on any written or verbal report submitted by an officer; and, in any such situation, must be reduced to a written complaint, a copy of which shall be provided to the subject officer, prior to any disciplinary action being taken.

.06 **DISPOSITION OF COMPLAINTS:** Upon conclusion of an investigation, the complaint will be closed and filed as:

- A. Unfounded - The allegation is false or not factual.
- B. Exonerated - The incident occurred, but was lawful and proper.
- C. Inconclusive - There is insufficient evidence to either prove or disprove the allegation.
- D. Sustained - The allegation is supported by sufficient evidence to justify the reasonable conclusion that the alleged misconduct occurred.
- E. Violation not related to initial complaint - A sustained act of misconduct not related to the initial complaint was discovered during the investigation.

.07 **NOTICE TO AFFECTED PARTIES:**

- A. Affected Officer and/or Employee: After final review and finding by the Chief of Transit Police, the affected officer or employee will be notified of the disposition of the complaint.
- B. Complainant: After final review and finding by the Chief of Transit Police, the complainant will be notified of the finding of the complaint.

.08 **TIME LIMITS:**

- A. The investigation shall be completed within thirty (30) days of the Department being notified or becoming aware of the complaint. In the event of illness, emergency, unforeseen circumstances or other issues needing further investigation, an extension may be appropriately granted. Extensions of time are requested in a written report and may be granted by the Chief of Transit Police if circumstances warrant.
- B. Disciplinary action should be taken as soon as possible after the investigation is complete but not more than thirty (30) days. In the event of illness, emergency, unforeseen circumstances or other issues needing further investigation, an extension may be appropriately granted. Extensions of time are requested in a written report and may be granted by the Chief of Transit Police if circumstances warrant.

.09 **ADMINISTRATIVE LEAVE WITH PAY:** Any leave with pay issues will be in accordance with the VIA Salaried Employee Manual.

.10 **Requirement to Cooperate:** All officers or employees will cooperate in any investigation being undertaken to determine an appropriate course of action in accordance with the VIA Salaried Employee Manual. Refusal to cooperate in any investigation or hearing, or failure to appear as a witness or failure to produce requested evidence, is cause for disciplinary action up to and including termination.



VIA TRANSIT POLICE DEPARTMENT

Standard Operating Procedures



Section 302 – Complaints/ Disciplinary Procedure

.11 ADMINISTRATIVE INQUIRY:

- A. Transit Police Department management officials are responsible for performing all necessary functions for the accomplishment of the VIA and Transit Police Department mission, consistent with agency policies, applicable laws and regulations, and sound, moral business ethics.
- B. Administrative inquiries may be initiated at any time as needed to determine what happened at the scene of any call for service, incident, situation, or event involving Transit Police Officers or employees. The Chief of Transit Police Department may convene an incident review panel of VIA management officials to review the results of the inquiry. An administrative inquiry may develop into an investigation of alleged misconduct if warranted by the information under review. VIA work grievance procedures are afforded to any officer or employee subject to such an inquiry.

.12 ADMINISTRATIVE WARNING: A copy of the administrative warning is provided in this manual.

.13 EEO OFFICE: Any EEO complaints or violations of Title VII forwarded to the EEO office and handled in accordance with the VIA Salaried Employee Manual takes precedence any investigation made within the Transit Police Department.

.14 EMPLOYEE APPEAL PROCESS: All officers or employees that have been the subject of a sustained complaint and/or disciplinary action may appeal the disposition of the complaint and/or disciplinary action as follows:

- A. Employees have five (5) working days from their notice of disposition or disciplinary action to schedule an appointment with the Vice President of Safety, Training, and System Security.
- B. All requests for appeals to the Vice President of Safety, Training and System Security will be made in writing.
- C. All decisions of the Vice President of Safety, Training and System Security, including a decision to not allow or hear an appeal, and appeal dispositions are final.

.15 RECORDS SECURITY AND FILE RETENTION:

- A. All reports, documents, electronic files and evidence in an open complaint investigation are kept in a locked, secure location in the custody of the Chief of Transit Police or their designated investigator.
- B. All reports, documents, electronic files and evidence in a finalized complaint will be retained and secured as directed in Section 902.02 and Section 902.09 of the Standard Operating Procedures.