



**Government of the United States Virgin Islands
Virgin Islands Police Department**



Policy and Procedure Manual

Series PERS	Effective Date March 13, 2012	Review Date Annually	Policy Number 4.6
Subject Psychological Fitness for Duty Evaluation Policy			<input checked="" type="checkbox"/> New Policy <input type="checkbox"/> Replaces-
Chapter 4-PERSONNEL			
References			

I. PURPOSE:

The purpose of this policy is to establish consistent procedures for ordering and implementing psychological fitness for duty evaluations (FFDE) of sworn and civilian personnel involved in public safety functions. Such evaluations are necessary for the safety and welfare of the community and Virgin Island Police Department (VIPD) personnel.

II. POLICY:

It is the policy of the VIPD to take all reasonable measures to determine through professional means, the emotional and mental fitness of officers to carry out their essential duties as armed peace officers.

An officer may be referred for a Fitness for Duty Evaluation whenever there is reason to believe the officer's behavior and/or conduct is such that the officer's psychological fitness to perform assigned duties is questioned. This also includes possible medical issues either identified by the officer or the Department which may affect the officer's ability to perform his/her assigned duties.

This policy is not intended to establish a rigid standard of practice for FFDEs. Instead, it is intended to reflect the accepted practices and procedures of the Department.

III. DEFINITIONS:

- A. Examinee: the employee of the department being examined by the Examiner for the purpose of determining psychological fitness-for-duty.

- B. Examiner: the Department Psychologist or other mental health care provider who conducts psychological examinations of department employees for the purpose of determining psychological fitness-for-duty.
- C. Objective Basis: is one that is not merely speculative but derives from direct observation, credible third-party report, or other reliable evidence of aberrant behavior.
- D. Psychological FFDE: a formal, specialized examination of an incumbent employee that results from (1) objective evidence that the employee may be unable to safely or effectively perform a defined job, and (2) a reasonable basis for believing that the cause may be attributable to a psychological condition or impairment. The central purpose of an FFDE is to determine whether the employee is able to safely and effectively perform his or her essential job functions.

IV. PROCEDURES:

- A. The guidelines may not apply in a specific case or in all situations. The decision as to what is or is not done in a particular instance is ultimately the responsibility of the Police Commissioner with recommendations from the Police psychologist or other Examiner(s).
- B. Supervisory employees should be alert to any indication that an employee may not be emotionally or mentally fit. Referring an officer for an FFDE is indicated whenever there is an objective and reasonable basis for believing that the officer may be unable to safely and/or effectively perform his or her duties due to a psychological condition or impairment.
- C. FFDEs necessarily intrude on the personal privacy of the examinee and therefore are most appropriately conducted when the Department has determined that other options are inappropriate or inadequate in light of the facts of a particular case. The FFDE is not to be used as a substitute for disciplinary action.
- D. Officers or employees undergoing an FFDE are entitled to all the rights guaranteed in their Collective Bargaining Agreements (CBA).
- E. The Commissioner and Examiner(s) will consult before an FFDE commences in order to ensure that an FFDE is indicated in a particular case. In all consultations, the examiner strives to maintain independence and objectivity and avoid undue influences by any of the parties involved in the case.
- F. The Examiner(s) will refrain from rendering fitness-for-duty opinions when they are not conducting an FFDE, such as when providing debriefings or similar services in the context of an officer-involved shooting or other critical incidents.

V. EXAMINER QUALIFICATIONS

- A. In light of the nature of these evaluations and the potential consequences to the department, the examinee, and the public, it is important for the examiner(s) to perform FFDEs with maximum attention to the relevant legal, ethical, and practice standards, and with particular concern for statutory and case law applicable to the U.S. Virgin Islands. These evaluations will be conducted only by a qualified mental health professional. At a minimum, examiners:
1. Will be licensed psychologists or psychiatrists with education, training, and experience in the diagnostic evaluation of mental and emotional disorders;
 2. Will possess training and experience in the evaluation of law enforcement personnel;
 3. Will be familiar with the police psychology literature and the essential job functions of the officer being evaluated;
 4. Will be familiar with relevant state and federal statutes and case law, as well as other legal requirements related to employment and personnel practices (e.g., disability, privacy, third-party liability, etc.);
 5. Will satisfy any other minimum requirements imposed by local jurisdiction or law;
 6. Will recognize their areas of competence based on their education, training, supervised experience, consultation, study, or professional experience; and
 7. Will seek appropriate consultation to address issues outside their areas of competence that may arise during the course of an FFDE.
- B. When an FFDE is known to be in the context of litigation, arbitration, or another adjudicative process, the examiner should be prepared by training and experience to qualify as an expert in any related adjudicative proceeding.

VI. DUAL RELATIONSHIPS & CONFLICTS OF INTEREST

- A. The Examiner(s) will decline to accept an FFDE referral when personal, professional, legal, financial, or other competing interests or relationships could reasonably be expected to:
1. Impair their objectivity, competence, or effectiveness in performing their functions; and/or

2. Expose the person, entity or Department with whom the professional relationship exists to harm or exploitation (e.g., conducting an FFDE on an officer who had previously been a client in counseling or therapy, or evaluating an officer with whom there has been a business or significant social relationship, etc.).
- B. The Examiner(s) will be mindful of potential conflicts of interest related to recommendations or the provision of services following the evaluation (e.g., referring an examinee to oneself for subsequent treatment). If such conflicts are unavoidable or deemed to be of minimal impact, the examiner will disclose the potential conflict to all affected parties.

VII. REFERRAL PROCESS

- A. Where in the opinion of the Commissioner the findings in a case, or the pattern or frequency of complaints against an officer or employee indicates that a FFDE may be necessary, he may direct the officer or employee to submit to a FFDE.

The Commissioner may also rely on the observations of supervisors based on various indications or display of aberrant or erratic behavior. The mere presence of any one factor or combination of factors may not be sufficient to order the evaluation. However, such presence should not be ignored and may lead to the ordering of an evaluation.

While there is a great variety and range of acceptable behavior among officers, dramatic or sudden changes in an officer's customary behavior may increase concern. Such indications may include but are not limited to the following factors:

1. One or more personnel complaints, whether originated internally or externally, particularly complaints of the use of unnecessary or excessive force, inappropriate verbal conduct, or any conduct indicating an inability to exercise self control and self discipline;
2. An abrupt and negative change in customary behavior, toward an inability to perform essential functions of the position;
3. Irrational verbal conduct or behaviors, including delusions and hallucinations;
4. Suicidal statements or behaviors, or personal expressions of mental instability;
5. Unexplained and excessive tiredness or hyperactivity;

6. Dramatic change in eating patterns resulting in sudden weight loss or gain, or diagnosis of a life threatening eating disorder;
 7. Change in behavior pattern to inattention to personal hygiene and health;
 8. Inappropriate use of alcohol, medications or other drugs, including symptoms of illegal drug use;
 9. Memory losses;
 10. Impatience or impulsiveness, especially with a loss of temper;
 11. A pattern of conduct indicating a possible inability or decrease in ability to defuse tense situations, a tendency to escalate such situations or create confrontations;
 12. Unexplained and inappropriate excessive lateness or absenteeism; or
 13. Any other factor or combinations of factors that causes a supervisor to reasonably suspect that a fitness for duty evaluation may be necessary.
- B. Officers returning to duty after an extended leave including but not limited to the following will be referred for an FFDE:
1. Leave following any critical incident;
 2. Leave where the officer was the subject of a serious criminal investigation;
 3. Leave where the officer was the victim of a significant emotional and/or physical incident; or
 4. Extended sick leave.
- C. The officer's referral to the examiner shall include, in writing, a description of the objective basis evidence giving rise to concerns about their fitness-for-duty and any particular questions that the Department needs the examiner to address. If the Commissioner has not documented the reasons for the referral in writing, the examiner should send the Commissioner a letter or memo requesting a restatement of the reasons for the referral.
- D. In the course of conducting the FFDE, the Examiner(s) shall receive background and collateral information regarding the officer's past and recent performance, conduct, and functioning. The information may include, but is not limited to, performance evaluations, previous remediation efforts, commendations, testimonials, internal affairs investigations, formal citizen/public complaints, use-of-force incidents, reports related to officer-involved shootings, civil claims, disciplinary actions, incident reports of any triggering events, medical records,

prior psychological evaluations, and other supporting or relevant documentation related to the officer's psychological fitness-for-duty. In some cases, the Examiner(s) may ask the examinee to provide medical/psychological treatment records and other data for the examiner to consider.

- E. When some portion of the information requested by an examiner is unavailable or is withheld, the examiner must judge the extent to which the absence of such information may limit the reliability or validity of his or her findings and conclusions before deciding to proceed. If the examiner proceeds with the examination, it is recommended that the subsequent report include a discussion of any such limitations judged to exist.

VIII. INFORMED CONSENT & AUTHORIZATION

- A. An FFDE requires the informed consent of the examinee and the VIPD to participate in the examination. At a minimum, informed consent should include:
 - 1. A description of the nature and scope of the evaluation;
 - 2. The limits of confidentiality, including any information that may be disclosed to the VIPD without the examinee's authorization; and
 - 3. Other provisions consistent with legal and ethical standards for mental health evaluations conducted at the request of third parties.
- B. As part of the informed consent process, the examiner clarifies who the client is and communicates this to all involved parties at the outset of the evaluation. Regardless of who is identified as the client, the examiner owes an ethical duty to both parties to be fair, impartial, accurate and objective, and to honor the parties' respective legal rights and interests. Additional legal duties also may be owed to the examinee or Department as a result of statutory or case law.
- C. In addition to obtaining informed consent, the examiner shall obtain written authorization from the employee to release the examiner's findings and opinions to any party other than the Police Commissioner.

IX. EVALUATION PROCESS

- A. Depending on the referral question and the examiner's clinical judgment, an FFDE typically relies on multiple methods and data sources in order to optimize the reliability and validity of findings. The range of methods and data sources frequently includes:
 - 1. A review of the relevant collateral information described in Section VII;

2. Psychological testing using assessment instruments (e.g., personality, psychopathology, cognitive, specialized) appropriate to the referral question(s);
 3. A comprehensive, face-to-face clinical interview;
 4. Collateral interviews with relevant third parties if deemed necessary by the examiner; and
 5. Referral to, and/or consultation with, a specialist if deemed necessary by the examiner.
- B. Prior to conducting collateral interviews of third parties, care should be taken to obtain informed consent from the VIPD, the examinee, or from the third party, as appropriate. This should include, at a minimum, explanation of the purpose of the interview, how the information will be used, and any limits to confidentiality.

X. REPORT AND RECOMMENDATIONS


- A. The examiner will provide a written report to the Commissioner that contains a description of the rationale for the FFDE, the methods employed, and whenever possible, a clearly articulated opinion that the examinee is presently fit or unfit for unrestricted duty. The content of the report should be guided by the referral question(s), the Department's written policies and procedures, the applicable terms of any CBA, relevant law, the terms of informed consent, the Officer's authorization, and the pertinence of the content to the examinee's psychological fitness. Because FFDEs may become part of an adjudicative process, examiners strive to maintain detailed records that allow scrutiny of their work by other experts.
- B. When an examinee is found unfit for unrestricted duty, it is advisable that the report contains, at a minimum, a description of the Officer's functional impairments or job relevant limitations unless prohibited by law, Department policy, CBA, the terms of the Officer's disclosure authorization, or other considerations.
- C. It is recognized that some examiners may be asked to provide opinions regarding necessary work restrictions, accommodations, interventions, or causation. Nevertheless, whether or not a recommended restriction or accommodation is reasonable for the specific case, it is a determination to be made by the Commissioner, not the examiner.
- D. The examiner's findings and opinions are based on all data available at the time of the examination. If additional relevant information is obtained after completion of the FFDE or if it is determined that the original evaluation was based on inaccurate information, the Commissioner may request that the examiner

reconsider his or her conclusions in light of the additional information. Reconsideration or re-evaluation also may be indicated in circumstances in which an officer or employee, previously deemed unfit for duty, subsequently provides information suggesting his or her fitness has been restored.

- E. If the event of a difference of opinion between or among the examiner and other health care professionals, it is advisable that the Commissioner consider:
 - 1. Any differences in the professionals' areas of expertise and knowledge of the officer or employee's job and work environment;
 - 2. The objective bases for each opinion; and
 - 3. Whether the opinion is contradicted by information known to or observed by the employer.
- F. FFDE reports are to be handled in conformance with legal standards and Department policy governing the treatment of employee medical records.
- G. Upon receipt of the report and recommendations from the Examiner, the Commissioner shall take such action as he deems suitable to the public's interest or safety.

XI. SANCTIONS

- A. Refusal to comply with the Commissioner's Directive to submit to testing shall be cause for disciplinary action.
- B. Refusal to cooperate with the Examiner during the evaluations may be cause for disciplinary actions.


Henry W. White, Jr.
Police Commissioner