


**SOP #10 Internal Affairs**

<b>MIDDLE TOWNSHIP POLICE DEPARTMENT</b> <i>Standard Operating Procedure</i>			
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<b>SUBJECT: INTERNAL AFFAIRS</b>			
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<b>BY THE ORDER OF:</b> Police Chief Christopher Leusner		Feb. 25 <sup>th</sup> , 2010	
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<b>SUPERCEDES ORDER #:</b> SOP #10 issued November 27 <sup>th</sup> , 2017			

**PURPOSE:** This agency is committed to providing law enforcement services that are fair, effective, and impartially applied. Toward that end, officers are held to the highest standards of official conduct and are expected to respect the rights of all citizens. Officer’s adherence to these standards, motivated by a moral and professional obligation to perform their job to the best of their ability, is the ultimate objective of this agency. The effectiveness of a law enforcement agency is dependent upon public approval and acceptance of law enforcement authority. The department must be responsive to the community by providing formal procedures for the processing of complaints from the public regarding officer performance both individually and collectively.

The purpose of this policy is to improve the quality of law enforcement services. Citizen confidence in the integrity of this department increases through the establishment of meaningful and effective complaint procedures. This confidence engenders community support for the department. Improving the relationship between the officers and the citizens they serve facilitates cooperation vital to the department’s ability to achieve its goals. An effective disciplinary framework also permits law enforcement officials to monitor officers’ compliance with department policies and procedures. Adherence to established policies and procedure assists officers in meeting department objectives while a monitoring system permits managers to identify problem areas requiring increased training or direction. Finally, this policy will ensure fairness and due process protection to citizens and

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officers alike in the handling of complainants against the department and its officers.

The internal affairs process shall also be used to identify and correct unclear or inappropriate agency procedures. In addition it will highlight organizational conditions that may contribute to any misconduct, such as poor recruitment and selection procedures or inadequate training and supervision of officers.

**POLICY:** It is the policy of the Middle Township Police Department to accept and investigate all complaints of alleged misconduct or wrongdoing by this Department or its employees from any citizen, agency employee or any other sources, including anonymous sources. All investigations are to be consistent with the New Jersey Attorney General's Internal Affairs Guidelines. Following a thorough and impartial examination of the available factual information, the officer shall either be exonerated or held responsible for the alleged misconduct. Discipline shall be administered according to the degree of misconduct.

Officers and employees, regardless of rank, shall be subject to disciplinary action for violating their oath and trust. Committing an offense punishable under the laws of the United States, the State of New Jersey, or municipal ordinances constitutes a violation of that oath and trust. Officers are also subject to disciplinary action for failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment. In addition, officers may be disciplined for violation of any rule and regulation of the department or for failure to obey a lawful instruction, order or command of a superior officer or supervisor. Disciplinary action in all matters will be determined based upon the merits of each case.

In order for a police department to be able to effectively carry out its mission it must have the public trust and confidence. For this reason and in consideration of the awesome authority that a police department has over its citizens, the ability of any such agency to effectively investigate the conduct of its employees is of critical importance. The public must have absolute confidence in the integrity of the internal affairs process since it represents the standard for addressing allegations of employee misconduct. All employees, especially those sworn to uphold the law, must accept as part of their office the obligation to be truthful in all investigations. Therefore, it is essential that all employees be completely truthful and forthright in all facets of the internal affairs process. To mislead or lie is to demonstrate a character flaw that is inconsistent with the law enforcement calling. Additionally, lying in an internal affairs investigation will frustrate the process and quickly erode the public trust and discipline within the department. This agency is committed to taking the necessary steps of removing from our ranks any employee who is untruthful in an internal affairs investigation. Accordingly, all employees must understand that lying in an internal affairs investigation is synonymous with forfeiting one's employment with the department.

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Officers conducting the investigation of any allegation of misconduct must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer, and show proper respect to all officers of the public. Accordingly, all supervisors and any other officer who may be called upon to do an internal investigation must be thoroughly familiar with the department's internal affairs policy.

Prevention is the primary means of reducing and controlling misconduct. To that end, it is the policy of this department to discover and correct organizational conditions, which permit the misconduct to occur and/or go undetected. Special emphasis is placed on recruitment, selection and training of officers and supervisors, community outreach, and the analysis of misconduct complaints and their outcome.

Each officer shall be provided ready access to an official, department-written manual, which contains specific direction for conducting all aspects of law enforcement work. Categories of misconduct shall be clearly described and defined, and the disciplinary process shall be thoroughly explained in the manual.

### **PROCEDURE:**

#### **I. Internal Affairs Unit**

- A. The Internal affairs Unit is herein established. The unit shall consist of those officers of the department assigned by the chief of police. Personnel assigned to the Internal Affairs Unit shall serve at the pleasure of the chief of police.
  - 1. The chief of police shall designate a supervisor for the Internal Affairs Unit.
- B. The goal of internal affairs is to ensure that the integrity of the department is maintained through a system of internal discipline where fairness and justice are assured by objective, impartial investigation and review.
- C. Notwithstanding any other notification protocol herein included, the chief of police must be immediately advised of any allegation of wrongdoing on the part of an employee that would constitute a criminal offense or has the potential to have a significant negative impact on the operation or reputation of the department.

#### **II. Duties and Responsibilities**

- A. The Internal affairs Unit is responsible for the investigation and review of all allegations of misconduct by officers of this department.
  - 1. Misconduct is defined as:
    - a. Commission of a crime or an offense; or
    - b. Violation of departmental rules and regulations; or

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- c. Conduct that adversely reflects upon the officer or the department.
- B. In addition to investigations concerning allegations of misconduct, internal affairs shall be responsible for the review and/or investigation of:
  - 1. The discharge of firearms by department personnel in situations other than training and qualifications.
  - 2. Vehicular pursuits involving department personnel.
  - 3. Use of force incidents.
- C. Internal affairs shall be responsible for any other investigation as directed by the chief of police. Internal affairs officers may conduct an internal affairs investigation on their own initiative upon notice to the chief of police or at his direction.
- D. Internal affairs may refer investigations to the employee's supervisor for action as outlined in section V of this written directive.
- E. Internal affairs officers or officers temporarily assigned to that function shall have the authority to interview any officer of the department and to review any record or report of the department relative to their assignment.
  - 1. Requests and orders from internal affairs personnel, in furtherance of their duties and responsibilities, shall be given full cooperation and compliance as though the request or order came directly from the chief of police.
  - 2. Officers assigned to the internal affairs Unit come under the direct authority of the chief of police, reporting directly to the chief of police through the internal affairs supervisor.
- F. The Internal Affairs Unit shall maintain a comprehensive central file on all complaints received by this department whether investigated by internal affairs or assigned to the officer's supervisors for investigation and disposition.
- G. Copies of the internal affairs report shall be distributed to all command personnel, the appropriate authority, and the county prosecutor's office.
- H. An annual report summarizing the types of complaints received and the dispositions of the complaints should be made available to the public. The report shall contain a brief synopsis of all complaints where a fine or suspension of ten days or more was assessed to a member of the Department. The names of complainants and subject officers shall not be published in this report.

### **III. Philosophy of Discipline**

- A. In keeping with the objectives of proper agency management, the disciplinary system established herein shall reflect the overarching emphasis for improving the quality of service being delivered by the employees of this department. Discipline should not

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engender a strictly negative connotation, as the disciplinary process is meant to correct employee actions and conduct that tend to impede the efficient and effective operation of the department. The proper use of discipline can achieve this objective without realizing a reduction in morale.

- B. Training is a component of discipline that may be the desirable alternative to other discipline in situations where the actions giving rise to the initial complaint were not deemed to be an intentional violation of established department directives. Training may also be appropriate in situations where the complaint reveals a very minor or technical violation that likely requires no more than a reinforcement of existing directives to correct the employee's behavior.
- C. Counseling as a component of discipline is an alternative for adjudicating minor complaints that should be considered when the need to address the employee in a forthright manner clearly exists, but the greater good will likely be served by limiting the discipline to formal counseling in lieu of punitive discipline. Counseling is not appropriate for serious violations or in situations where the offending employee's behavior is part of a continuing course of problematic behavior.
- D. Serious violations and those committed as one in a series of repeated violations require swift and certain punitive measures in order to maintain proper discipline within the department. The Rules and Regulations set forth a schedule depicting the classes of offenses and recommended penalties for all violations charged under the rules and regulations.

### **IV. Accepting Reports Alleging Officer Misconduct**

- A. All department personnel are directed to accept reports of officer misconduct from all persons who wish to file a complaint regardless of the hour or day of the week.
  - 1. Citizens shall be encouraged to submit their complaints in person as soon after the incident as possible.
  - 2. If the complainant cannot file the report in person, a department representative shall visit the individual at his or her home, place of business or at another location in order to complete the report, if feasible.
- B. Complaints shall be referred to the Internal Affairs Unit if an officer is immediately available.
  - 1. If an internal affairs officer is not immediately available, all supervisory personnel are directed to accept the report of officer misconduct.
  - 2. If an internal affairs officer and a supervisor are not available, any law enforcement officer shall accept the complaint.
- C. The officer receiving the complaint will:

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1. The internal affairs investigator, supervisor, or other officer receiving the complaint will explain the department's disciplinary procedures to the person making the complaint. The officer shall advise the complainant that he or she will be kept informed of the status of the complaint, if requested, and its ultimate disposition.
  2. Complete the *Internal affairs Complaint Report* according to the instructions provided.
  3. Have the complainant sign the completed form. If the complainant will not sign the form, the officer receiving the complaint will so note that fact. However, the failure of a citizen to sign a complaint will in no way preclude the investigation of the allegations.
- D. All department personnel are directed to accept reports of officer misconduct from anonymous sources. If the anonymous complainant is talking to an officer, the officer should encourage him to submit his complaint in person. In any case, the complaint will be accepted.
1. In the case of an anonymous complaint, the officer accepting the complaint shall complete as much of the *Internal affairs Complaint Report* as he can with the information provided.
- E. Complaints shall be handled as follows:
1. All complaints shall be forwarded to the Internal affairs Supervisor who is responsible for screening the complaint and shall:
    - a. Forward an *Internal affairs Report Acknowledgement* form and a *Citizen's Complainant Information Sheet* to the complainant, if identified.
    - b. Enter the information into the Internal affairs Index.
    - c. Forward a *Notice of Internal Investigation* to the subject officer(s).
    - d. Designate a return date and forward the case file to the assigned investigator.
  2. Complaints of demeanor and minor rules infractions may be forwarded to the supervisor of the subject officer for investigation and disposition.
  3. All other complaints shall be retained by the Internal affairs Unit, including complaints of:
    - a. criminal activity;
    - b. excessive force;
    - c. improper arrest;
    - d. improper entry;
    - e. improper search;
    - f. differential treatment/harassment;
    - g. serious rule infractions;
    - h. complaints of domestic violence;
    - i. repeated minor rule infractions

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- F. If the complaint is accepted during hours when the internal affairs supervisor is not on duty, and the complaint is of such gravity that immediate attention is required, the supervisor accepting or receiving the complaint shall contact the internal affairs supervisor and advise him of the complaint. If the internal affairs supervisor is not available, the chief of police shall be contacted.
- G. If a complainant wants to make a complaint against an employee of another law enforcement agency, he/she will be referred to that agency. If the complainant expresses fears or concerns about making the report directly, he/she will be referred to the appropriate county prosecutor's office.
- H. Any department employee who witnesses an employee's misconduct shall immediately report the misconduct up the chain of command. Any accused officer in the chain of command shall be by-passed.
- I. Any officer that is a witness to a civil rights violation shall immediately cause the action creating the civil rights violation to cease. He shall then report the conduct up the chain of command by-passing any accused officers. Failure to intercede may result in a violation of federal law. (18.U.S.C.241)
- J. The subject officer shall be notified in writing of the complaint as soon as possible, unless the nature of the investigation requires secrecy.

### **V. Suspension Pending Disposition or Investigation**

- A. Any department supervisor or command officer may immediately suspend an officer from duty if he or she determines that one of the following conditions exists:
  - 1. The employee is unfit for duty; or
  - 2. The employee is a hazard to any person if permitted to remain on the job; or
  - 3. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services; or
  - 4. The employee has been formally charged with a first, second or third degree crime; or
  - 5. The employee has been formally charged with a first, second, third or fourth degree crime while on-duty, or the criminal act related to his or her employment.
- B. The supervisor imposing the immediate suspension must:
  - 1. Advise the employee in writing of why an immediate suspension is sought and the charges and general evidence in support of the charges.
    - a. If the employee refuses to accept the written notification of immediate suspension, it shall be given to a representative of the employee's union.
  - 2. Provide the employee with sufficient opportunity to review the charges and the evidence and to respond either orally or in writing.

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3. Advise his immediate supervisor in writing of the suspension and the facts and circumstances requiring the suspension.
  4. Order the suspended employee to appear before the chief of police on the next regular business day.
- C. Within five days of the suspension, the department must complete and file formal charges against the suspended employee or return the employee to work.
- D. Administrative reassignment
1. In cases involving use of force that results in death or serious bodily injury the officer involved may be reassigned to administrative duty pending the outcome of the investigation.
  2. Any officer under investigation or pending a hearing on charges may be reassigned by the chief of police to administrative or modified duties pending the outcome of the investigation or hearing if, in the discretion of the chief of police, such reassignment is necessary to protect the integrity and image of the police department.
  3. These reassignments are subject to change at the discretion of the chief of police.

## VI. Investigation and Adjudication of Minor Complaints

- A. Complaints of demeanor, minor rules infractions and any other violation that would normally result in minor discipline may be forwarded to the subject officer's supervisor. The supervisor shall investigate the allegation of misconduct.
1. In cases where the investigation leads to the possibility of more severe discipline than a *Performance Notice* or *Letter to File*, the supervisor shall forward all findings to the Internal Affairs Unit. Otherwise the supervisor shall complete a *Performance Notice* or *Letter to File* documenting the action taken.
- B. The investigating Internal Affairs officer shall interview the complainant, all witnesses and the subject officer, as well as review relevant reports, activity sheets, or dispatcher forms. The investigating Internal Affairs officer shall then prepare a report summarizing the matter, indicating the appropriate disposition. Possible dispositions include the following:
1. **Exonerated:** the alleged incident did occur, but the actions of the officer were justified, legal and proper.
  2. **Sustained:** the investigation disclosed sufficient evidence to prove the allegation, and the actions of the officer violated provisions of rule and regulation or department written directives.
  3. **Not Sustained:** the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
  4. **Unfounded:** the alleged incident did not occur.



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- C. Upon completing an internal affairs investigation, the assigned investigator shall complete an *Investigation Disposition Recommendations* form for each allegation of misconduct and forward the entire investigation package to the internal affairs supervisor for review.
1. The internal affairs supervisor shall review the case file and recommended disposition(s) and must sign the *Investigation Disposition Recommendations* form. In the comments section of the form the supervisor shall record his agreement or disagreement with the recommendation(s).
  2. The case file shall be forwarded to the chief of police for his review. The chief will approve or modify the recommended disposition(s) based upon the report and recommendations set forth on the form.
- D. Upon final disposition of the complaint, a letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian complainant. If the allegation was not sustained, the letter shall provide the complainant with a brief explanation why the complaint was not sustained (e.g., insufficient proof, lack of witnesses, etc.) If the allegation was sustained and discipline was imposed, the letter shall simply state that the allegation was sustained and that the officer has been disciplined according to department procedures. It is not necessary to specify the discipline imposed.
- E. Initiation of disciplinary action for minor complaints
1. A *Performance Notice or Letter to File* shall be used in lieu of formal charges by any superior officer within his/her line of authority as indicated by the department table of organization and the established chain of command for the following areas of discipline:
    - a. Advisements
    - b. Counseling
  2. A *Written Reprimand* may be issued to an employee by any superior officer within his/her line of authority as indicated by the department table of organization and the established chain of command.
  3. The officer or employee shall be advised of the discipline and given a copy of the *Performance Notice*.
  4. Filing of Disciplinary Documents
    - a. For *Performance Notice or Letters to File*
      - 1) The *Performance Notice or Letter to File* shall be retained in the employee's internal affairs file only.
      - 2) *Letters to File* will be documented in the performance evaluation of the officer.
    - b. For *Written Reprimands*

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- 1) The written reprimand will remain permanently in the personnel file of the respective officer or employee.

### **VII. Investigation and Adjudication of Serious Complaints**

- A. All serious complaints shall be investigated by the Internal affairs Unit, including complaints of:
  1. Criminal activity;
  2. Excessive force;
  3. Improper arrest;
  4. Improper entry;
  5. Improper search;
  6. Differential treatment/harassment;
  7. Serious rule infractions;
  8. Complaints of domestic violence;
  9. Repeated minor rule infractions.
- B. Where preliminary investigative data indicates the possibility of a criminal act on the part of the subject officer, or the investigation involves the use of force by officer, which results in serious bodily injury or death, the county prosecutor shall be notified immediately.
  1. No further action shall be taken, including the filing of charges against the officer, until directed by the Cape May County Prosecutor.
- C. The internal affairs investigator shall interview the complainant, all witnesses and the subject officer, as well as review relevant reports and records, and obtain other relevant information and materials.
- D. Interviewing the subject officer:
  1. The internal affairs investigator shall schedule an interview with the officer.
  2. One person of the officer's choosing may attend the interview.
    - a. In investigations of criminal allegations, it is not appropriate for a union representative to be present. However, the officer shall be given the opportunity to consult with a union representative.
  3. Before questioning begins, inform the subject officer of:
    - a. The nature of the complaint,
    - b. The name of the person in charge of the interview, and the names of all persons who will be present during the interview.
  4. If the matter under investigation involves a possible criminal violation, the internal affairs investigator shall consult with the county prosecutor regarding the advisability of giving a Miranda warning to the subject officer.
  5. Questioning sessions may be audio or video recorded.
  6. If at any time during the questioning session the officer becomes a suspect in a criminal act, the officer shall be so informed and the questioning shall end.

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Thereafter, the case shall be promptly referred to the Cape May County Prosecutor's Office.

7. If, during the course of an internal investigative interview, an employee refuses to answer questions specifically and narrowly related to the performance of duty or fitness for office on the grounds that he may incriminate himself in a criminal matter and the internal affairs investigator determines that to properly conduct an investigation the answers to the questions must be obtained, the investigator shall promptly contact the Cape May County Prosecutor's Office to inquire about obtaining use immunity.
- E. Upon completion of all possible avenues of inquiry, the internal affairs investigator and internal affairs supervisor shall complete the following reports:
1. Investigation Report (completed by the investigator): this is the objective report of all investigative activity, including all of the information obtained during the course of the investigation.
  2. Summary Report (completed by the supervisor): this report, in memorandum format, will summarize the matter, and will provide recommended dispositions for each allegation. Possible dispositions, as defined in section V of this written directive, include the following:
    - a. Exonerated;
    - b. Sustained;
    - c. Not sustained;
    - d. Unfounded.
- F. Forward the completed reports to the chief of police.
- G. The chief of police, upon completion of the review of the report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action is deemed appropriate.
- H. Upon completion of its investigation with a finding of exonerated, not sustained, or unfounded, internal affairs shall notify the subject officer in writing of the disposition.
- I. If the complaint is sustained and it is determined that formal charges should be preferred, the law enforcement executive shall direct internal affairs to prepare, sign and serve charges upon the subject officer or employee.
1. The division commander, supervisor or internal affairs investigator, as directed, shall prepare the ***Preliminary Notice of Disciplinary Action***.
- J. The ***Preliminary Notice of Disciplinary Action*** shall direct that the officer charged must enter a plea of guilty or not guilty, in writing, on or before the date set forth in the notice for entry of plea. Such date for entry of plea shall be set within a reasonable time, at least five days after the date of service of the charges.

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- K. If the officer charged enters a plea of guilty, the chief of police shall permit the officer to present factors in mitigation prior to assessing a penalty.
  - 1. When an officer enters a plea of guilty and comes to an agreement with the chief of police in terms of the discipline to be imposed, a *Stipulation and Agreement as to Disciplinary Action* shall be executed and signed by the subject officer, the chief of police and the Director of Public Safety.
- L. Conclusions of fact and the penalty imposed will be noted in the officer's personnel file after he has been given an opportunity to read and sign it. Internal affairs will cause the penalty to be carried out and complete all forms.
- M. In all cases, a letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian complainant. If the allegation was not sustained, the letter shall provide the complainant with a brief explanation why the complaint was not sustained (e.g., insufficient proof, lack of witnesses, etc.) If the allegation was sustained and discipline was imposed, the letter shall simply state that the allegation was sustained and that the officer has been disciplined according to department procedures. It is not necessary to specify the discipline imposed

### VIII. Physical Evidence

- A. The assigned investigator should obtain all relevant physical evidence. All evidence, such as clothing, hair or fibers, stains and weapons should be handled according to established evidence procedures.
- B. With respect to radio tapes, the original tape is the best evidence and should be secured at the outset of the investigation. Transcripts or copies of the original recordings can be used as investigative leads. Tapes should be monitored to reveal the totality of the circumstances.
- C. Photographs
  - 1. In the event of a complaint involving excessive force, the following photographic documentation shall be obtained when appropriate. Whenever possible, color photography shall be used.
    - a. Photographs of the complainant at the time of the arrest or following the alleged incident of excessive force.
    - b. Photographs of the officer in the event that the officer was a victim.
    - c. A recent photograph of the accused officer(s) in the event that a photo line-up will be used for identification purposes. The photo line-up must be retained for possible evidentiary purposes.
    - d. Photographs of the scene of the alleged incident, if necessary.
- D. Physical Tests

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1. Police officers who are the subjects of internal affairs investigations may be compelled to submit to various physical tests or procedures to gather evidence. Such evidence may be used against them in a disciplinary proceeding.
2. No person has a right to refuse to submit to an examination to obtain a record of his physical features and other identifying characteristics of his physical or mental condition. Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:
  - a. Blood samples.
  - b. Breath samples.
  - c. Requiring the suspect to speak.
  - d. Voice recordings.
  - e. Participation in a suspect line-up.
  - f. Handwriting samples.
  - g. Hair and saliva samples.
  - h. Urine analysis.
3. Generally, a person cannot be physically forced to produce this evidence or submit to such tests, although a court order may be obtained to legally compel him to do so. Refusal to comply with the order can result in a contempt of court action, and may also result in a second disciplinary action for failure to comply with a lawful court order.

### E. Polygraph

1. While a police officer who is the subject of an internal investigation may request a polygraph examination, an employer shall not influence, request or require an employee to take or submit to a polygraph examination as a condition of employment or continued employment (N.J.S. 2C:40A-1).
2. If a polygraph is used, a qualified police polygraph operator must administer the test.

### F. Search and Seizure

1. All department assigned storage space, desks, computer files and lockers are subject to entry and inspection without notice.
  - a. Personal brief cases, bags and containers shall not be searched without a warrant or consent.

## IX. Hearing

- A. Upon written notice of a request for a hearing from the subject officer the chief of police will set the date for the hearing within a reasonable time and arrange for the hearing of the charges.
- B. Internal affairs shall be responsible for or assist the assigned supervisor or prosecutor in the preparation of the department's prosecution of the charges. This includes proper

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- notification of all witnesses and preparing all documentary and physical evidence for presentation at the hearing.
- C. In the event of a hearing, internal affairs will be responsible for preparing a discovery package from the internal affairs file, and providing it to the subject officer or his or her representative upon receipt of a written request for such materials.
  - D. The hearing shall be held before the appropriate authority or the appropriate authority's designee. In accordance with N.J.S.A. 40A:14-148, except as otherwise provided by law, the officer, board or authority empowered to hear and determine the charge or charges made against an officer or officer of the police department or force, shall have the power to subpoena witnesses and documentary evidence. The Superior Court shall have jurisdiction to enforce any such subpoena.
  - E. All disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing. The department reserves the right to petition the hearing officer to conduct a closed hearing if a legitimate reason exists for such request.
  - F. The hearing authority is empowered to enter a finding of guilty or not guilty, or to modify the charges as deemed necessary. The decision of the hearing authority should be in writing and should be accompanied by finding of fact for each issue in the case.
  - G. The Township Committee may elect to function in the capacity of hearing officer or appoint a hearing officer to prepare finding of fact and recommendation as to violations and quantum and type of punishment, if any.
  - H. The hearing officer, in the capacity of hearing authority, shall fix any of the following punishments deemed appropriate under the circumstances.
    - 1. Counseling;
    - 2. Oral reprimand or performance notice;
    - 3. Written reprimand;
    - 4. Monetary fine;
    - 5. Transfer/reassignment;
    - 6. Suspension without pay;
    - 7. Loss of promotion opportunity;
    - 8. Demotion;
    - 9. Discharge from employment.
  - I. A copy of the decision or order and accompanying findings and conclusions shall be delivered to the officer or employee who was the subject of the hearing and to the chief of police.
  - J. Upon completion of the hearing internal affairs will complete all required forms including the entry of the disposition in the index file.

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- K. If the charges were sustained, internal affairs will cause the penalty to be carried out. The *Final Notice of Disciplinary Action* shall be permanently placed in the personnel file of the respective officer or employee.

### X. Appeals

- A. Appeals of disciplinary action taken by this department shall be processed in accordance with the New Jersey Civil Service Commission rules under Title 4A as well as current employee contracts.

### XI. Criminal/MV Complaints Against Employees

- A. Any employee who has been charged with an indictable offense, drug offense or any offense under the Prevention of Domestic Violence Act must make immediate notification to the on-duty watch commander at police headquarters setting forth the circumstances surrounding the complaint.
  - 1. It will be the responsibility of the on-duty watch commander to make a prompt notification to the internal affairs supervisor.
  - 2. It shall be the responsibility of the internal affairs supervisor to make an immediate notification to the Cape May County Prosecutor.
  - 3. It will be the responsibility of the internal affairs supervisor, in consultation with the chief of police, to evaluate the need for an immediate response by internal affairs personnel.
- B. Any employee who is charged with a minor offense (disorderly persons offense, petty disorderly persons offense or municipal ordinance), received a motor vehicle summons, or has been **involved** in (but not charged as a result of) a domestic violence incident must notify the Internal affairs Unit on the next regular business day.
- C. Any employee contacted or questioned by a law enforcement agency concerning an unlawful act (as a suspect or witness) or a law enforcement internal affairs matter must provide notification of such contact to the internal affairs supervisor via special report on his/her next scheduled day of work.
- D. Internal affairs shall track the proceedings of any criminal or civil matters which officers of the department are involved in as a complainant, plaintiff or defendant.

### XII. Confidentiality

- A. The progress of internal affairs investigations and all supporting materials are considered confidential information. All department employees are required to keep all aspects of any internal affairs case and/or investigation in strict confidence, whether involved in the investigation or not. This shall be construed as to prohibit any employee from revealing any information whatsoever, including, but not limited to:

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1. An employee's participation in an internal affairs interview;
  2. The existence of an internal affairs investigation;
  3. The subject matter of an internal affairs investigation;
  4. The target of an internal affairs investigation;
  5. The identity of complainants and/or witnesses; and
  6. Any other information related to an internal affairs investigation.
- B. The contents of internal investigation case files will be retained in the Internal Affairs Unit. The files shall be clearly marked as confidential. The information and records of an internal investigation shall only be released under the following circumstances:
1. In the event that administrative charges have been brought against an officer, and a hearing will be held, a copy of those internal investigation reports, recorded interviews or any other information to be used as evidence in the administrative hearing shall be provided to the officer.
  2. In the event that the subject officer, police department or township has been named as a defendant in a lawsuit arising out of the specific incident covered by an internal investigation, a copy of the internal investigation reports may be released to the attorney representing the subject officer, police department or township.
  3. Upon the request or at the direction of the county prosecutor or Attorney General.
  4. Upon a court order.
- C. Only the chief of police or his designee is empowered to release publicly the details of an internal investigation or disciplinary action.

### **XIII. Internal Affairs Files**

- A. A separate internal affairs file system shall be maintained in a secured file cabinet under strict control of the chief of police and internal affairs supervisor. The file is located in the office of the Captain in charge of Internal Affairs. Access shall be restricted to those approved by the chief who possess a bona fide need in connection with official department business.
- B. The file system shall contain all investigative files resulting from internal affairs complaints and the original copy of the following reports:
1. Vehicular Pursuit Reports
  2. Use of Force Reports
  3. Firearm's Discharge Reports
  4. A miscellaneous file will be kept for each officer and shall contain performance notices, commendations, letter to file and sick notes.
- C. Internal affairs Investigation files will be numbered with a prefix corresponding to the last two digits in the calendar year in which the complaint was received followed by the chronological number of the complaint in that calendar year.



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- D. An Internal Affairs Index File shall be maintained as a record control device. It will serve as an inventory of internal affairs case files and provide an overview of case status to authorized personnel. An index card file or computerized database shall be utilized.
- E. All internal affairs complaints shall be recorded in the aforementioned index. Entries shall include the following basic information:
  - 1. Subject officer/employee
  - 2. Allegations
  - 3. Complainant
  - 4. Date received
  - 5. Investigator assigned
  - 6. Disposition and disposition date
- F. Upon completing a case, the internal affairs supervisor will be responsible for entering the disposition in the index file and notifying the complainant and subject officer(s) of the disposition.
- G. Personnel records are separate and distinct from internal affairs investigation files. Internal affairs investigation reports shall never be placed in personnel records.
  - 1. When a complaint has a disposition of exonerated, not sustained, or unfounded, there shall be no indication in the employee's personnel file that a complaint was ever made.
  - 2. When a complaint is sustained and discipline imposed, the only items to be placed in the employee's personnel file are a copy of *Preliminary Notice of Disciplinary Action* and a copy of the *Final Notice of Disciplinary Action*.
- H. Investigative records created during an internal affairs investigation are included in the "Records Retention and Disposition Schedule for Local Police Departments" issued by the New Jersey Division of Archives and Records Management.
  - 1. Files concerning a criminal homicide must be permanently maintained.
  - 2. Files involving a criminal matter that resulted in the arrest of the subject officer must be maintained for 75 years.
  - 3. All other criminal or administrative internal affairs investigative files shall be maintained for five years after the subject officer's retirement.

### XIV. Reporting

- A. Quarterly Summary Reports
  - 1. The first quarterly report shall cover 1/1 through 3/31 of the given year and shall be submitted to the Cape May County Prosecutor's Office no later than 4/15 of that year.

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2. The second quarterly report shall cover 3/31 through 6/30 of the given year and shall be submitted to the Cape May County Prosecutor's Office no later than 7/15 of that year.
3. The third quarterly report shall cover 7/1 through 9/30 of the given year and shall be submitted to the Cape May County Prosecutor's Office no later than 10/15 of that year.
4. The first quarterly report shall cover 10/1 through 12/31 of the given year and shall be submitted to the Cape May County Prosecutor's Office no later than 1/15 of the following year.

### **B. Internal Affairs Annual Report**

1. The designated report will be utilized to update cases as their status or elements change. This report will be submitted with quarterly reports as well as attached to the Annual Internal Affairs Summary Report. This is a confidential internal affairs document and will not be released.

### **C. Annual Internal Affairs Summary Report**

1. The Annual Report shall cover a one year period beginning on 1/1 and ending 12/31 of a given year, and shall be submitted to the Cape May County Prosecutor's Office no later than 2/15 of the following year.

### **D. Reporting Methods**

1. The reports may be submitted to the Cape May County Prosecutor's Office via email to [psu@cmcpros.net](mailto:psu@cmcpros.net)