NEPTUNE CITY POLICE DEPARTMENT
GENERAL ORDER

INTERNAL AFFAIRS

BY THE ORDER OF:	# OF PAGES:
Chief Matthew J. Quagliato	**38**

EFFECTIVE DATE:	ACCREDITATION STANDARDS: 1.3.1, 1.4.3a-e
04/25/2025	

PURPOSE: The purpose of this general order is to maintain a high quality of law enforcement services. Improving the relationship between employees and the public facilitates cooperation vital to the department's ability to achieve its goals. This department is committed to providing law enforcement services that are fair, effective, and impartially delivered. Employees are held to the highest standards of conduct and are expected to respect the rights of all citizens. This department must be responsive to the community by providing formal procedures for the processing of complaints regarding individual employee performance. An effective disciplinary framework permits department personnel to monitor employee compliance with department directives, assist employees in meeting department objectives, enhance performance, and permit managers to identify problem areas which require increased training or direction. Finally, this general order shall ensure fundamental fairness and due process protection to citizens and employees alike.

POLICY: It is the policy of the Neptune City Police Department to accept and investigate all complaints of department and employee's alleged misconduct or wrongdoing from all persons who wish to file a complaint, regardless of the hour or day of the week. This includes reports from anonymous sources, juveniles, undocumented immigrants, and persons under arrest or in custody. All allegations of employee misconduct shall be thoroughly, objectively, and promptly investigated to their logical conclusion in conformance with this policy, regardless of whether the employee resigns or otherwise separates from the agency. Discipline shall be administered according to the degree of misconduct. All employees, regardless of rank/title, 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 municipality constitutes a violation of that oath and trust. Employees are also subject to disciplinary action for the willful or negligent failure to perform the duties of their rank or assignment. In addition, employees may be disciplined for violation of any rule or regulation of the department or for failure to obey any lawful instruction, order, or command of a superior officer or supervisor. Disciplinary/corrective action in all matters will be determined based upon the merits of each case. Investigators conducting the investigation of any allegation of misconduct shall strive to conduct a thorough and objective investigation respecting the rights of the principal, any other law enforcement officer, and all members of the public. Accordingly, any supervisor and any officer who may be called upon to conduct an internal investigation must be thoroughly familiar with the department's Internal Affairs policy.

This general order has been developed in accordance with the revised New Jersey Attorney General Directive on Internal Affairs.

PROCEDURE:

I. DEFINITION OF TERMS/FORMS

A. The following forms/reports shall be used in accordance with this general order:

1. **Request for Extension of Investigation - (IA-1):** This form shall be used to seek approval from the Chief of Police when additional time, beyond the thirty-day period, is needed to complete the internal affairs investigations.

2. **Investigation Plan - (IA-2):** This form shall be used to develop an investigative plan prior to conducting internal affairs investigations.

3. **Investigation Report - (IA-3):** This report shall be used to memorialize the investigation of any internal affairs matters.

4. **Continuation Page of Investigation Report - (IA-4):** This report shall be used if additional pages are needed to memorialize the investigation of any internal affairs matters.

5. **Supplemental Internal Investigation Report - (IA-5):** This report shall be used to supplement the initial investigation report.

6. **Attachment Log - (IA-6):** This form shall be used to account for all attachments accumulated during the investigation.

7. **Internal Investigation Allegations and Conclusions Form - (IA-7):** This form shall be used to establish a narrative of the alleged misconduct, and the relationship to the specific provision of the Rules and Regulations and/or written directive allegedly violated.

8. **Internal Investigation Review Sheet - (IA-8):** This form shall be used when an internal affairs investigation is reviewed through the chain of command.

9. **New Principal/Allegation Identification Form - (IA-9):** This form shall be used when an employee shifts from a witness to a principal. This form shall also be used to document perceived violations of Rules and Regulations and/or written directive not relevant to the complaint or the alleged misconduct being investigated.

10. **Administrative Advisement Form - (IA-10):** This form shall be used during internal affairs investigation interviews when interviewing the principal in an internal affairs investigation.

11. **Miranda and Waiver Form - (IA-11):** This form shall be used in an internal affairs investigation when interviewing an employee accused of committing a crime after consultation with the Monmouth County Prosecutor's Office.

12. **Witness Acknowledgment Form - (IA-12):** The form shall be used during internal affairs investigation interviews when interviewing a witness in an internal affairs investigation.

13. **Weingarten (Union Representative) Representative Acknowledgement Form - (IA-13):** This form shall be provided to the Weingarten representative present during an internal affairs interview.

14. **State Standardized Internal Affairs Complaint Form - (IA-14):** This form shall be utilized by department employees to document a reportable incident by all complainants.

15. **Immediate Suspension Notice - (IA-15):** This form shall be used upon the immediate suspension of an employee.

16. **Complaint Notification Form - (IA-16):** This form, when appropriate, shall be served to an employee who is the principal of an internal affairs investigation.

17. **Performance Notice - (IA-17):** This entry in Guardian Tracking shall be used when documenting remedial training and counseling. The supervisor shall memorialize any corrective action (not discipline) taken either as a result of a reported performance deficiency incident or internal affairs investigation. Additionally, entry shall also be used to commend an employee for positive performance.

18. **Internal Affairs Reporting Forms - (IA-18):** These reports, as provided by the Monmouth County Prosecutor's Office, shall be submitted to the Monmouth County Prosecutor's Office and others as required.

19. **Internal Affairs Information Sheet - (IA-19):** This form, which explains the department's internal affairs procedures, shall be provided to all citizen complainants.

20. **Notice of Disciplinary Action Forms - (IA-20):** This form shall be used to notify formally, the principal of charges approved by the Chief of Police or designee in connection with the completed internal affairs investigation. This disciplinary form shall only be used for charges that exceed a written reprimand. **(Preliminary and Final)**

21. **Reprimand Notice - (IA-21):** This entry in Guardian Tracking shall be used when documenting verbal and written reprimands. The supervisor shall use this entry to notify formally, the principal of discipline approved by the Chief of Police in connection with the completed internal affairs investigation. This entry shall be used for discipline that does not exceed a written reprimand.

B. **Reportable Incident:** is any behavior, performance, or non-performance that may violate department rules, regulations, procedures, applicable criminal and civil laws, and the United States or New Jersey Constitutions. All reportable incidents shall be carefully and thoroughly reviewed by the Internal Affairs Supervisor to determine the manner of response that best serves the public, the department, and the employee. Reportable Incidents classified as misconduct will result in an internal investigation conducted in accordance with the New Jersey Attorney General's Internal Affairs Directive and this general order. Reportable incidents include, but are not limited to the following:

1. A complaint that an employee has engaged in any form of misconduct, as defined in this general order, whether on or off-duty;

2. An alleged violation of any of the Department Rules and Regulations;

3. An alleged violation of any written directive issued by this department or appropriate authority as defined by ordinance;

4. A refusal to or a failure to comply with a lawful written or verbal order, directive, or instruction;

5. The filing of a civil suit by a civilian alleging any misconduct by an employee while on duty or acting in an official capacity;

6. The filing of a civil suit against an employee for off-duty conduct while not acting in an official capacity that alleges racial bias, physical violence, or threat of physical violence;

7. Criminal arrest of or filing of a criminal charge against an employee;

8. Allegation(s) that an employee is either an alleged perpetrator or victim of a domestic violence incident.

C. Police officers shall be held accountable for violations of all written directives, inclusive of use of force policies. The following are some mechanisms for ensuring accountability for violating the use of force policy:

1. Clear, and detailed policies defining acceptable use of force and the consequences for violations.

2. Regular, and comprehensive use of force training.

3. Supervision and meaningful reviews of use of force incidents.

4. Reporting and documentation of each use of force incident. Unreported use of force incidents shall result in disciplinary action, if warranted.

5. Allegations of excessive force shall be thoroughly investigated by Internal Affairs.

6. If an investigation determines that an officer violated use of force policies, there shall be timely and consistent disciplinary action, if warranted.

7. The agency shall maintain an early warning/early intervention system to document identified behavior trends, inclusive of use of force.

D. **Classification:** There are three classifications of a reportable incident. All reportable incidents shall be forwarded to the Internal Affairs Supervisor to screen, record and classify the incident as one of the following **(See Figure #1):**

NOTE: **All** allegations of **misconduct,** whether criminal or administrative, regardless of the source of the allegation shall result in an internal investigation.

1. Criminal Misconduct - Reportable Incidents classified as criminal misconduct will result in immediate notification to the Monmouth County Prosecutor of the receipt of the complaint by the Internal Affairs Unit. No further action shall be taken, including the filing of charges against an employee, until directed by the Monmouth County Prosecutor.

a. Criminal Misconduct is defined as a reportable incident where there is an allegation of a crime or an offense.

2. Administrative Misconduct - An incident may be classified as administrative misconduct in which case an investigation shall be conducted in accordance with this general order.

a. Administrative Misconduct is defined as a reportable incident where there is a serious violation of department rules and regulations, written directive; or, conduct which adversely reflects upon the employee or the department.

b. Repeat performance deficiencies may be classified as administrative misconduct.

3. Performance Deficiency - An incident that is classified as a performance deficiency shall be referred to the supervisor for addressing through non-disciplinary corrective actions, (corrective action shall be training or counseling only).

a. A performance deficiency is defined as a reportable incident of any minor rule infraction that can be addressed at the supervisory level of an employee. This department recognizes that not all reportable incidents constitute misconduct and certain reportable incidents are more effectively handled outside of the disciplinary process. Performance deficiency incidents **are not** internal affairs investigations.

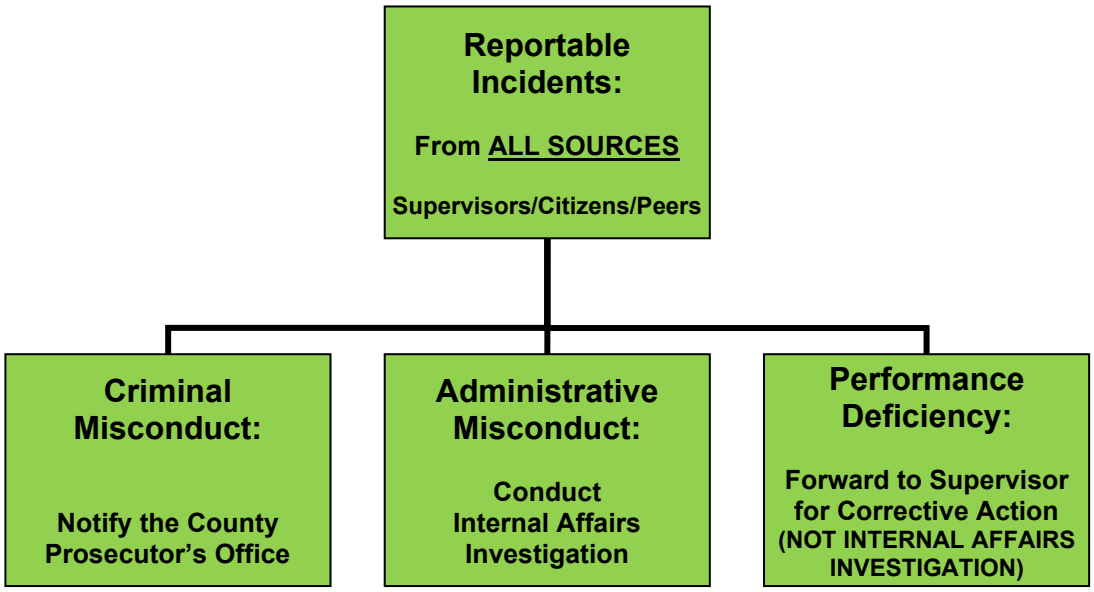


Figure #1 (Classification Process)

II. GUIDING PRINCIPLES

A. The investigative process should seek to locate and identify all evidence available to either prove or disprove allegations made against an employee.

B. With the exception of internal investigations that are part of an ongoing or potential criminal investigation, the majority of internal investigations are administrative in nature. Unlike criminal investigations where the burden of proof is beyond a reasonable doubt, the standard for administrative cases is a preponderance of the evidence.

C. Also important is that strict rules of evidence and certain constitutional protections that apply in criminal cases do not attach to these investigations. In accordance with established case law, the investigator, reviewing authority and the Chief of Police can rely on types of evidence that would be inadmissible in a criminal proceeding providing, there is some indication of reliability.

D. Furthermore, unlike criminal investigations, certain specific legal protections that arise in employment & labor matters and in police discipline matters apply to employees subject to an internal investigation. These include rights and practices commonly referred to as Weingarten, Loudermill, and Garrity rights, as well as contractual rights or those based on state or federal statutes.

E. Investigators and reviewers shall scrupulously adhere to the principles that all employees shall be afforded all rights to which they are entitled. At the same time, investigative and review personnel will also be aware of their obligations to determine the facts of each case utilizing investigative methods, which are consistent with acceptable practices in employee discipline cases.

F. Internal Affairs investigations shall not rely solely on the outcome of related criminal matters or traffic matters. The conviction of a citizen complainant shall not be dispositive as to the citizen's complaint regarding the employee's conduct related to the incident. However, the court proceedings will be relevant and should be reviewed. Unless otherwise determined by the investigative plan, most cases involving a court action will require the collection and analysis of court records and transcripts of court appearances by the principal, complainant, or critical witnesses. The investigator should make every attempt to attend court proceedings, to monitor the progress/outcome of the case. As a monitor, the investigator need not notify the prosecutor, judge, or other court personnel of his/her presence and should not have any input in the proceedings.

G. If a civilian signs criminal or traffic complaints, in addition to making an internal affairs complaint against an employee, a not guilty disposition of the court shall not automatically determine the outcome of the internal complaint. However, it will be relevant and part of the investigation.

H. The investigator and reviewing authority shall consider that administrative charges have a different threshold of proof as well as less restrictive rules of evidence.

I. As internal affairs investigators, a tendency to automatically grant more credibility to statements given by employees of the department and other law enforcement officials than to statements given by civilian complainants and witnesses must be carefully avoided. In certain situations where the credibility and motive of the complainant is reasonably suspected, a credibility determination may be made as provided for in this general order. However, investigators, unless otherwise authorized, will investigate the relevant facts of the allegations and not the background or motive of the complainant, unless relevant to the investigation.

J. It is the policy of this department that personnel conducting internal investigations deal with complainants, witnesses, and principals in a professional manner. This

includes being prepared for interviews, promptly responding to telephone calls, and handling all related contacts during an investigation to leave citizens and employees alike with the impression that a thorough, fair, and impartial investigation of the allegation(s) will be conducted.

K. Discovery of additional allegations and identification of additional principals:

1. In conducting investigations, the propriety of all conduct by the employee relating to the subject matter of the investigation shall be reviewed.

2. If during the course of an investigation, the investigator has reason to believe that misconduct occurred, other than that alleged, the investigator shall:

a. Document the information on a New Principal/Allegation Identification Form and forward it to the Internal Affairs Supervisor/Chief of Police to determine the appropriate response. Upon completion of the review, the form, which shall include all appropriate endorsements, will be returned to the investigator, and be maintained as an attachment to the investigation.

b. Unless otherwise directed, the investigator shall investigate the additional allegation to its logical conclusion.

3. If during the course of an investigation, the investigator has reason to believe that another employee may have been involved in alleged misconduct and should be interviewed as a principal, the investigator shall:

a. Report the information on a New Principal/Allegation Identification Form to the Internal Affairs Supervisor/Chief of Police, and await further instructions. Other aspects of the investigation should continue.

L. The department may not enter into binding agreements with law enforcement officers concerning the precise content of a public report concerning major discipline. In other words, law enforcement agencies may not reach any agreement as a condition of a plea or settlement agreement in an internal affairs investigation, or otherwise specifying whether and how that agency will describe the misconduct or sanction in future public reporting.

M. The New Jersey Resiliency Program for Law Enforcement

1. Under no circumstances, shall an officer face any type of discrimination or adverse internal affairs consequences for the sole reason that the officer decided to seek medical or psychological treatment for a mental health concern, including depression, anxiety, post-traumatic stress disorder, or substance use disorder.

2. All officers are encouraged to take advantage of the resources provided by the New Jersey Resiliency Program for Law Enforcement, as well as the other resources identified in Attorney General Directive 2019-1.

III. INTERNAL AFFAIRS UNIT

A. The Internal Affairs Unit is herein established. The Internal Affairs Supervisor shall have direct access to the Chief of Police on all matters involving internal affairs. Personnel assigned to the Internal Affairs Unit shall serve at the pleasure of and be directly responsible to the Chief of Police or designee.

1. Investigators must recuse from cases where they have a conflict of interest that may prevent them from being impartial in the investigation of a subject employee.

2. Officers assigned to the Internal Affairs Unit shall complete training as mandated by the Division of Criminal Justice.

a. Officers may attend additional training on internal affairs provided by the Monmouth County Prosecutor's Office and other sources.

B. The goal of Internal Affairs Unit 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. Under no circumstances may the Neptune City Police Department's internal affairs function be contracted or delegated to a private entity.

1. Instead, when necessary, the Neptune City Police Department may request that an internal affairs complaint be investigated directly by the Monmouth County Prosecutor, who shall determine whether to investigate the matter, refer the matter to the Internal Affairs function of another law enforcement entity, or return the matter to the Neptune City Police Department, if the Monmouth County Prosecutor determines that the department can appropriately investigate the matter.

2. Nothing in this general order shall prevent the Neptune City Police Department from retaining a qualified private individual to serve as a hearing officer or an expert witness.

D. Internal Affairs Supervisor shall be responsible for:

1. The management of the Internal Affairs Unit;

2. The coordination and review of all internal affairs investigations;

3. The review of all allegations of misconduct by employees of this department;

4. The Chief of Police shall be immediately notified when an employee is accused of a criminal act, any use of force by an officer that results in death or serious bodily injury, any domestic violence incident where the employee is either an alleged perpetrator or victim, any incident that attracts media attention, or any incident that would affect the efficient and effective operation of the department. In addition, the duty supervisor shall take any immediate action necessary to preserve the integrity of the department until directed otherwise by the Chief of Police or his/her designee. All other notifications shall be made on the next business day.

5. The maintenance of a comprehensive central file and recordkeeping system on all complaints received by this department, whether investigated by Internal Affairs investigators or assigned to an employee's supervisor. A

quarterly report on the status of all pending Internal Affairs investigations will be provided to the Chief of Police.

a. Internal Affair investigations shall receive an IA prefix and number.

b. Performance deficiency incidents shall receive a PD prefix and number.

6. The preparing and mailing of a Complaint Acknowledgement Letter to all civilian complainants.

E. Internal Affairs shall be responsible for:

1. The investigation and review of all allegations of misconduct by employees of this department.

2. In addition to investigations concerning allegations of misconduct, the Internal Affairs Unit shall receive notice of:

a. Any firearm discharge by department personnel, whether on-duty or off-duty, unless the discharge occurred during the course of a law enforcement training exercise; routine target practice at a firing range; a lawful animal hunt; or the humane killing of an injured animal;

b. Any discharge of an agency-owned firearm by anyone other than agency personnel;

c. Any use of force by agency personnel that results in injury to any person,

d. Any vehicular pursuit involving agency personnel; and

e. Any collision involving agency-owned vehicle

3. Once notification has been received, internal affairs will determine whether additional investigation is necessary.

4. Internal affairs shall conduct a manual or computerized audit of its records to determine if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct in accordance with department general order governing early warning.

5. Internal affairs shall be responsible for any other investigation as directed by the Chief of Police.

6. The Internal Affairs Unit may conduct an internal affairs investigation on their own initiative upon notice to, or at the direction of the Chief of Police or Internal Affairs Supervisor.

7. The Internal Affairs Unit may refer reportable incidents classified as a performance deficiency to an employee's supervisor for inquiry and corrective action.

8. The Internal Affairs investigators or personnel temporarily assigned to that Unit shall have the authority to interview any employee of the department and to review any record or report of the department relative to their assignment. Requests from Internal Affairs investigators, in furtherance of their duties and responsibilities, shall be given full cooperation and compliance as though the requests came directly from the Chief of Police.

9. Notification to the Monmouth County Prosecutor's Office

   a. The Chief of Police or designee shall immediately notify the Monmouth County Prosecutor of the receipt of the complaint by the Internal Affairs Unit of any allegation of a crime or an offense.

   b. The Chief of Police or designee shall notify the Monmouth County Prosecutor's Office immediately of any use of force by an officer that results in death or serious bodily injury.

   c. No further action should be taken, including the filing of charges against the principal, until directed by the prosecutor.

10. The Neptune City Police Department shall submit a quarterly summary report to the Monmouth County Prosecutor's Office summarizing the allegations received and the investigations concluded for that period.

11. On an annual basis, the Neptune City Police Department shall publish on its public website a report summarizing the types of complaints received and the dispositions of those complaints. This report **should** be statistical in nature**.**

12. The Neptune City Police Department shall on a periodic basis, no later than January 31 of the following year submit to the Attorney General and the County Prosecutor, and publish on the agency's public website, a brief synopsis of all complaints where a termination, reduction in rank or grade, and/or suspension of more than five days was assessed to an agency member. This synopsis shall follow the format provided herein and shall include the identity of each officer subject to final discipline, a brief summary of their transgressions, and a statement of the sanction imposed. This synopsis shall not contain the identities of the complainants or any victims. Where discipline relates to domestic violence, the synopsis shall not disclose the relationship between a victim and an officer. Whenever practicable, notice shall be given to victims of domestic violence in advance of an agency's disclosure. In rare circumstances, further redactions may be necessary to protect the identity of a victim.

   a. The department may not, as part of a plea or settlement agreement in an internal affairs investigation or otherwise, enter into any agreement concerning the content of a synopsis subject to public disclosure, including any agreement regarding the identities of officers subject to final discipline, summaries of transgressions, or statements of the sanctions imposed.

   b. Reports corresponding to the substantiated major discipline in a calendar year shall be published no later than January 31 of the following year. (First Report 6/15-12/31/2020).

c. Agencies shall electronically transmit a copy of each public report formatted as provided in a revised Appendix L and submitted to the County Prosecutor or their designee, as well as to the Executive Director of the Office of Public Integrity & Accountability (OPIA) or their designee.

13. The Neptune City Police Department's Internal Affairs Supervisor shall review appropriate department records and report Brady/Giglio related material in a confidential manner to the designated Monmouth County Prosecutor Giglio Liaison in accordance with their Directive.

a. To effectively gather all Brady and Giglio information, the Internal Affairs Supervisor shall be guided by the following non-exhaustive lists of Brady material and Giglio material as it relates to civilian and investigative State witnesses.

1) Brady Material

a) Evidence linking a State witness to the crime for which defendant is being charged.

b) Evidence related to defendant's theory of third-party guilt.

c) Potentially exculpatory polygraph test of State's witness.

d) Prior inconsistent and exculpatory statements made by a State's witness.

2) Giglio Material

a) Civilian Witnesses

i. Bias. A witness can be impeached with evidence that he or she has a bias against the defendant or in favor of the State (actual or potential exposure to criminal penalties, leniency/plea agreement, payments, immigration benefits, etc.);

ii. Specific instances of dishonesty. A witness can be impeached with evidence of a prior act of misconduct involving dishonesty, even if it has not resulted in a criminal charge or conviction. This includes lying and falsifying records;

iii. Criminal convictions, N.J.R.E. 609; and

iv. Prior inconsistent statements, N.J.R.E. 613.

b) Law enforcement officers

i. A sustained finding that a law enforcement officer has filed a false report or submitted a false certification in any criminal, administrative, employment, financial, or insurance matter in their professional or personal life;

ii. A pending criminal charge or conviction of any crime, disorderly persons, petty disorderly persons, or driving while intoxicated matter, noting that any such charges or convictions will be reviewed for disclosure under N.J.R.E. 609;

iii. A sustained finding that undermines or contradicts a law enforcement officer's educational achievements or qualifications as an expert witness;

iv. A finding of fact by a judicial authority or administrative tribunal that is known to the employee 's agency, which includes a finding that the law enforcement officer was intentionally untruthful in a matter, either verbally or in writing;

v. A sustained finding, or judicial finding, that a law enforcement officer intentionally mishandled or destroyed evidence. Generally, law enforcement agencies and law enforcement officers should disclose findings or allegations that relate to substantive violations concerning:

i) the intentional failure to follow legal or departmental requirements for the collection and handling of evidence, obtaining statements, recording communications, and obtaining consents to search or to record communications;

ii) the intentional failure to comply with agency procedures for supervising the activities of a cooperating person; and

iii) the intentional failure to follow mandatory protocols with regard to the forensic analysis of evidence;

vi. A sustained finding, or judicial finding, that a law enforcement officer is biased against a particular group enumerated in the *Department's Bias Based Profiling* written directive.

vii. A sustained finding that a law enforcement officer was untruthful or has demonstrated a lack of candor;

viii. Any allegation of misconduct bearing upon truthfulness, bias, or integrity that is the subject of a pending investigation;

ix. Information that may be used to suggest that the law enforcement officer is biased for or against a defendant. See United States v. Abel, 469 U.S. 45, 52(1984). The Supreme Court has stated, "bias" is a term used in the common law of evidence to describe the relationship between a party and a witness which might lead the witness to slant, unconsciously or otherwise, his testimony in favor of or against a party. Bias may be induced by a witness' like, dislike, or fear of a party, or by the witness' self-interest."; and

x. Any other information or material which may in good faith be deemed to negatively reflect upon a law enforcement officer's credibility as a witness.

IV. ACCEPTING COMPLAINTS

A. Duty of Employees to Self-Report

1. All employees shall immediately self-report using the State Standardized Internal Affairs Complaint Form, in no case, more than four hours, the following information to the Internal Affairs Unit and the Chief of Police through the chain of command:

a. Whenever the employee is arrested or criminally charged for any conduct.

1) The report must be made immediately, and in all cases prior to release or leaving the law enforcement agency. In the case of service of criminal charges, the notification must be made immediately upon the receipt of the charges.

b. Whenever the employee is named as a party in any civil suit involving their conduct while on duty or otherwise while acting in an official capacity.

c. Whenever the employee is named as a party in any civil suit regarding off-duty conduct while not acting in an official capacity that alleges racial bias, physical violence, or threats of physical violence by the employee.

d. Whenever the employee is either as an alleged perpetrator or victim of a domestic violence incident.

2. When employees report this information to a supervisor, the supervisor shall directly and immediately report the information to the Chief of Police and Internal Affairs Unit, in no case more than four hours after receipt of the notification. The Chief of Police shall immediately notify the Monmouth County Prosecutor's Office of the receipt of this information.

B. Duty of Employees to File a State Standardized Internal Affairs Complaint Form for Actions of Other Employees

1. An employee who receives information defined as a reportable incident shall report such information to the Internal Affairs Unit.

2. All employees must report directly to the Internal Affairs Unit, or the Chief of Police any conduct by another employee that reasonably appears to constitute any of the following:

a. Prohibited discrimination;

b. An unreasonable use of force or a threat of force;

c. A constitutional violation;

d. Failure to follow any of the documentation requirements, including documentation of civilian complaint filing procedures;

e. Providing false information in an investigation of an employee for misconduct or in any report, log, or transmittal of information to the department's communication center.

f. Any violations discovered during a supervisory review (staff inspection) of personnel. Supervisors conducting the review shall be held accountable for their referral decisions.

3. Retaliation against any employee for reporting misconduct shall constitute a serious disciplinary offense and may lead to a severe penalty up to and including termination.

C. Complaints from the Public

1. All department personnel are directed to accept reports of department or employee misconduct from all persons who wish to file a complaint regardless of the hour or day of the week. Complainants are to be encouraged to submit their complaints in person as soon after the incident as possible. If the complainant cannot file the report in person, a representative from the Internal Affairs Unit shall visit the individual at their home, place of business, or at another location in order to complete the report, if possible. Telephone, e-mail, web-based reporting, and facsimile complaints may also be accepted.

2. If a member of the Internal Affairs Unit is immediately available, they shall take the complaint.

a. If a member of the Internal Affairs Unit is not immediately available, the complainant will be referred to the duty supervisor. In the absence of the duty supervisor, any department employee shall accept the report of employee misconduct.

3. Department personnel receiving the complaint shall:

a. Provide the person making the complaint with the Internal Affairs Information Sheet, which explains the department's Internal Affairs procedures. Explain the department's disciplinary procedures to the person making the complaint.

b. Advise the complainant that he or she will be kept informed of the status of the complaint, if requested and its ultimate disposition.

c. Complete as much of the State Standardized Internal Affairs Complaint Form as possible before forwarding it to the Internal Affairs Supervisor.

d. Have the complainant sign the completed form. If the complainant will not sign the form, the employee 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.

e. The State Standardized Internal Affairs Complaint Form shall be completed by the employee taking the complaint and shall be forwarded to the Internal Affairs Unit for recording in the master recordkeeping system and classification by the Internal Affairs Supervisor.

4. All department personnel are directed to accept reports of department or employee misconduct from anonymous sources. If the anonymous complainant is talking to an employee, the employee should encourage them to submit their complaint in person. In any case, the complaint will be accepted.

a. An employee of the department who interferes with or delays the reporting or investigation of such complaints may be subjected to disciplinary action.

5. 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 respective county prosecutor's office.

6. If a complaint is received from another law enforcement agency, the complaint will be forwarded to the Internal Affairs Supervisor for classification.

7. Complaints against the Chief of Police and command staff may originate from a member of the public or from an employee of the agency. All such complaints shall be documented and referred to the Monmouth County Prosecutor.

8. In accordance with the Attorney General's Directive No. 2018-6 on immigration issues, no state, county or local law enforcement officer shall inquire about or investigate the immigration status of any victim, witness, potential witness or person requesting or receiving police assistance.

D. Complaints shall be handled as follows:

1. All complaints will be forwarded to the Internal Affairs Supervisor for classification and entry into the recordkeeping system.

2. Unless otherwise directed by the Internal Affairs Supervisor or the Chief of Police, complaints classified as a performance deficiency shall then be forwarded to the supervisor of the employee for inquiry and corrective action.

3. All other complaints classified as misconduct shall be retained by the Internal Affairs Unit.

4. Once a complaint has been received, the principal shall be notified in writing that a report has been made and that an investigation will commence. Such notification shall not include the name of the complainant. This notification is not necessary if doing so would impede the investigation.

V. IMMEDIATE SUSPENSIONS

A. Suspension Pending Disposition or Investigation

1. A supervisor or Chief of Police may immediately suspend an employee from duty if it is determined that one of the following conditions exists:

   a. The employee is unfit for duty; or

   b. The employee is a hazard to any person if permitted to remain on the job; or

   c. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services; or

   d. The employee has been formally charged with a first, second or third degree crime; or

   e. The employee has been formally charged with a first, second, third or fourth degree crime or a disorderly persons offense while on-duty or the act touches upon his or her employment.

2. The supervisor imposing the immediate suspension must:

   a. Advise the employee in writing why an immediate suspension is sought and the charges and general evidence in support of the charges.

      1) If the employee refuses to accept the written notification of immediate suspension, it shall be given to a representative of the employee's collective bargaining unit.

   b. Provide the employee with a sufficient opportunity to review the charges and the evidence and to respond to either orally or in writing, if applicable.

   c. Advise his immediate supervisor in writing of the suspension and the facts and circumstances requiring the suspension.

3. Administrative Reassignment

   a. Administrative reassignment may be used in cases involving the use of force, which results in death or serious bodily injury, unless the employee is suspended or placed on administrative leave pending the outcome of the investigation.

   b. The administrative reassignment is subject to change by the Chief of Police or designee upon the outcome of the investigation.

4. Filing formal charges

   a. Within five days of the suspension, the department must complete and file a **Notice of Disciplinary Action** against the suspended employee or return the employee to work. The filing of charges shall

be suspended if the employee's suspension is due to a potential criminal matter under review by the Monmouth County Prosecutor's Office.

VI. INVESTIGATION

A. Criminal Misconduct Complaints

1. Where preliminary investigative data indicates the possibility of a criminal act on the part of the principal, or the investigation involves of any use of force by an officer that results in death or serious bodily injury, the Chief of Police shall be notified immediately who will then notify the Monmouth County Prosecutor's Office. No further action shall be taken, until directed by the Chief of Police and the Monmouth County Prosecutor's Office.

2. The Internal Affairs Supervisor shall interview the complainant, all witnesses, as well as review relevant reports and records, and obtain other relevant information and materials.

   a. A principal shall not be compelled to answer any questions in the absence of a grant of use immunity as conferred by the Monmouth County Prosecutor's Office.

   b. The Internal Affairs Supervisor shall consult with the Monmouth County Prosecutor regarding the advisability of giving a Miranda Warning Form to the principal.

B. Administrative Misconduct Complaints

1. When preliminary investigative data indicates an administrative misconduct offense, which may result in disciplinary action:

   a. A supervisor must notify the Internal Affairs Unit, who will conduct a full investigation of the matter to include interviewing the complainant, all witnesses, and principal(s) as well as review relevant reports and records, and obtain other relevant information and materials.

   b. The Internal Affairs Supervisor will notify the Chief of Police of the offense; and

   c. The Internal Affairs Unit will forward copies of the appropriate disciplinary documents and investigation reports to the Chief of Police for review; and

   d. The Internal Affairs Supervisor will be responsible for the final case disposition and implementation of discipline, as determined by the Chief of Police or designee.

C. Performance Deficiency Complaints

1. Minor complaints should be assigned to and handled by a commanding officer at least one step removed from the employee's immediate supervisor, when possible.

2. When a complaint has been classified as a performance deficiency, the complaint shall be forwarded to the employee's supervisor or commanding officer for inquiry and further action necessary. The supervisor or commanding officer shall then prepare a report summarizing the matter, recommending the appropriate corrective action.

3. The supervisor or commanding officer shall record the information in Guardian Tracking, which will be forwarded to the Internal Affairs Supervisor for review, and entry of the disposition in the recordkeeping system.

D. Interview Procedures

1. Preparation

a. All principals, complainants and witnesses shall be interviewed after careful preparation, including the review of the investigative file and all documents, evidence, and interviews conducted up until the interview. The investigator, in consideration of the investigative plan, should have pre-formulated goals to be accomplished with each interview.

2. Memorializing of the Interview

a. The interview of the complainant, principal, and any other witness with critical information shall be documented or memorialized in one of the following ways:

1) An audio-recorded statement is the preferred method of documenting and memorializing information obtained through an interview. A synopsis of the recorded statement will be included in the narrative of the Internal Investigation Report. All statements of department personnel will be audio recorded. (When directed by the Internal Affairs Supervisor, the pertinent portions of this statement will be transcribed.)

2) Video recorded.

3) Handwritten statements taken by investigator shall be reduced to writing and signed on each page by the person making the statement.

4) A summary of the substance of the interview will be incorporated in the body of the appropriate internal investigation report.

b. Investigators must at all times remain cognizant that civilian witnesses who are not employees of the department cannot be compelled to provide a statement in any manner. However, all reasonable efforts should be made to obtain a statement when warranted from non-police personnel in the order of priority as is listed above.

c. All persons submitting to such a recorded or written statement, including the complainant, witnesses, and the principal(s) will, upon

request, be provided with a copy of same by the investigator, as authorized by the Internal Affairs Supervisor/Chief of Police, unless by doing so, it could compromise the investigation.

d. Other than investigators authorized by the department, employees of this department shall not electronically record nor cause any interview to be electronically recorded. The copy of the official statement shall be produced and provided within a reasonable amount of time. The employee receiving the copy of the statement shall be reminded of the absolute requirement that same not be copied, shown, or revealed to anyone other than the employee's attorney, if any. Violation of this provision will result in serious disciplinary action.

e. Audio or written statements shall be made attachments within the investigative file, unless the matter is criminal in nature. In that case, evidence shall be handled in accordance with department general order regarding the handling of evidence in a criminal matter.

f. All recorded statements will be summarized in the body of the appropriate internal investigation report. When directed by the Internal Affairs Supervisor, the pertinent portions of this statement will be transcribed and the transcript itself also included as an attachment to the case.

g. The interview of any non-department person shall document the following identifiers:

1) Full name;

2) Address;

3) Home Telephone;

4) Race;

5) Sex;

6) DOB;

7) Place of Employment;

8) Work Telephone;

9) Names of all persons present during interview;

10) Date, time, and location of interview; and

11) Further identifiers such as social security number or SBI or FBI numbers <u>shall not</u> be requested or utilized <u>unless</u> directly relevant to the investigation.

h. Upon obtaining an audio-recorded statement, investigators will then label the medium, protect against re-record loss, and include it as a case attachment to the report. The statement, if transcribed, will also

be included as a case attachment regarding administrative investigations. In cases where the interview concerns a criminal matter, the recorded medium will be secured and handled as evidence.

3. Secondary Investigator as a Witness

   a. The utilization of a second investigator as a witness to any interview or written statement is not required; however, it may be authorized in certain circumstances.

4. Legal Representation in Administrative Internal Affairs Investigations

   a. During the course of the administrative interview, an employee may be represented by a union representative of their choosing to include an attorney, so long as the availability of the attorney does not in any way hamper or impede the on-going investigation. There is not a Sixth Amendment right in Administrative Internal Affairs Investigations for principals and witnesses. If it appears that the employee's union representative may become a witness or principal in the investigation, the union representative shall be prohibited from attending the interview.

   b. Complainants and witnesses who are not employees of the department cannot be precluded from having a legal representative present while being interviewed by investigators.

5. Interview of Complainant

   a. After the preparation detailed above, all efforts must be made to interview a complainant in person. Complainant interviews shall be conducted formally resulting in a statement secured in accordance with the provisions enumerated under Interview Procedures.

   b. The investigator shall arrange a convenient time and place, including by telephone (or TDD), to interview civilians for misconduct investigations. The investigator shall reasonably accommodate a civilian's circumstances to facilitate the progress of an investigation. This may include holding an interview at a location other than the department or at a time other than regular business hours.

   c. Interviews of civilian complainants, which take place over the telephone, must be recorded, unless the witness objects to the recording.

   d. Investigators must treat the person being interviewed with dignity and respect, and demonstrate interest and concern in dealing with the complainant. Employees shall not attempt to dissuade any person from making a complaint. Employees shall conduct themselves as to facilitate the citizen's confidence in the internal investigative process.

   e. Complainants and witnesses shall not be questioned about any matters that are not directly relevant to the allegations of the investigation. Any questioning intended to challenge the credibility

of a complainant or witness must be approved beforehand by the Internal Affairs Supervisor. Investigators shall make every effort not to ask questions that may demean, ridicule, or cause embarrassment to the complainant.

f. Questions must be carefully thought out and absolutely relevant to the investigation. Any questionable issues should be discussed with and approved by the Internal Affairs Supervisor before conducting the interview.

g. Group interviews shall not be conducted.

h. Complainants should be interviewed outside the presence of other complainants and witnesses. A parent, or adult relative or guardian in the absence of a parent, shall be present during the interview of a minor. In the event, a parent cannot be located; the investigator must document the efforts taken to contact same. If a civilian insists that another potential witness be present during an interview, the interview must continue with the potential witness present and the report must note the circumstances.

i. Structure of Interview

1) Complainants should be initially asked to explain in their own words, in detail, the facts forming the basis of the complaint. The investigator should then clarify any questions or issues regarding the complainant's statement.

2) After the complainant has provided a statement, the narrative of the State Standardized Internal Affairs Complaint Form, recorded telephone complaint, or correspondence from the complainant should be reviewed with the complainant.

3) The investigator shall seek to rectify or identify any discrepancies as well as identify any further investigative requirements.

4) The complainant should be asked to identify any witnesses and state what they believe the witness may have knowledge of; turn over any evidence in their possession; and identify what other types of evidence they know.

5) Every relevant fact known to the complainant should be identified and explored thoroughly.

6) Issues identified in the Investigation Plan, should be addressed.

7) In addressing the allegations, questions utilized in the basic investigative process, namely: **who, what, when, where, why, and how,** should be precisely addressed.

8) The complainant and or witnesses have no automatic right to view any department video recordings. It shall be up to the discretion of the investigator, whether utilizing any

department video recordings during an interview will enhance or clarify the investigative process.

9) If a complainant refuses to be interviewed, or cannot be located or contacted, a letter should be immediately forwarded on department letterhead, via certified mail, authorized and signed by the Internal Affairs Supervisor, advising that he/she should respond within ten (10) days or the investigation will proceed without his/her input.

6. Interview of Witness

a. Every effort should be made to interview all witnesses. The full identity of the witness should be obtained. If the witness refuses to be interviewed, or cannot be contacted after a reasonable attempt to locate, a certified letter should be sent on department letterhead advising that witness should respond within ten calendar (10) days.

b. Specific and detailed questions should be asked including: **who, what, when, where, why, and how** the incident or event occurred. The investigator should have a clear purpose in identifying relevant witnesses and selecting what questions to ask them. These issues should be established in the Investigative Plan.

c. The aforementioned techniques outlined in the complainant interview should be applied to the interview of witnesses.

d. Witness interviews shall be conducted formally resulting in a statement secured in accordance with the provisions enumerated under Interview Procedures.

7. Interview of Employees

a. Generally, the interview of an employee is accomplished after the complainant and all witnesses are interviewed. However, this is determined by the character of the inquiry and remains a choice of the investigator. Such interviews are a critical step in the investigation and should be carefully planned. Investigators shall not accept a written statement from any employee in lieu of an interview.

b. Employee interviews shall be conducted formally resulting in a statement secured in accordance with the provisions enumerated under Interview Procedures.

c. Employee as: **WITNESSES**

1) It is required that a formal audio recorded statement be taken from each employee considered a witness. Statements need not be transcribed, but must be summarized in the appropriate internal investigation report. The key elements of the statement may be transcribed if necessary. A sworn member who is considered a witness is entitled to union representation if he/she reasonably believes that he/she may be subject to disciplinary action as a result of the investigation.

2) Advise the employee that he/she is a witness, explaining the difference between a witness and principal.

a) A witness is a person reasonably believed to have information concerning the event under investigation, but whose own conduct is not the focus of the investigation.

b) A principal is a person whose conduct is the focus of the investigation.

3) Before any questioning takes place, the employee shall be apprised of the identity of the investigator conducting the interview, including his/her rank, name, and assignment. This notice shall also include the identity of all persons present during the interview.

4) The investigator may require the employee to submit a report detailing relevant facts in the investigation. If a report is required, the investigator will provide the employee with the background information regarding the nature and timeframe of the complaint. The employee should be encouraged to review any of his or her own reports. **(NOTE) Not to be used in lieu of an audio recorded statement.**

5) A formal audio-recorded statement will be obtained from the witness after he/she has been given their Witness Acknowledgment Form. The investigator shall further verbally confirm the employee's obligation for candor throughout an internal investigation, pointing out the specific provision of the acknowledgment form denoting such.

6) If, during the interview, the status of an employee shifts from a witness to a principal, the employee shall be advised accordingly. The investigator shall contact the Internal Affairs Supervisor to secure permission to proceed. If approval is granted to proceed, the investigator will execute a Principal Acknowledgment Form. Upon completion of the interview, the investigator will complete a New Principal/Allegation Identification Form, and forward same to the Internal Affairs Supervisor for the purpose of updating the case. A copy of the completed form, incorporating all required endorsements must be secured and submitted as an attachment to the investigation.

d. Employee as: **PRINCIPAL**

1) No employee shall be designated a principal without the approval of the Internal Affairs Supervisor.

2) Each employee of the department is required to answer pertinent questions regarding the matter, which is the subject of investigation. All employees of the department are obligated to answer questions and provide full and complete

information to the investigator(s) during internal investigations. Less than complete candor during any statement may lead to serious disciplinary sanctions, which may include suspension or termination.

3) The investigator shall not automatically provide the principal with the State Standardized Internal Affairs Complaint Form. Principals shall be advised of the specific nature of the complaint, the time period involved, any allegation(s) or violation(s) of rules, regulations, and orders involved, and if applicable, the name or names of the complainant(s) and/or witnesses, in writing. The addresses of the witnesses or complainants need not be disclosed.

4) In cases where these documents are shown to the principal, the investigator shall redact from the letter of complaint, State Standardized Internal Affairs Complaint Form, or any other relevant document provided to the principal during the interview, any information that may compromise the investigative process by providing same to the principal. Redacted documents utilized during the investigation for any purpose shall be properly referenced in any interview and included as an attachment to the Investigation Report.

5) As an employee of the department, the Weingarten Representative shall be advised of the obligation of confidentiality and the requirement not to discuss any information obtained during an interview with any other person. (Weingarten Rights)

6) The principal may produce records of his/her own or suggest names of witnesses he/she requests to be interviewed.

7) A formal electronically recorded statement will be obtained from the principal after he/she has been advised of their Administrative Advisement. The investigator shall further verbally confirm the employee's obligation for candor throughout an internal investigation.

8) The following guidelines will be followed when any representation is requested.

   a) Any employee designated as a principal or witness, who reasonably believes that the investigation may result in disciplinary action against him/her, is entitled, upon request of the interviewee, to have a union representative accompany the interviewee to the interview.

   b) Any employee who is a potential principal or witness in the investigation may not act as a Weingarten representative.

   c) The exercise of the interviewee's right to a union representation may not interfere with the

investigation. However, a reasonable period of time should be allowed for the representative to appear for the interview.

d) Although an interviewee is entitled to the representative of his/her choosing, any union representative or other person designated by the union will satisfy the representation requirement. For additional guidance on interviewee representation, refer to the current version of the NJ Attorney General's IAPP.

e) The principal and his/her representative shall be informed of the subject matter of the investigation and given a reasonable period of time to confer prior to the interview. The union representative may be present during the interview, and once the interview has begun, they may not leave the room for purposes of further consultation. If the principal refuses to make a statement or answer any questions, he/she will be informed that such refusal may result in discipline/dismissal and the interview shall be terminated.

f) The investigator shall not negotiate with the representative. The representative may be permitted to clarify facts or make suggestions (e.g., other potential witnesses) after the investigator's questioning of the principal. The investigator is free to insist that he/she is only interested in hearing the interviewee's own account of the matter under investigation. In other words, the representative shall not be permitted to answer for the principal or conduct his or her own interview.

9) The interview shall be conducted at a reasonable hour in a non-coercive manner, without threat or promise of reward, and preferably when the employee is on duty. No "off the record" questions will be asked and no "off the record" statements will be permitted. If the urgency of the investigation requires that the employee is questioned while off duty, such time will be recorded and treated as hours worked in accordance with the collective bargaining agreements, where applicable.

10) The interview shall be conducted at a location designated by the investigator, usually at headquarters.

11) The questioning shall be of a reasonable duration and rest periods allowed. Time shall be provided for personal necessities, meals, and telephone calls as are reasonably needed.

12) If at any time during the questioning session the employee becomes a suspect in a criminal act, the employee shall be

so informed and the questioning shall end. Promptly refer the case to the Monmouth County Prosecutor. Should the Prosecutor afford the employee a grant of use immunity, the Internal Affairs Supervisor shall schedule an interview with the employee.

E. Investigative Avenues

1. Physical Evidence

a. Investigators should obtain all relevant physical evidence. All evidence, such as clothing, hair or fabric, fibers, stains and weapons should be handled according to established evidence procedures.

b. With respect to an audio file, they should be secured at the outset of the investigation. Transcripts or copies of the original recordings can be used as investigative leads. Audio files should be monitored to reveal the totality of the circumstances.

c. Statements from all parties.

2. Photographs

a. 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.

1) Photographs of the complainant at the time of arrest or following the alleged incident of excessive force.

2) Photographs of the principal in the event that employee was a victim.

3) A recent photo of the employee in the event a sequential photo display will be used for identification purposes. The photo display must be conducted in accordance with the New Jersey Attorney General's guidelines and retained for possible evidentiary purposes.

4) Photographs of the scene of the alleged incident, if necessary.

3. Physical Tests

a. Principals 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.

b. No person has a constitutional right or privilege to refuse to submit to an examination to obtain a record of their physical features and other identifying characteristics of their physical or mental condition. Evid. R. 503(a). Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:

1) Breath samples;

2) Blood samples;

3) Buccal Swabs;

4) Requiring employee to speak;

5) Voice recordings;

6) Participation in suspect lineups;

7) Handwriting samples;

8) Hair and saliva samples;

9) Urine analysis;

10) Videotaping;

11) Field sobriety tests.

c. Generally, a person cannot be physically forced to produce this or other evidence or submit to such tests, although a court order may be obtained to legally compel them to do so. Refusal to comply with the order can result in additional criminal, civil, and/or administrative sanctions.

4. Polygraphs

a. While an employee who is the subject of an Internal Affairs 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.A. 2C:40A-1).

b. An employee cannot be required to submit to a polygraph test on pain of dismissal. Engel v Township of Woodbridge, 124 N.J. Super. 307 (App. Div. 1973).

c. If a polygraph is used, the test must be administered by a qualified police polygraph operator.

5. Search and Seizure

a. As a general rule, the Fourth Amendment applies to any action taken by government. Law enforcement officers have the right, under the Fourth Amendment, to be free from unreasonable searches and seizures. Fourth Amendment warrant requirements apply to any search of an office, and employee's personal property including clothing, car, home or other belongings to include any computer or digital recordings.

b. A voluntary consent to a search may preclude some Fourth Amendment problems from developing. A consent search eliminates the need to determine what threshold standard must be met before conducting the search or seizure, either for an administrative or

criminal investigation. Under New Jersey law, for consent to be legally valid, a person must be informed that he/she has the right to refuse to permit a search. State v. Johnson, 68 NJ 349 (1975). If a consent search is utilized, the investigating officer shall follow standard police procedures and have the principal sign a consent to search form after being advised of the right to refuse such a search and to be present during the search, unless they waive this right.

c. In a criminal investigation, the standard to obtain a search warrant is probable cause. Generally, a search warrant should be sought to search an area belonging to the principal when the employee maintains an objective expectation of privacy in that area. Areas and objects in this category include but are not limited to the employee's home, personal car, safe deposit boxes and personal computers. Department supplied equipment and property is never considered personal property of the employee.

d. Generally, during either administrative investigations or criminal investigations, work place areas may be searched without a search warrant. The critical question is whether the public employee has a reasonable expectation of privacy in the area of property the Internal Affairs investigator wants to search. The determination of a reasonable expectation of privacy must be decided on a case–by-case basis. There are some areas in the person's workplace where this privacy expectation can exist just as there are some areas where no such expectation exists. Areas where supervisors or other employees may share or go to utilize files or equipment would present no expectation of privacy or a diminished expectation of privacy. Included here would be government provided vehicles, filing cabinets, department computers, etc.

e. Department property includes but is not limited to: computers, lockers, phones, department vehicles, desks/offices/work stations, filing cabinets and any other department equipment remains the property of the Neptune City Police Department and is subject to entry and inspection without notice at any time and without a search warrant.

f. If a criminal investigation, prior to a search or confiscation of any department issued property, approval must be obtained from the Monmouth County Prosecutor or his/her designee.

g. Any search of department or personal property should be conducted in the presence of another department employee, preferably a superior officer, and should be properly recorded.

VII. REPORTING

A. Upon completion of all possible avenues of inquiry, the Internal Affairs investigator shall complete the following reports:

1. The internal investigation will be memorialized on the reports as are hereinafter identified. The reports will be submitted to the Internal Affairs

Supervisor for approval on a regular basis so as to keep the case current at all times.

2. All approved original reports will be maintained by the investigator until the investigation is concluded at which time the complete case file will be submitted to the Chief of Police through the Internal Affairs Supervisor.

3. The completed report will be submitted in a report folder/envelope. The investigator will include the Internal Investigation Attachment Log, followed by the State Standardized Internal Affairs Complaint Form, the Investigation Report, and the remaining attachments, numbered sequentially. Supplemental Internal Investigation Reports will be placed in the folder/envelope as numbered attachments, in the correct chronological order.

4. The Internal Investigation Allegations and Conclusions Form will be attached to the report folder/envelope. An Internal Investigation Review Sheet will be secured to the left inner cover, on top of the Internal Investigation Allegations and Conclusions Form.

5. All attachments will be marked, unless marking the document in that area would damage or interfere with the content of the attachment.

B. Report Flow

1. The investigation should be completed and all reports prepared within **thirty (30) calendar days** of being assigned. Authorization for additional time to complete investigations must be received from the Chief of Police, in accordance with the investigation extension procedure.

2. The investigator, upon completion of the report, shall forward it directly to the Internal Affairs Supervisor, who will forward it to the Chief of Police.

3. The Internal Affairs Supervisor will review the case and make recommendations to the Chief of Police regarding discipline.

4. The Chief of Police, upon receipt of the recommendation, will review the matter and make the final determination or return the case for further investigation.

5. Once the Chief of Police is provided with “sufficient information” to file a charge, the Chief of Police has forty-five (45) days to do so. (N.J.S.A 40A:14-147).

6. In all cases, a letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was unfounded or the employee 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 employee has been disciplined according to department procedures. It is not necessary to specify the discipline imposed.

a. If discipline is imposed, a record of such discipline, not including the investigation report or attachments, shall be placed in the employee's personnel file.

7. Whenever a final determination is reached in an internal investigation, the Chief of Police shall in writing, notify the employee(s) involved as a principal(s) of that determination.

C. Internal Investigation Plan

1. The case investigator shall meet with the Internal Affairs Supervisor within five (5) business days of being assigned to conduct the internal investigation, to discuss and formulate an investigative plan.

2. Thereafter the case investigator will complete an Internal Investigative Plan, and submit same for approval prior at the conclusion of the meeting. When approved by the Internal Affairs Supervisor, the plan will be maintained and secured in the case jacket dedicated to that investigation.

D. Internal Investigation Report

1. Within ten (10) calendar days of being assigned to conduct an internal investigation, the case investigator must complete an Internal Investigation Report and submit same for approval to the appropriate Internal Affairs Supervisor. The report must include:

a. Documentation that the complainant has been contacted by the investigator to advise them of their assignment as the case investigator and to arrange a meeting to conduct an interview. If the investigator is unable to contact the complainant, the report must reflect that the appropriate certified ten (10) day letter, endorsed by the Internal Affairs Supervisor or Chief of Police, has been mailed to the complainant.

b. Documentation that the case investigator has contacted the principal(s) and informed them of the nature of the complaint against them.

c. An analysis of the allegations to be addressed by the investigation, linked to specific provisions of the Rules and Regulations, and/or any guidelines that govern the behavior of employees of the department.

E. Supplemental Internal Investigation Report

1. A Supplemental Internal Investigation Report will be submitted on a regular basis to document the investigative process on all internal investigations wherein investigative activity took place during that period. For the purposes of this general order, the term regular basis shall be interpreted to mean at least every ten (10) calendar days, unless the Internal Affairs Supervisor waives this requirement.

F. Internal Affairs Attachment Log

1. An Internal Investigation Attachment Log will accompany each case when submitted by the investigator.

2. The Attachment Log will account for all attachments accumulated during the investigation. The State Standardized Internal Affairs Complaint Form will always be attachment #1. The Internal Investigation Report will be attachment #2. Thereafter, each individual Supplemental Internal Investigation Report will be assigned a separate attachment number.

3. A separate log number will be assigned to every attachment, unless the attachment is a multiple page document, at which time it will be secured as a singular attachment.

4. Each attachment accumulated and documented in the investigation report will receive a separate log number and be appropriately cross referenced in chronological order.

G. Internal Investigation Allegations and Conclusion Report

1. At the conclusion of the investigation, the investigator will prepare allegations and conclusions.

2. The allegation will set forth, in narrative form, the alleged misconduct and be linked to the specific provision of the Rules and Regulations and/or directive purportedly violated.

3. The conclusion reached by the investigator, based upon the facts developed in his/her investigation, will fall into one of the following four (4) dispositions.

   a. Sustained - A preponderance of the evidence shows an officer violated any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standard operating procedure; rule; or training.

   b. Unfounded - A preponderance of the evidence shows that the alleged conduct did not occur;

   c. Exonerated - A preponderance of the evidence shows the alleged conduct did occur, but did not violate any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standard operating procedure; rule; or training. (For example, at the conclusion of an investigation into an excessive force allegation, the agency finds that the officer used force (alleged conduct) but that the force was not excessive (alleged violation).)

   d. Not Sustained - The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

4. The conclusions should be written in paragraph form wherein each piece of evidence that is relied upon in order to reach the conclusion found is individually numbered.

5. These individual paragraphs should be in sufficient detail that standing alone they provide a concise synopsis of the investigation and its findings.

6. These individual paragraphs should be footnoted to the source attachment used in formulating the paragraph.

7. The final paragraph in the allegations and conclusions should encompass verbiage that reads, in effect; "that based upon the preponderance of evidence accumulated in the investigation it is concluded that:

   a. There is insufficient evidence that <Officer/Employee> did <alleged behavior>.

   b. The allegation that <Officer/Employee> did <alleged behavior> is unfounded.

   c. The allegation that <Officer/Employee> did <alleged behavior> is substantiated.

   d. The investigation exonerates <Officer/Employee> of the allegation of <alleged behavior>.

H. Internal Affairs Investigative Review Sheet

1. Each time a supervisor reviews the internal investigation, he/she will complete the form as the reviewer. Occasions may arise when the reviewer will review the case more than once. For example, the Internal Affairs Supervisor reviews the case and returns it to the investigator. Subsequently, the investigator resubmits the case to the Internal Affairs Supervisor. The Internal Affairs Supervisor will now complete the Internal Investigation Review Sheet as the second reviewer.

2. Upon the conclusion of all internal investigations, the investigator will generate an Internal Investigation Review Sheet, which will accompany the submitted investigation.

3. The Internal Investigation Review Sheet will accompany the case as it progresses through the review process and be completed by each supervisor reviewing the case.

4. When the supervisory reviews of the case are ultimately concluded, the Internal Investigation Review Sheet will be maintained and secured in the case jacket. This report may be hand-written by the reviewer.

I. New Principal/Allegation Identification Form

1. During the interview, if the status of an employee shifts from a witness to a principal, the employee shall be advised accordingly. The investigator shall contact the Internal Affairs Supervisor/Chief of Police to secure permission to proceed.

2. If approval is granted to proceed, the investigator will complete a New Principal/Allegation Identification Form and forward same to the Internal Affairs Supervisor, for the purposes of updating the case. A copy of the completed New Principal/Allegation Identification Form, incorporating all required endorsements, must be secured and submitted as an attachment to the investigation.

3. This form will also be used to document perceived violations of written directives not relevant to the complaint or the alleged misconduct being investigated.

J. Request for Extension of Investigation

1. Exceptions to the thirty (30) calendar day requirement to complete all internal investigations may be granted only in the following cases:

   a. The investigation is pending criminal prosecution.

   b. The investigation is undergoing a prosecutorial review to determine if the matter will be prosecuted criminally.

2. This form must be submitted to the Chief of Police through the chain of command or for approval as soon as any of the foregoing criteria is met.

3. The completed form, including all required endorsements, must be submitted as an attachment to the investigation.

4. If investigators are unable to complete an internal affairs investigation within thirty (30) calendar day of receiving a complaint, they must notify the Chief of Police on or about the 30th day. In such situations, the Chief of Police should seek to identify the reasons for the extended investigation and whether the internal affairs function requires additional resources or oversight to complete the inquiry in a prompt manner.

   a. In addition, the Chief of Police should ensure compliance with the "45-day rule" established by N.J.S.A. 40A:14-147.

5. Investigators are required to provide further notice to the Chief of Police every additional 45 days that the internal affairs investigation remains open (*i.e.*, on or about the 90th, 135th, and 180th days from the receipt of the complaint), and the Chief of Police should exercise increasing scrutiny of the investigators' work the longer the case remains open.

6. In the rare cases where the department has not filed disciplinary charges (or decided not to do so) within 180 days of receipt of the complaint, the department must notify the Monmouth County Prosecutor.

   a. The Monmouth County Prosecutor, or their designee, shall investigate the reasons for the extended investigation and shall also examine whether the department's internal affairs function faces any systemic issues that require additional resources or oversight.

   b. The Monmouth County Prosecutor may take any steps necessary to ensure prompt resolution of the pending matter, including supersession of the department's investigation.

   c. The Neptune City Police Department shall provide further notice to the Monmouth County Prosecutor every additional 90 days that the investigation remains open (*i.e.*, on or about the 270th and 360th days from the receipt of the complaint).

K. Performance Notice: is the entry that must be completed by a supervisor to address the corrective action taken as a result of the performance deficiency.

1. A Performance Notice shall be used when the performance deficiency warrants a corrective action of training or counseling.

2. The supervisor issuing a Performance Notice (counseling, or training) shall complete the entry within Guardian Tracking.

3. The employee shall be advised of the corrective action by the issuing supervisor and acknowledge receipt in Guardian Tracking. The Internal Affairs Unit Supervisor shall review the entry and the documentation shall be retained in the system.

4. A printed copy shall be forwarded to the Internal Affairs Unit Supervisor for filing.

L. Reprimand Notice (verbal/written reprimand): is the entry that must be completed by a supervisor to address the disciplinary action initiated as a result of repeated performance deficiencies or administrative misconduct.

1. A Reprimand Notice shall be used when the performance deficiency or misconduct warrants a disciplinary action of a verbal or written reprimand.

2. The supervisor recommending the issuance of a Reprimand Notice (verbal or written) shall complete the entry within Guardian Tracking, which will be forwarded within the system to the Internal Affairs Unit Supervisor for review and approval.

3. Upon approval of the Reprimand Notice, the employee shall be advised of the corrective action by the issuing supervisor and acknowledge receipt in Guardian Tracking. The Internal Affairs Unit Supervisor shall ensure receipt.

4. A printed copy shall be forwarded to the Internal Affairs Unit Supervisor for filing.

M. Preliminary Notice of Disciplinary Action - Formal Charge:

1. A Notice of Disciplinary Action Form shall be used to formally charge an employee with administrative misconduct, the penalty for which exceeds a written reprimand.

2. If the complaint is sustained after review, and it is determined that formal administrative charges should be pursued, the Chief of Police or designee shall direct the Internal Affairs Unit Supervisor or a designee of the Internal Affairs Unit to prepare the **Preliminary Notice of Disciplinary Action form** and have it served upon the principal. The Chief of Police or designee will sign and file these charges.

3. The Preliminary Notice of Disciplinary Action Form shall direct that the employee 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 a plea. The date will be listed on the notice and must provide a reasonable time, at least 5 days after the date of service of the charges, to enter a plea and request a hearing, if applicable.

a. If the employee charged waives a hearing and enters a plea of guilty, the Chief of Police shall permit the employee to present factors in mitigation prior to assessing a penalty.

4. At the conclusion of fact and the penalty imposed, the **Final Notice of Disciplinary Action form** will be placed in the employee's personnel file after he or she has been given an opportunity to read and sign for each disciplinary action. Internal Affairs will cause the penalty to be carried out and complete all required forms.

VIII. HEARINGS

A. 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 employee of the police department, shall have the power to subpoena witnesses and documentary evidence. The Superior Court shall have jurisdiction to enforce any such subpoena.

B. All disciplinary hearings shall be closed to the public. However, the employee may request an open hearing. The appropriate authority or the appropriate authority's designee shall conduct a closed hearing unless a legitimate reason exists to grant the employee's request for an open hearing. The hearing date will be set on the Notice of Disciplinary Action form in accordance with N.J.S.A 40A: 14-147.

C. The appropriate authority or the appropriate authority's designee will fix punishments that are deemed appropriate under the circumstances in accordance with the Rules and Regulations.

D. The appropriate authority or the appropriate authority's designee is empowered to enter a finding of sustained or not sustained, or to modify the charges as deemed necessary. The decision of the appropriate authority or the appropriate authority's designee should be in writing and should be accompanied by findings of fact for each issue in the case.

E. A copy of the decision or order and accompanying findings and conclusions shall be delivered to the employee who was the subject of the hearing.

IX. CONFIDENTIALITY

A. The progress of Internal Affairs investigations and all supporting materials are considered confidential information. Upon completing a case, the Internal Affairs Supervisor will enter the disposition in the Internal Affairs record keeping system.

B. The Neptune City Police Department shall protect and maintain the confidentiality of all internal affairs records against the department or employees. These records shall be in a designated secure area accessible only to the Chief of Police, Internal Affairs Supervisor and others as authorized by the Chief of Police.

C. The information and records of an internal investigation shall only be released under the following limited circumstances:

1. In the event that administrative charges have been brought against an employee, and a hearing will be held, a copy of those internal investigation reports to be used as evidence in the administrative hearing shall be provided to the employee.

2. If the principal, department or municipality 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 principal, department or jurisdiction.

3. Upon request or at the direction of the Monmouth County Prosecutor or New Jersey Attorney General.

4. Upon a court order.

D. The Chief of Police may authorize access to a particular file or record for good cause. The request and the authorization should be in writing, and the written authorization should specify who is being granted access, to which records access is being granted, and for what time period access is permitted. The authorization should also specify any conditions, such as one in which the files may be reviewed only at the Internal Affairs office and may not be removed.

E. Agencies may receive subpoenas directing the production of internal affairs investigative records. Before responding to the subpoena, the Chief of Police should consult with the Department's legal counsel or County Prosecutor's Office to determine whether the subpoena is valid.

F. If the release of internal affairs documents is appropriate, the department should inventory the reports they are releasing and obtain a signed receipt.

G. Subpoenas for Employee's Personnel/Internal Affairs Files

1. In matters that involve criminal and/or civil actions resulting from an internal affairs case, the department shall **NOT** release any information in response to the subpoena without first contacting the Assistant Prosecutor to whom the matter has been assigned by telephone and in writing. All such contact shall be noted in the internal affairs report.

X. INTERNAL AFFAIRS FILES

A. A separate Internal Affairs file system shall be maintained in a secured file cabinet. Personnel records are separate and distinct from Internal Affairs records. Internal Affairs investigation reports shall not be placed in an employee's personnel records file.

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 has been sustained, only the disciplinary action imposed shall be filed in an employee's personnel file.

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.

C. Selection and Hiring

1. In addition to the requirements of the selection process, background investigations must include a review of the prior internal affairs files of any law enforcement candidate.

2. If the Neptune City Police Department has reason to believe that a candidate for employment was previously a sworn officer of another law enforcement agency, the Neptune City Police Department has an affirmative obligation to identify all such former employers. The Neptune City Police Department shall then request all internal affairs files for cases where the candidate was the principal, regardless of the ultimate disposition or status of the complaint.

   a. If requested, the Neptune City Police Department shall provide a written acknowledgement to the releasing agency that it will maintain the confidentiality of said files in accordance with this policy.

3. If the Neptune City Police Department receives such a request regarding a former employee, then it shall immediately share copies of all internal investigative information related to that candidate with the hiring agency, in accordance with N.J.S.A. 52:17B-247. Confidential internal affairs files shall not be disclosed to any other party.

4. The Chief of Police retains the authority to defer a decision on hiring a particular candidate until all extant internal affairs information has been received and reviewed.

D. Investigative records created during an Internal Affairs Investigation are included in the "Records Retention and Disposition Schedule for Local Police Departments" and shall be maintained as such. The agency may choose to retain the files longer and exceed the retention schedule.

XI. COUNTY PROSECUTOR

A. The Monmouth County Prosecutor is responsible for conducting substantive oversight to ensure that the internal affairs function of the Neptune City Police Department is operating professionally and effectively.