NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

SUBJECT: INTERNAL AFFAIRS

EFFECTIVE DATE: November 7, 2025	**ACCREDITATION STANDARDS:** 1.3.1, 1.4.3a-e
BY THE ORDER OF: Chief Anthony Gualario	
SUPERSEDES ORDER #: INTERNAL AFFAIRS SOP (12/21/2022)	

PURPOSE: The purpose of this written directive 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 written directive shall ensure fundamental fairness and due process protection to citizens and employees alike.

POLICY: It is the policy of the Neptune Township Police Department to accept and investigate all complaints of agency 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 in accordance with 40A:14-147. 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 subject employee, 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 written directive 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 written directive:

1. **Internal Affairs Report Form:** This form shall be utilized by department employees to document a reportable incident by all complainants. This form is also offered to any citizen who wants to document a reportable incident on an employee of the department.

2. **Employee Notification Form:** This form is used to formally notify an employee of an internal affairs complaint against him or her.

3. **Notice of Immediate Suspension:** This form shall be used upon the immediate suspension of an employee.

4. **Administrative Advisement Form:** This form shall be used during internal affairs investigation interviews when interviewing the subject employee in an internal affairs investigation.

5. **Weingarten Representative Acknowledgement Form:** This form shall be provided to the Weingarten representative present during an internal affairs interview.

6. **Witness Acknowledgment:** The form shall be used during internal affairs investigation interviews when interviewing a witness in an internal affairs investigation.

7. **Internal Affairs Departmental Investigation Report:** This report will be an objective recounting of all the relevant information the investigation disclosed, including statements, documents and other evidence. Such report shall contain a complete account of the investigation.

8. **Internal Investigation Allegations and Conclusions Form:** This form shall summarize the case and provide conclusions of fact for each allegation. The form should be organized as follows:

   a. A summary of the allegations against the subject, including a recitation of the alleged facts;

   b. A summary of factual findings in which the investigator outlines the facts proven or supported by the evidence reviewed during the investigation, and applies those facts to each allegation. This shall include a conclusive finding on whether each allegation is to be recorded as exonerated, sustained, not sustained or unfounded. For sustained findings that qualify for disclosure, the summary of factual findings, along with the discipline imposed, should be the basis for the brief synopsis;

c. A discipline imposed section in which the final discipline imposed on the subject will be recorded. This section should be completed once the discipline imposed becomes final.

If the conduct of a subject was found to be improper, the report must cite the agency rule, regulation, or SOP violated. Any aggravating or mitigating circumstances surrounding the situation, such as unclear or poorly drafted agency policy, inadequate training or lack of proper supervision, shall also be noted in the form.

9. **Counseling Notice:** This form shall be completed by a supervisor to memorialize any corrective action counseling/remedial training (not discipline) taken either as a result of a reported performance deficiency incident or internal affairs investigation.

10. **Notice of Charge and Hearing:** This 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.

11. **Reprimand Notice:** This form shall be used to document the issuance of an oral and/or written reprimand issued to a subject employee, which has been approved by the Chief of Police or designee in connection with the completed Internal Affairs investigation. This form shall be maintained in the internal affairs files only.

12. **Notice of Disciplinary Action:** This form shall be used to formally notify the subject employee 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 discipline. This form shall be maintained in the internal affairs file with a copy retained in the personnel file.

13. **Internal Affairs Reporting Forms:** 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.

B. **Reportable Incident:** is any behavior, performance, or non-performance that may violate 40A:14-147, department rules/regulations, procedures, applicable criminal and civil laws, and the United States or New Jersey Constitutions, both on or off duty. All reportable incidents shall be carefully and thoroughly reviewed by the Chief of designee 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 written directive.

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 Unit Supervisor to screen, record and classify the incident as one of the following **(See Figure #1):**

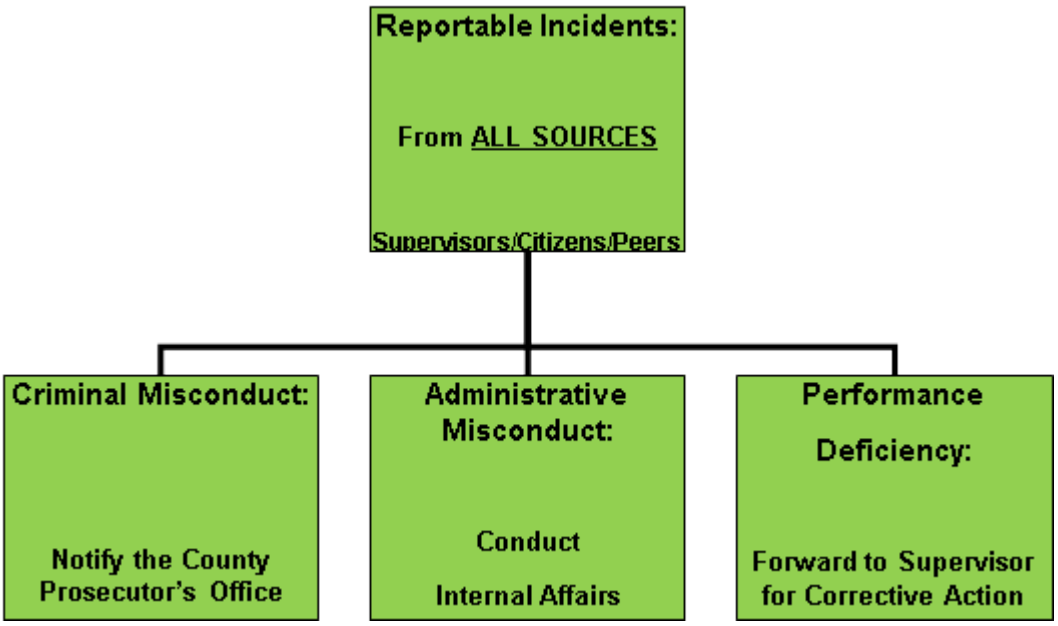

Figure #1 (Classification Process

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 a subject employee, until directed by the 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 written directive.

   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.

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 or designee 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, most cases involving a court action will require the collection and analysis of court records and transcripts of court appearances by the subject employee, 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 written directive. 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 subject employees 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 subject employees:

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 continue the investigation on the additional allegations. 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 subject employee, the investigator shall notify the Internal Affairs Unit Supervisor/Chief of Police

or designee, and await further instructions. Other aspects of the investigation should continue.

L. 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 Unit Supervisor shall have direct access to the Chief of Police or designee 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 themselves 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 Township Police Department's Internal Affairs Unit be contracted or delegated to a private entity.

1. Instead, when necessary, the Neptune Township 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 Township Police Department, if the Monmouth County Prosecutor determines that the department can appropriately investigate the matter.

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

D. Internal Affairs Unit 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 or designee shall be immediately notified when an employee is accused of a crime, domestic violence incident where the employee is either an alleged perpetrator or victim, any incident that attracts media attention, and 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 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 Unit personnel 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 or designee.

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

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

E. Internal Affairs Unit shall be responsible for:

1. Ensuring 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. The case investigator shall prepare and mail the Complaint Acknowledgement Letter to all civilian complainants.

5. 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 written directive governing early warning.

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

7. 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 designee and Internal Affairs Unit Supervisor.

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

9. The Internal Affairs Unit investigators or personnel temporarily assigned to that function 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 the Internal Affairs Unit personnel, 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 or designee.

10. 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.

11. The Neptune Township Police Department shall complete the Summary Report form and submit it to the Monmouth County Prosecutor's Office as directed by that office.

12. On an annual basis, the Neptune Township 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**.**

13. The Neptune Township 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. The synopsis of each case shall follow the format provided in Appendix L (updated November 2022) and shall include the identity of each officer subject to final discipline, a full explanation of the rule, regulation, policy, directive, or law violated, a factual summary of their conduct, 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. In rare circumstances, further redactions may be necessary to protect the identity of a victim. Whenever

practicable, notice shall be given to victims of domestic or sexual violence in advance of an agency's disclosure of discipline related to the incident. The synopsis shall include all misconduct where an agency member:

a. Was terminated;

b. Was reduced in rank or grade;

c. Was assessed a suspension of more than five days.

1) A suspension of more than five days shall be broadly construed to include any disposition involving a suspension of more than 40 hours of time or the equivalent of five days/shifts if less than 40 hours, regardless of whether any of the suspension time was suspended or held in abeyance. It shall include the loss of vacation, sick or leave time totaling more than 40 hours or the equivalent of five days/shifts. It shall include any combination of suspension time assessed plus loss of vacation, sick or leave time that aggregates to more than 40 hours or the equivalent of five days/shifts. It shall also include any fine that exceeds the gross value of 40 hours, or the equivalent of five days/shifts, of pay;

d. Had a sustained finding of discrimination or bias against any person because of the individual's actual or perceived race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability, nationality, familial status, or any other protected characteristic under N.J.S.A. 10:5-1 et seq., regardless of the type or severity of discipline imposed;

e. Had a sustained finding that the officer utilized excessive force in violation of departmental policy or the Attorney General's Use of Force Policy, regardless of the type or severity of discipline imposed;

f. Had a sustained finding that the officer was untruthful or has demonstrated a lack of candor, regardless of the type or severity of discipline imposed;

g. Had a sustained finding that an 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, regardless of the type or severity of discipline imposed;

h. Had a sustained finding that an officer intentionally conducted an improper search, seizure or arrest, regardless of the type or severity of discipline imposed;

i. Had a sustained finding that an officer intentionally mishandled or destroyed evidence, regardless of the type or severity of discipline imposed;

j. Had a sustained finding of domestic violence, as defined in N.J.S.A. 2C:25-19, regardless of the type or severity of discipline imposed;

k. Resigned, retired, transferred or separated from the agency, regardless of the reason, while any internal affairs investigation or complaint was pending, and the misconduct ultimately sustained (as defined in this policy and the current IAPP) falls within categories d through j above or would have resulted in an action under categories a through c had the member not separated from the agency; or

l. Was charged with any indictable crime under New Jersey or an equivalent offense under federal law or the law of another jurisdiction related to the complaint.

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 misconduct, or statements of the sanctions imposed. The department or officer shall not enter into any non-disclosure agreement which seeks to conceal or prevent public review of the circumstances under which the officer separated from or was terminated or fired from employment by the department.

14. The Neptune Township Police Department's Internal Affairs Unit 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 Unit 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 to the shift commander, in no case, more than four hours, the following information to the Internal Affairs Unit Supervisor and the Chief of Police or designee 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 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 Internal Affairs Unit Supervisor, in no case more than four hours after receipt of the notification. The Chief of Police or designee shall notify the Monmouth County Prosecutor's Office of the receipt of this information.

B. Duty of Employees to File an Internal Affairs Report 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 Supervisor.

2. All employees must report directly to the Internal Affairs Unit or the Chief of Police or designee 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 designated communication center.

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 agency 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 Report Form and explain 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 shall be kept informed of the status of the complaint and its ultimate disposition, if requested.

c. Complete as much of the Internal Affairs Report Form as possible before forwarding it to the Internal Affairs Unit Supervisor for recording in the master recordkeeping system and classification by the Internal Affairs Unit 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.

4. All department personnel are directed to accept reports of agency 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 Unit 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 Unit Supervisor for classification and entry into the recordkeeping system.

2. Unless otherwise directed by the Internal Affairs Unit Supervisor or the Chief of Police or designee, 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 subject employee 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 or designee 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 of 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 sufficient opportunity to review the charges and the evidence and to respond either orally or in writing, if applicable.

c. Advise his/her 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 formal charges 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 employee, or the investigation involves an allegation of the excessive use of force, the Chief of Police or designee shall be notified immediately who will then notify the Monmouth County Prosecutor's Office. No further action shall be taken, including the filing of charges against the employee, until directed by the Chief of Police or designee and the Monmouth County Prosecutor's Office.

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

   a. A subject employee 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 Unit investigator shall consult with the Monmouth County Prosecutor regarding the advisability of giving a Miranda Warning Form to the subject employee.

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 direct a full investigation of the matter, which should include interviewing the complainant, all witnesses as well as review relevant reports and records, and obtain other relevant information and materials.

      1) The complexity of the offense will determine the extent of the interviews/investigation.

   b. The Internal Affairs Unit Supervisor will notify the Chief of Police or designee of the offense.

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

   d. The Internal Affairs Unit 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, and may recommend the appropriate corrective action, subject to approval by the Chief of Police or designee.

3. The supervisor or commanding officer shall forward the completed report to the Internal Affairs Unit for review, and entry of the disposition in the recordkeeping system.

D. Investigative procedures shall be conducted in accordance with the requirements of the current New Jersey Attorney General Internal Affairs Policy and Procedure, any current New Jersey Attorney General Guideline or Directive on internal affairs as well as any Monmouth County prosecutorial directive or guideline on internal affairs.

VII. REPORTING

A. Upon completion of all possible avenues of inquiry, the Internal Affairs Unit 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 Unit 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 or designee through the Internal Affairs Unit Supervisor.

3. The completed report will be submitted in a report folder/envelope.

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

B. Report Flow

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

2. The Internal Affairs Unit Supervisor will review the case and make recommendations to the Chief of Police or designee regarding discipline.

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

4. Once the Chief of Police or designee has been provided with "sufficient information" to file a charge, the Chief of Police or designee has forty-five (45) days to do so (N.J.S.A 40A:14-147).

5. 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.

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

C. Internal Investigation Report

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

2. Documentation that the case investigator has contacted the subject employee(s) and informed them of the nature of the complaint against them.

3. 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.

4. The conclusion reached by the investigator, based upon the facts developed in his/her investigation, will fall into one of the following five (5) 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.

e. Administratively Closed - This disposition is used for extraordinary circumstances that isn't defined by any of the other four dispositions. (e.g., employee passes away.)

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

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

7. These individual paragraphs may be footnoted to the source attachment used in formulating the paragraph.

8. The final paragraph in the internal affairs report 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>.

D. Extension of Investigation

1. If investigators are unable to complete an internal affairs investigation within forty-five (45) day of receiving a complaint, they must notify the Chief of Police on or about the 45th day. In such situations, the Chief of Police should seek to identify the reasons for the extended investigation and whether the Internal Affairs Unit 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.

2. 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.

3. 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 Unit 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 Township 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).

E. Counseling Notice: is the form that must be completed by a supervisor to address the corrective action taken as a result of performance deficiency.

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

2. The supervisor recommending the issuance of a Counseling Notice form (counseling, or remedial training) shall complete and forward the unsigned copy form to the Division Commander or designee for review and approval.

3. Upon approval, the Counseling Notice will be returned to the subject employee's supervisor for signature.

4. The issuing supervisor shall advise the subject employee of the corrective action. The subject employee shall sign the Counseling Notice and be given a copy of the document. The original document shall be forwarded to the Internal Affairs Unit Supervisor for filing.

F. Reprimand Notice (verbal/written reprimand)

1. This form must be completed by the Internal Affairs Unit Supervisor or designee to address the disciplinary action initiated as a result of repeated performance deficiencies or administrative misconduct.

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

3. The Internal Affairs Unit Supervisor or designee completes the Reprimand Notice form and forwards the unsigned copy to the Chief of Police or designee for review and approval.

a. Upon approval, the Reprimand Notice will be returned to the Internal Affairs Unit Supervisor or designee for signature and service.

4. The Division Commander and the Internal Affairs Unit Supervisor or designee shall advise the subject employee of the disciplinary action. The employee shall sign the Reprimand Notice and is entitled to a copy of the document and same will be offered to him/her. The original document shall be forwarded to the Internal Affairs Unit Supervisor for filing.

G. Notice of Disciplinary Action:

1. A Notice of Disciplinary Action Form shall be used to formally notify/charge a subject employee with administrative misconduct, the penalty for which exceeds a counseling notice.

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 Notice of Disciplinary Action form and have it served upon the subject employee. The Chief of Police or designee will sign and file these charges.

3. Conclusion of fact and the penalty imposed will be noted in the subject employee's personnel file after he or she has been given an opportunity to read and sign it. The Internal Affairs Unit will cause the penalty to be carried out and complete all required forms.

H. If the subject employee charged waives a hearing and enters a plea of guilty on the Notice of Charge and Hearing form, the Chief of Police or designee shall permit the subject employee to present factors in mitigation prior to assessing a penalty.

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 a subject 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 subject 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 subject employee's request for an open hearing. The hearing date will be set on **the Notice of Charge and Hearing 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 Unit will enter the disposition in the internal affairs record keeping system.

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

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

1. If administrative charges have been brought against an employee and a hearing will be held, a copy of all discoverable materials shall be provided to the employee and the hearing officer before the hearing.

2. If the subject employee, agency 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 subject employee, agency or jurisdiction.

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

4. Upon a court order; or

5. Upon a request from the Division of Pensions, following an officer's application for a retirement allowance.

D. The Chief of Police may authorize access to a particular file or record for good cause. The request and the authorization shall be in writing, and the written authorization shall specify who is being granted access, to which records access is being granted, and for what time period access is permitted. The authorization shall also specify any conditions (i.e., the files may be reviewed only at the internal affairs office and may not be removed). In addition, the law enforcement executive may order any redactions in accordance with the current IAPP. The Chief of Police should grant such access sparingly, given the purpose of the internal affairs process and the nature of many of the allegations against officers. As a general

matter, a request for internal investigation case files may satisfy the good cause requirement:

1. If a Civilian Review Board that meets certain minimum requirements requests access to a completed or closed investigation file, subject to the conditions described in this section; or

2. If another law enforcement agency requests the files because it is considering hiring an officer who was formerly employed at the agency with the internal investigation files.

E. The *Internal Investigation Allegations and Conclusions Form* shall be released in response to a request made under the common law right of access by any member of the public or press where it satisfies any of the following conditions:

1. The *Internal Investigation Allegations and Conclusions Form* led to a result on or after January 1, 2023, that requires disclosure pursuant the current IAPP;

2. The agency otherwise concludes that the *Internal Investigation Allegations and Conclusions Form* is subject to release pursuant to applicable law or court order; or

3. Upon the request or at the direction of the County Prosecutor or Attorney General at any time.

F. When an agency concludes that an *Internal Investigation Allegations and Conclusions Form* is subject to disclosure, it shall redact the following before disclosure:

1. The names of complainants, witnesses, informants, victims and cooperators, in addition to information that could reasonably lead to discovery of their identities;

   a. In instances of domestic violence, in addition to redaction of the victim's name, all reference to the specific nature of the qualifying relationship should also be redacted to protect the identity of the victim. For example, if the victim is an intimate partner, terms such as "spouse," "partner," "girlfriend," "boyfriend," "husband," or "wife," should also be redacted, and to the extent possible the report should just indicate that the relationship between the victim and the officer was an enumerated relationship under the Domestic Violence Act (*N.J.S.A.* 2C:25-17 et seq.).

2. Non-public, personal identifying information about any individual named in the report, such as their home addresses, phone numbers, dates of birth, social security numbers, familial relationships, etc.;

3. Medical information or history, including but not limited to, mental health or substance abuse services and drug or alcohol evaluation, counseling or treatment;

4. Information regarding any criminal investigation or prosecution that is not already contained in a public filing, or any information that would impede or interfere with a pending criminal or disciplinary proceeding;

5. Any records or material prohibited from disclosure by law;

6. Juvenile records;

7. Any information which is the subject of a judicial order compelling confidentiality;

8. Any other information that would violate a person's reasonable expectation of privacy; and

9. Any information regarding law enforcement personnel, procedures, or resources that could create a risk to the safety of any person, including but not limited to law enforcement personnel.

G. Whenever a law enforcement officer makes an application to the New Jersey Division of Pensions for retirement benefits, in anticipation of upcoming retirement and the receipt of a pension, both the department and the officer shall have an affirmative obligation to report to the Division of Pensions the existence of any pending internal affairs investigation, complaint or case, including those on appeal, as well as any criminal charges.

H. 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.

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

J. 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.3

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.

3. Twelve months after an oral reprimand is issued, the employee may request in writing to the Chief of Police, to have the oral reprimand removed from their personnel file. Factor(s) that will be considered in removing the oral reprimand from the personnel file, include, but are not limited to the following and is at the sole discretion of the Chief of Police:

   a. If no additional infractions occurred since the oral reprimand was issued (including counseling notices).

   b. Written reprimands will remain permanently in the employee's personnel file.

   c. Under no circumstances will the investigation that led to the oral reprimand or any internal affairs index reference be purged.

B. The Guardian Tracking system shall contain an entry made by the supervisor with the following corresponding report attached to the entry.

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

   a. <u>If requested</u>, the Neptune Township 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 Township 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 confidential records and not defined as personnel records. For the purpose of retention, the Neptune Township Police Department shall follow the retention schedule for personnel records in the "Municipal Agencies General Records Retention Schedule."

XI. COUNTY PROSECUTOR

A. The Monmouth County Prosecutor is responsible for conducting substantive oversight to ensure that the Internal Affairs Unit of the Neptune Township Police Department is operating professionally and effectively.