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Commissioner

**TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY
POLICE DEPARTMENT**

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I. PURPOSE

- A.** The purpose of this General Order is to establish a fair and just disciplinary process. Complaints of police misconduct shall be thoroughly and impartially investigated through meaningful and objective complaint procedures. This process shall ensure that individuals receive adequate redress for legitimate complaints of misconduct.
- B.** The effectiveness of a law enforcement agency is dependent upon public approval and acceptance of police authority. The North Bergen Police Department must be responsive to the community by providing formal procedures for the investigation and resolution of complaints regarding individual employee performance.
- C.** An effective disciplinary framework allows police supervisors to monitor employee compliance with department policies and procedures, and permits managers to identify deficiencies which require training or increased supervision.

- D. The goals of this policy are to enhance the complainant's confidence in the integrity of the police department, improve the delivery of police services, and assure the community that complaints of police misconduct are properly addressed.

II. POLICY

- A. It is the policy of the North Bergen Police Department to accept and investigate all complaints of agency and officer 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. A thorough and objective examination of the available factual information will be conducted. Corrective and disciplinary action shall be administered according to the degree of misconduct, the employee's prior disciplinary history and the North Bergen Police Department's Rules and Regulations.
- B. It is the policy of this department that officers and employees, regardless of rank/title, shall be subject to corrective and/or disciplinary action for violating their oath and trust. Committing an offense punishable under the laws of the United States, the State of New Jersey, or municipal ordinances, constitutes a violation of that oath and trust. Employees are also subject to corrective and/or disciplinary action for failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment. In addition, employees may be subject to corrective and/or disciplinary action for a violation of department rules and regulations, or for failure to obey any lawful instruction, order or command from a superior officer or supervisor.
- C. Prevention is the primary means of reducing and controlling misconduct. It is the policy of this department to identify and correct organizational conditions which may permit misconduct to occur and/or go undetected. Special emphasis is placed on recruitment and selection of personnel, training, supervision, early warning and risk management, staff inspections and community outreach.
- D. This general order has been developed in accordance with the New Jersey Attorney General Directive on Internal Affairs 2019-5 and shall be consistent with any tenure or civil service laws and any existing contractual agreements.

III. Internal Affairs Unit

A. Establishment of the Internal Affairs Unit.

- 1. The Internal Affairs Unit is herein established. The Internal Affairs Unit shall consist of agency personnel assigned to Internal Affairs by the Chief of Police. Personnel assigned to the Internal Affairs Unit serve at the pleasure of and are directly responsible to the Chief of Police or designated Internal Affairs Supervisor.

B. Duties and Responsibilities

1. The purpose of the Internal Affairs Unit is to establish a mechanism for the receipt, investigation, and resolution of officer misconduct complaints. The goal of Internal Affairs is to ensure that the integrity of the department is maintained through a system of internal discipline where an objective and impartial investigation and review assure fairness and justice.
2. The Internal Affairs Unit will investigate alleged misconduct by members of the department and review the adjudication of minor complaints handled by supervisors.
3. In addition, **Internal Affairs shall receive notice of:**
 - a. Any firearm discharge by agency personnel, whether on-duty or off-duty, unless the discharge occurred during the course of:
 - i. A law enforcement training exercise;
 - ii. Routine target practice at a firing range;
 - iii. A lawful animal hunt; or
 - iv. The humane killing of an injured animal;
 - b. Any discharge of an agency-owned firearm by anyone other than agency personnel;
 - c. Any accidental discharge of an agency-owned Conducted Energy Device.
 - d. Any use of force by agency personnel that results in injury to any person,
 - e. Any vehicular pursuit involving agency personnel; and
 - f. Any collision involving agency-owned vehicles.
4. Upon receiving notification, the Internal Affairs Unit shall document the incident and determine whether additional investigation is necessary.
5. The Internal Affairs Unit also has an obligation to investigate or review any allegation of employee misconduct that is a potential violation of an Attorney General Directive or Guideline, a Directive issued by the Hudson County Prosecutor, the North Bergen Police Department's Rules and Regulations, or any allegation that indicates the employee is unable, unwilling or unfit to perform their duties.

6. The obligation to investigate includes not only acts of misconduct that are alleged to have occurred while the subject officer was on-duty, but also acts of misconduct that are alleged to have occurred outside the employing agency's jurisdiction or while the subject officer was off-duty.
7. The Internal Affairs Unit may conduct an internal investigation on its own initiative or upon notice to or at the direction of the Chief of Police, or the Internal Affairs Supervisor. Internal Affairs may refer investigations to the employee's supervisor for action as permitted by agency policy and procedures.
8. Internal Affairs investigations must be considered as important to the department as any criminal investigation. Members of the Internal Affairs Unit therefore shall have the authority to interview any member of the department and to review records and reports of the department relative to their assignment.
9. The Internal Affairs Unit acts at the behest of the Chief of Police in all Internal Affairs investigations. All department personnel should be further instructed that during an Internal Affairs investigation, every member of the department, regardless of rank, shall treat an order or a request from a member of the Internal Affairs Unit as if the order or request came directly from the Chief of Police.
10. The Internal Affairs Unit shall maintain a comprehensive central file on all complaints received, whether investigated by Internal Affairs or assigned to the officer's supervisors for investigation and disposition.
11. The Internal Affairs Unit shall establish protocols for tracking all complaints received by the agency and the conduct of all officers. The protocols must include criteria for evaluating the number of complaints received by the agency and the number of complaints filed against individual officers.

C. Selection of Personnel for the Internal Affairs Function

1. Personnel assigned to conduct Internal Affairs investigations should be energetic, resourceful and committed to the department's mission and the Internal Affairs function. They must display a high degree of perseverance and initiative.
2. The Internal Affairs investigator must maintain an appropriate balance between professional commitment and personal and group loyalties. Internal Affairs personnel must be of unquestioned integrity and possess the moral stamina to perform unpopular tasks.
3. The Internal Affairs investigator must possess the ability to be tactful when dealing with members of the agency and the community. It is recommended that personnel

assigned to the Internal Affairs function provide the department with the opportunity to access all segments of the community.

- a. For example, if a particular community has a significant proportion of the population that speaks a foreign language, the Chief of Police may wish to consider assigning an officer to the Internal Affairs Unit who speaks that language.
4. The Chief of Police shall not assign to the Internal Affairs function any person responsible for representing members of a collective bargaining unit.
5. 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 officer.
6. Under no circumstances may the North Bergen Police Department's Internal Affairs Function be contracted or delegated to a private entity.
 - a. Instead, when necessary, the North Bergen Police Department may request that an Internal Affairs complaint be investigated directly by the Hudson County Prosecutor's Office, 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 North Bergen Police Department, if the Hudson County Prosecutor determines that the original agency can appropriately investigate the matter.
 - b. Nothing in this policy shall prevent the North Bergen Police Department from retaining a qualified private individual to serve as a hearing officer or an expert witness.

D. Training of Internal Affairs Personnel

1. The North Bergen Police Department shall ensure that officers assigned to the Internal Affairs Unit complete training as mandated by the Division of Criminal Justice.
2. Officers may attend additional training on Internal Affairs provided by the Hudson County Prosecutor's Office and other sources.

IV. Fundamentals of the Disciplinary Process

- A. Achieving the desired level of discipline within the department is among the most important responsibilities of the Chief of Police. While the word "discipline" was originally defined as instruction, teaching or training, its meaning has shifted toward a

concept of control through punishment. This emphasis on control has resulted in discipline being viewed as a negative threat rather than a mechanism for remediation and improvement. Too frequently rules of conduct and disciplinary procedures are used as an end in themselves, and their purpose in reaching agency goals is forgotten. Focusing on the negative aspects of discipline diminishes officer morale and productivity.

- B. The first step toward positive discipline is to emphasize instruction and de-emphasize control. Once the department's goals and objective are defined, management can guide personnel toward realizing those goals through a system of monitoring employee performance and correcting improper actions.

V. Policy Management System

- A. A clearly defined policy management system is designed to move this agency toward its stated goals and set the standard for acceptable performance. The North Bergen Police Department shall utilize **PowerDMS** (Policy and Procedure Document Management Software) which incorporates a mechanism for distributing rules, regulations, policies and procedures, and provides for periodic review and revision as necessary.

- B. **PowerDMS** shall, at a minimum, include:

1. **Rules and Regulations.** Principles of behavior that set forth acceptable and unacceptable conduct. The rules and regulations must be issued by the appropriate authority as designated by ordinance (N.J.S.A. 40A:14118).
2. **Standard operating procedures (SOPs).** Written statements providing specific direction for performing agency activities. Each SOP should also include the department's policy in that area, which is a statement of agency principles that provides the basis for the development of the procedures.
3. **Directives or orders.** Documents detailing the performance of a specific activity or method of operation.

VI. Rules and Regulations

- A. The North Bergen Police Department's Rules and Regulations shall form a "code of conduct" for employees. It shall contain the broadly stated "do's and don'ts," without delving into specific details. The specific details should be found in this agency's SOPs.
- B. The North Bergen Police Department's Rules and Regulations shall identify general categories of misconduct or inappropriate behavior that are subject to disciplinary

action. An incident of misconduct or inappropriate behavior may fall into one or more of the following categories:

1. **Crime.** Complaint regarding the commission of an illegal act that constitutes a violation of the criminal code including disorderly and petty disorderly persons offenses.
 2. **Excessive force.** Complaint regarding the use or threatened use of excessive force against a person.
 3. **Improper arrest.** Complaint that the restraint of a person's liberty was improper, unjust, or violated the person's civil rights.
 4. **Improper entry.** Complaint that entry into a building or onto property was improper or that excessive force was used against property to gain entry.
 5. **Improper search.** Complaint that the search of a person or property was improper, unjust, violated established agency procedures or violated the person's civil rights.
 6. **Differential treatment.** Complaint that the taking of police action, the failure to take police action or method of police action was predicated upon irrelevant factors such as race, appearance, age or sex.
 7. **Demeanor.** Complaint that an agency member's bearing, gestures, language or other actions were inappropriate.
 8. **Serious Rule infractions.** Complaint for conduct such as insubordination, drunkenness on duty, sleeping on duty, neglect of duty, false statements or malingering.
 9. **Minor rule infractions.** Complaint for conduct such as untidiness, tardiness, faulty driving, or failure to follow procedures.
- C. The North Bergen Police Department Rules and Regulations shall provide for uniform classification of the resolution of complaints as follows:
1. **Sustained.** A preponderance of the evidence shows an officer violated any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or Hudson County Prosecutor; agency protocol; standing operating procedure; rule; or training.
 2. **Unfounded.** A preponderance of the evidence shows that the alleged misconduct did not occur.
 3. **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 Hudson County Prosecutor; agency protocol; standing operating procedure; rule; or training.
 4. **Not Sustained.** The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

- D. In addition, the Rules and Regulations shall set forth a schedule of possible penalties an officer might receive when discipline is imposed. The Rules and Regulations may incorporate a system of progressive discipline. Progressive discipline serves an important role in the process by which this agency deals with complaints of misconduct or inappropriate behavior. In lieu of discipline, counseling, re-training, enhanced supervision, oral reprimand and performance notices can be used as instructional or remedial devices to address deficiencies or inadequate performance.
- E. In providing a range of penalties, the North Bergen Police Department can use the disciplinary process to achieve the basic goals of instruction and address inappropriate behavior before minor problems escalate into major problems. At the same time, the subject officer should be made aware that repeated violations of the department's rules will result in progressive discipline. An Internal Affairs complaint that has a disposition of exonerated, unfounded or not sustained should not be used to effect progressive discipline.
- F. A system of progressive discipline can include the following elements:
 - 1. Oral reprimand or performance notice;
 - 2. Written reprimand;
 - 3. Monetary fine;
 - 4. Suspension without pay;
 - 5. Loss of a promotional opportunity;
 - 6. Demotion; and
 - 7. Discharge from employment.

VII. Responsibility for Discipline

- A. The successful implementation of discipline requires the Chief of Police to delegate responsibility for the disciplinary process to individual units and supervisors within the department.
- B. Every supervisor must establish a familiarity with the North Bergen Police Department's disciplinary process and develop an understanding of how to implement specific disciplinary procedures when called upon to deal with inappropriate behavior or misconduct.
- C. If a supervisor fails to follow these procedures or avoids their responsibility, that supervisor is not conforming to expected behavior and must receive some sort of corrective action. Some supervisors occasionally need to be reminded that the fundamental responsibility for direction and control rests with the immediate supervisor at the operational level, not with the Chief of Police.

VIII. Fitness for Duty

- A. One of the areas that often involves Internal Affairs is an employee's fitness for duty. This is not exclusively an Internal Affairs issue; an officer's fitness may be impacted for reasons other than misconduct. For instance, an officer may become unfit for duty because of a medical problem unrelated to the job. There are occasions, however, when Internal Affairs may be called upon to assist in determining whether or not an officer is fit for duty.
- B. If the Chief of Police, Commander, Supervisor or Internal Affairs Investigator has reasonable concerns about an officer's fitness for duty, they are obligated to begin the process necessary to obtain that evaluation. If the officer in question is obviously unfit for duty, the officer in authority may effect an immediate suspension pending the outcome of the evaluation and investigation. See **Section XI** of this policy ("**Immediate Suspension Pending Investigation and Disposition**").
- C. Law enforcement work places an extraordinary mental and emotional toll on officers, and all officers must be free to seek treatment and support that enables them to cope with those pressures. Accordingly, under no circumstances shall an officer face any sort 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.
 - 1. All officers are encouraged to take advantage of the resources provided by the New Jersey Resiliency Program for Law Enforcement, as well as other resources identified in AG Directive 2019-1, also known as the "**Officer Resiliency Directive.**"
 - 2. All interactions between a law enforcement officer and a Resiliency Program Officer (RPO), in the RPO's official capacity, are confidential, unless disclosure is otherwise required by applicable laws, guidelines, or the department's internal policies.

IX. Prevention of Misconduct

- A. Prevention is the primary means of reducing and controlling inappropriate behavior and misconduct. Although disciplinary actions are properly imposed on officers who engage in wrongdoing, they have limited utility if they shield or obscure organizational conditions that permit the abuses to occur. Inadequate training and a lack of appropriate guidance too often are factors that contribute to inappropriate behavior and misconduct. In the furtherance of this objective, special emphasis should be placed on the following areas.

- 1. Recruitment and Selection.** Selecting and appointing the highest quality individuals to serve as police officers is a priority of the North Bergen Police Department. During the selection process, written tests, psychological tests, background investigations and individual interviews shall be completed by each candidate in an attempt to identify those who would be best suited for law enforcement employment. Background investigations must include a review of the prior Internal Affairs files of any candidate.
- 2. Training.** Basic and in-service training for police officers should emphasize the sworn obligation of those officers to uphold the law and ensure public safety. Police ethics should be a major component in the training curricula. In addition, the rules, regulations, policies and procedures of this agency, including the disciplinary process, should be stressed. There must also be a process to advise veteran officers of any new statutory requirements or significant procedural changes.
 - a. Supervisory personnel should always consider the need for training when officers engage in inappropriate behavior or misconduct. The question should be, “Could training have prevented this behavior and can training prevent it from happening in the future?”
 - b. Training in this sense can be anything from informal counseling of an officer about a particular policy or procedure to formal agency-wide training.
- 3. Supervision.** Proper supervision is critical to the discipline and management of this agency. To maximize their effectiveness, department supervisors shall receive appropriate supervisory training as close as possible to the time of their promotion. Emphasis should be placed on anticipating problems among officers before they result in improper performance or misconduct. Supervisors are expected to recognize potentially troublesome officers, identify training needs of officers and provide professional support in a consistent and fair manner.
- 4. Early Warning and Risk Management.** Although the Internal Affairs process is frequently triggered by the filing of a civilian complaint, this department must also proactively work to detect troubling patterns in police conduct before that conduct escalates into more serious Internal Affairs issues.
 - a. The North Bergen Police Department recognizes that early intervention has become accepted as a “best practice” throughout public safety. Wherever early intervention programs have been instituted, they have played a critical role in lessening risk, upholding integrity, and supporting professional development. In dealing with early-stage issues, different remedial approaches are available that can be more supportive than adversarial. Non-disciplinary programs that assist

rather than punish have the potential to produce positive outcomes with improvements in performance, behavior and professional conduct. A comprehensive Early Warning System (EWS) is an essential management tool designed to detect patterns and trends in police conduct before that conduct escalates. The active participation of police supervisors and management are expected, as this is crucial to the success of the EWS.

- b. The North Bergen Police Department (NBPD) shall utilize **BlueTeam** which is a software component of **IA PRO** as its **Early Warning System** (EWS). BlueTeam is the NBPD's EWS support software product that works in conjunction with IA PRO to help provide an integrity solution when the EWS is triggered.
- c. Internal Affairs personnel will manage the Early Warning System and shall conduct routine audits as appropriate, but no less than every six (6) months. This will ensure the accuracy and efficacy of the tracking system.

5. Staff Inspections. While the primary responsibility for enforcing agency policies rests with the line supervisors, management cannot rely solely on those supervisors for detecting violations. It is necessary for management to know if behavior is, in fact, consistent with this agency's rules, regulations, policies and procedures. The task of detecting such defects may be delegated to Field Operations, however it is also the responsibility of all police supervisors.

6. Community Outreach. Commanding officers should strive to remain informed about and sensitive to the community's needs and problems. Regularly scheduled meetings to discuss community concerns should be held with public advisory councils, religious groups, schools, businesses and other community leaders. These meetings, known as the **North Bergen Township Alternative Policing Strategy (NB TAPS)** meetings, help commanding officers identify potential crisis situations and keep channels of communication open between the agency and the community. The disciplinary process should be publicized and clearly explained in these forums.

X. Accepting Reports of Officer Misconduct

- A. All complaints of officer misconduct shall be accepted 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.
- B. Internal Affairs personnel, if available, shall accept complaints. If Internal Affairs personnel are not available, supervisory personnel shall accept reports of officer misconduct, and if no supervisory personnel are available, complaints shall be accepted by any law enforcement officer.

- C. At no time should a complainant be told to return at a later time to file their report.
- D. Members of the public should be encouraged to submit their complaints as soon after the incident as possible. If the complainant cannot personally appear at the North Bergen Police Department to file the complaint, a member of this agency, preferably a member of the Internal Affairs Unit, should visit the complainant at their home, place of business or other location if necessary, to complete the report.
- E. The Internal Affairs Unit shall also enable complaints to be accepted by telephone or by email if a complainant does not wish to be interviewed in person or wishes to remain anonymous.
- F. Under no circumstances shall it be necessary for a complainant to make a sworn statement to initiate the Internal Affairs process.
- G. The officer receiving the complaint shall advise the complainant that he or she will be kept informed of the status of the complaint, if requested, and its ultimate disposition. To best accomplish this, the officer accepting the complaint will:
 - 1. Explain the department's disciplinary procedures to the person making the complaint utilizing the **North Bergen Police Department Internal Affairs Citizen Complaint Information Sheet (Appendix B)**. This information sheet is available in both English and in Spanish.
 - 2. Complete the **North Bergen Police Department Internal Affairs Report Form (Appendix C)** and have the complainant sign the completed form. If the complainant refuses to sign the form, the employee receiving the complaint will so note that fact. However, the failure of a complainant to sign the Internal Affairs report form will in no way preclude a thorough investigation of the allegations. This report form is available in both English and in Spanish.
 - 3. Assist the complainant with the reporting of their complaint.
- H. **The North Bergen Police Department Internal Affairs Report Form (Appendix C)** shall be utilized to document external and internal complaints of officer misconduct.
- I. The Internal Affairs Unit shall make available versions of the standardized form in English and in Spanish. These forms shall also be available on the North Bergen Police Department's website.
- J. Upon receipt of an Internal Affairs complaint, the Internal Affairs investigator can advise the complainant of the importance of providing accurate and truthful

information. However, when providing such advice, Internal Affairs investigators must remember that it is important to balance the need for receiving complaints of officer misconduct against the danger of discouraging members of the public from coming forward with their complaints.

- K.** Any language that would serve to dissuade or intimidate a member of the public from coming forward should be avoided. Accordingly, at no point during the initial intake of a complaint should any officer affirmatively warn a complainant that consequences could potentially result from making misrepresentations or a false report. This does not preclude officers from explaining the potential consequences of false reports to complainants if the officer is specifically asked about this.
- L.** Anonymous reports of improper conduct by an officer shall be accepted. All efforts will be made to encourage full cooperation by the complainant. In the event this agency receives an anonymous complaint, the officer accepting it should complete as much of the Internal Affairs report form as he or she can, given the information received.
- M.** In accordance with the Attorney General's Directive No. 2018-6 regarding Strengthening Trust Between Law Enforcement and Immigrant Communities, 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.
- N.** Complaints against the Chief of Police or Deputy Chief whether from a member of the public or from an employee of the agency, shall be documented and referred to the Hudson County Prosecutor's Office for review. If the subject of the Internal Affairs investigation is the Chief of Police or Head of Internal Affairs, the Hudson County Prosecutor's Office or the Attorney General's Office shall handle the investigation.
- O.** Complaints may also be received from other law enforcement agencies, such as neighboring municipal police agencies, the County Prosecutors, the Division of Criminal Justice or federal law enforcement agencies. Those complaints should be forwarded to Internal Affairs for immediate investigation.
- P.** If a person responds to the North Bergen Police Department to make a complaint about a member of another law enforcement agency, he or she should be referred to that agency. The complainant should also be advised that if they have fear or concerns about making the complaint directly to that agency, they may instead file a complaint with the Hudson County Prosecutor's Office or the Attorney General's Office.
- Q.** All complaints should be investigated if the complaint contains sufficient factual information to warrant an investigation. In cases where the officer's identity is

unknown, the Internal Affairs investigator should use all available means to determine proper identification.

- R. In some cases, a complaint is based on a misunderstanding of accepted law enforcement practices or the officer's duties. Supervisors should be authorized to informally resolve minor complaints, whenever possible, at the time the report is made. If the complainant is not satisfied with such a resolution, the complaint should be forwarded to Internal Affairs for further action as warranted. The process of informally resolving Internal Affairs complaints requires the exercise of discretion by supervisors.
- S. Even if the complainant is satisfied with the informal resolution, the process shall be recorded on the **North Bergen Police Department Internal Affairs Report Form, (Appendix C)**. Regardless of the means of resolution, the integrity of the Internal Affairs process, particularly the receipt of complaints, demands that complaints and inquiries from any member of the public be uniformly documented for future reference and tracking.
 - 1. The form should indicate that the matter was resolved to the satisfaction of the complainant and sent to the Internal Affairs Unit for review and filing.
 - 2. The Internal Affairs Supervisor should periodically audit those reports indicating that the complaint was informally resolved to ensure that the department's supervisors are properly implementing their authority to resolve complaints from members of the public. This may be done conjunction with the six-month audit of the Early Warning System to determine whether any patterns or trends may exist.
- T. Once a complaint has been received, the subject officer shall be notified in writing utilizing the **North Bergen Police Department Internal Affairs Complaint Notification Form (Appendix F)**, that a report has been made and that an investigation will commence. This notification is not necessary if doing so would impede the investigation.

XI. Immediate Suspension Pending Investigation and Disposition.

- A. In certain serious cases of officer misconduct, a Supervisor, Commander or Chief of Police may need to immediately suspend the subject officer pending the outcome of the investigation and subsequent administrative or criminal charges. **To effect an immediate suspension pending the investigation, at least one of the following conditions must be met:**
 - 1. The employee is unfit for duty;
 - 2. The employee is a hazard to any person if permitted to remain on the job;

3. An immediate suspension is necessary to maintain safety, health, order, or effective direction of public services;
 4. The employee has been formally charged with a first, second or third-degree crime; or
 5. The employee has been formally charged with a first, second, third or fourth-degree crime or a disorderly persons offense committed while on-duty or the act touches upon their employment.
- B.** It should be clear that the suspension of an officer before completing an investigation or disposing of a case is a serious matter. Such suspensions may be immediately necessary, as in the case of an officer reporting for work under the influence of alcohol. In other cases, however, a suspension need not be immediate but rather would follow a preliminary investigation into the matter that indicates that one of the above criteria has been met. In any case, suspension prior to disposing of the case must be clearly documented and justified.
- C.** The supervisor imposing the immediate suspension must:
1. Provide the employee with a written statement of the reasons the action has been taken utilizing the **North Bergen Police Department Internal Affairs Immediate Suspension Notice Form (Appendix E)**. In the event of a refusal by the individual to accept that written statement, a copy shall be provided to the individual's collective bargaining representative as soon as possible.
 2. Provide the employee with sufficient opportunity to review the charges and evidence and to respond either orally or in writing.
 3. Advise his or her immediate supervisor in writing of the suspension and the facts and circumstances requiring the suspension.
 4. Immediately notify the Chief of Police without delay.
- D.** Within five (5) days of the suspension, the Department must complete and file formal charges against the suspended employee or return the employee to work.

XII. Time Limitations

- A.** It is vitally important that the Internal Affairs Unit complete Internal Affairs investigations in a prompt manner. Long, unnecessary delays do not simply create additional uncertainty for the subject officer; they can also threaten the integrity of an investigation and the trust of the community.

- B.** Most Internal Affairs complaints are straightforward, and most of these routine complaints can be investigated and resolved quickly. In many cases, an Internal Affairs investigation will take no more than 45 days from the receipt of the complaint to the filing of disciplinary charges.
- C.** In more complex matters, however, investigators sometimes need additional time to collect evidence, interview witnesses, or take other necessary investigative steps. In addition, when an officer's alleged conduct gives rise to a criminal investigation, ordinarily, Internal Affairs investigators should stay their own inquiry pending the resolution of the criminal matter.
- D.** If investigators are unable to complete an Internal Affairs investigation within 45 days 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. In addition, the Chief of Police should ensure compliance with the "45-day rule" established by N.J.S.A. 40A:14-147, which requires that certain disciplinary charges be filed within 45 days of the date the person filing the charge obtained "sufficient information" to do so.
- E.** 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.
- F.** 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 Chief of Police or designee must notify the Hudson County Prosecutor.
 - 1.** The Hudson County Prosecutor, or designee, shall investigate the reasons for the extended investigation and shall also examine whether the North Bergen Internal Affairs Unit faces any systemic issues that require additional resources or oversight.
 - 2.** The Hudson County Prosecutor may take any steps necessary to ensure prompt resolution of the pending matter, including supersession of this agency's investigation.
 - 3.** The North Bergen Police Department shall provide further notice to the Hudson 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).

- G. The Chief of Police should consult with counsel about compliance with the 45-day rule, which includes several exceptions and tolling provisions. For example, the "45-day rule" does not apply to Internal Affairs investigations alleging incapacity.
- H. In addition, members of the public are not required to make their complaint within 45 days of the incident. But once the North Bergen Police Department has received the individual's complaint, the 45-day rule applies.
- I. Commencing a criminal investigation into the subject matter of an Internal Affairs complaint will suspend the 45-day rule pending the disposition of that investigation; such suspension remains until the disposition of the criminal investigation. Upon disposition of the criminal investigation, this agency will once again be bound by the 45-day rule, with the 45-day period starting anew upon termination of the criminal investigation.
- J. When an agency can conduct an Internal Affairs investigation and file disciplinary charges within 45 days of the receipt of a complaint, the 45-day rule does not become an issue. In many instances this will be possible. However, if an agency cannot do so, the burden is on the investigator and ultimately the agency to identify the point at which "sufficient information" was developed to initiate disciplinary action. Therefore, it is important that a detailed chronology be maintained of each investigation so that critical actions and decisions are documented.

XIII. Investigation and Adjudication of Minor Complaints

- A. All allegations of officer misconduct shall be thoroughly, objectively, and promptly investigated to their logical conclusion.
- B. Following the principle that the primary goal of Internal Affairs and discipline is to correct problems and improve performance, management in the subject officer's chain of command should handle relatively minor complaints.
 - 1. Complaints of demeanor and minor rule infractions should be forwarded to the supervisor of the subject officer's unit because it is often difficult for an immediate supervisor to objectively investigate a subordinate.
 - 2. It is recommended that minor complaints be assigned to and handled by a commanding officer at least one step removed from the officer's immediate supervisor.
- C. Supervisors investigating minor complaints of inappropriate behavior must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer.

1. Accordingly, all officers who may be called upon to conduct an internal investigation must be thoroughly familiar with this agency's Internal Affairs Policy, including the protection of the subject officer's rights and the procedures for properly investigating internal complaints.
 2. The investigator shall utilize the **North Bergen Police Department Internal Affairs Investigation Case Checklist and Summary Sheet (Appendix L)** to assist in conducting such investigations.
- D. The investigator shall review relevant reports and documents, gather evidence and interview the complainant, witnesses and subject officer, to include, but not limited to, the following:
1. Radio logs and communications
 2. Body Worn Camera recordings
 3. CCTV Video
 4. Cell phone video / audio recordings
 5. Computer Aided Dispatch (CAD) Entries
 6. Police Reports
- E. The investigator shall submit a Memorandum to the Chief of Police or appropriate supervisor, through the chain of command, summarizing the matter and indicating the appropriate disposition. Possible dispositions include:
1. **Sustained**. A preponderance of the evidence shows an officer violated any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or Hudson County Prosecutor; agency protocol; standard operating procedure; rule; or training.
 2. **Unfounded**. A preponderance of the evidence shows that the alleged misconduct did not occur.
 3. **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 Hudson County Prosecutor; agency protocol; standard operating procedure; rule; or training.
 4. **Not Sustained**. The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
- F. If the investigator determines that the complaint is unfounded, exonerated or not sustained, the investigative report is to be forwarded to Internal Affairs for review and

entry in the index file and electronic filing system. The subject officer shall be notified in writing of the investigation's outcome.

- G. If the complaint is sustained, the superior officer so authorized should determine the appropriate disciplinary action. Typical disciplinary actions for minor infractions include:
 - 1. Performance notices,
 - 2. Oral reprimands or
 - 3. Written reprimands.
- H. If the investigator determines that the matter is of a serious nature, it shall be forwarded to Internal Affairs for further investigation.
- I. The superior officer shall complete the appropriate disciplinary document and provide a copy of that document to the officer being disciplined. A copy of the disciplinary document shall be forwarded to the Chief of Police or appropriate supervisor for review, placed in the officer's personnel file and sent to Internal Affairs for entry into the index file and electronic filing system.
- J. When a **performance notice** or **oral reprimand** is given, the supervisor or superior officer giving the reprimand shall:
 - 1. Complete the appropriate form utilizing the **North Bergen Police Department Performance Notice Form or Oral Reprimand Form, (Appendix D)**.
 - 2. Advise the employee of the reprimand, which is a necessary record for progressive discipline. Once completed, the original will be forwarded to the division commander for review. A copy shall be given to the officer or employee being corrected/disciplined.
 - 3. Upon satisfactory review, the division commander shall forward all reports to Internal Affairs.
- K. Internal Affairs shall ensure that a copy of the performance notice or oral reprimand is placed in the officer's or employee's personnel file and entered into the index file and electronic filing system.
- L. Performance notices and oral reprimands shall be removed from the employee's personnel file and destroyed six (6) months after the date of the approved corrective disciplinary report, provided no other breach of discipline has occurred.
- M. When a **written reprimand** is given, the supervisor or superior officer giving the written reprimand shall:

1. Complete the appropriate form utilizing the **North Bergen Police Department Written Reprimand Form, (Appendix D)**.
 2. Advise the employee of the written reprimand, which is a necessary record for progressive discipline. Once completed, the original will be forwarded to the division commander for review. A copy shall be given to the officer or employee being corrected/disciplined.
 3. Upon satisfactory review, the division commander shall forward all reports to Internal Affairs.
- N.** Internal Affairs shall ensure that a copy of the written reprimand is placed in the officer's or employee's personnel file and entered into the index file and electronic filing system.
- O.** Written reprimands shall remain permanently in the employee's personnel file.
- P.** A letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian complainant.
- Q.** 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.).
- R.** If the allegation was sustained and discipline was imposed, the letter shall state that the allegation was sustained and that the officer has been disciplined according to this agency's procedures.
- S.** **Sample Response letters** to the complaint are found in **Appendix K**.

XIV. Investigation and Adjudication of Serious Complaints

- A.** All serious complaints shall be forwarded to the Internal Affairs Unit. **Serious complaints include:**
1. Complaints of criminal activity,
 2. Excessive force,
 3. Improper or unjust arrest,
 4. Improper entry,
 5. Improper or unjustified search,
 6. Differential treatment,

7. Serious rule infractions and
 8. Repeated minor rule infractions.
-
- B. The Hudson County Prosecutor's Office must be immediately notified of all allegations of criminal conduct. The Internal Affairs investigator shall refrain from taking any further investigative action until directed to do so by the Hudson County Prosecutor. An administrative investigation may only commence with the approval of the Hudson County Prosecutor's Office.
 - C. In an administrative investigation, the Internal Affairs Supervisor, the Chief of Police or designee will direct that an Internal Affairs investigator conduct an appropriate investigation. Investigators must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer.
 - D. The Internal Affairs Unit shall notify the subject officer in writing, utilizing the **North Bergen Police Department Internal Affairs Complaint Notification Form (Appendix F)**, that an internal investigation has been initiated, unless disclosure of the investigation will compromise the integrity of the investigation. The Internal Affairs investigator should interview the complainant, all witnesses and the subject officer, review relevant reports and documents, and obtain all necessary information and materials.
 - E. Upon completion of the investigation, the Internal Affairs investigator will recommend dispositions for each allegation through the chain of command to the Chief of Police. As previously described, these dispositions may include exonerated, sustained, not sustained or unfounded. Each level of review may provide written recommendations and include comments for consideration by the Chief of Police.
 - F. The Chief of Police, upon reviewing the report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action is deemed appropriate. If the complaint is unfounded or not sustained or the subject officer is exonerated, the disposition shall be entered in the index file and the report filed. The determination must remain within the discretion of the Chief of Police.
 - G. If the complaint is sustained and it is determined that formal charges should be made, the Chief of Police will direct either Internal Affairs or the appropriate commanding officer to prepare, sign and serve charges upon the subject officer or employee. The individual assigned shall prepare the formal notice of charges and hearing on the charging form, the **North Bergen Police Department Internal Affairs Preliminary Notice of Disciplinary Action Form, DPF-31A (Appendix N)**. This form will also be served upon the officer charged in accordance with N.J.S.A. 40A:14-147.

- H. The notice of charges and hearing 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 plea. Such date for entry of plea shall be set within a reasonable time, at least five (5) days after the date of service of the charges. The preliminary hearing date noted on the Preliminary Notice of Disciplinary Action Form, DPF-31A, shall not be less than ten (10) days, nor more than thirty (30) days from the date of service of the complaint.
- I. If the officer enters a plea of guilty or waives their right to a hearing, he or she is permitted to present mitigating factors prior to being assessed a penalty. Such factors must be in writing on the **North Bergen Police Department Administrative Memorandum Form (Appendix M)**.
- J. Conclusions of fact and the penalty imposed will be noted in the officer's personnel file after he or she has been given an opportunity to read and sign it.
- K. Internal Affairs will cause the penalty to be carried out and complete all required forms.
- L. If the subject officer enters a plea of not guilty and requests a hearing, the Chief of Police, upon receiving written notice of a request for a hearing from the accused employee, will set the date for the hearing as provided by statute and arrange for the hearing of the charges.
 - 1. Internal Affairs shall assist the assigned supervisor or prosecutor in preparing the department's prosecution of the charges. This includes proper notification of all witnesses and preparing all documentary and physical evidence for presentation at the hearing.
 - 2. The Township Attorney shall be responsible for providing discovery to the subject employee or to his or her representative.
- M. The hearing shall be held before the designated hearing officer or the Appointing Authority's designee to be determined by the Commissioner of Public Safety or his/her designee.
 - 1. All disciplinary hearings shall be closed to the public unless the subject employee requests an open hearing, subject to available physical accommodations.
 - 2. The hearing officer shall recommend a disposition of the charges, including modifying the charges in any manner deemed appropriate. The decision of the hearing officer must be in writing and should be accompanied by findings of fact for each issue in the case.

- N. If the hearing officer finds that the complaint against the officer is sustained by a preponderance of the evidence, he or she should recommend any of the penalties which he or she deems appropriate under the circumstances and within the limitations of state statutes and the North Bergen Police Department's Rules and Regulations.
- O. A copy of the decision and accompanying findings and conclusions shall be delivered to the officer or employee who was the subject of the hearing, his/her labor representative and to the Chief of Police (if he or she was not the hearing officer) for the imposition of discipline.
- P. Upon completion of the hearing, Internal Affairs will complete all required forms including **the North Bergen Police Department Internal Affairs Final Notice of Disciplinary Action Form, DPF-31C, (Appendix O)**, and including the entry of the disposition in the index file and electronic filing system.
- Q. If the charges were sustained, Internal Affairs will cause the penalty to be carried out. Documentation of the charge and the discipline shall be permanently placed in the officer's or employee's personnel file.
- R. Should the employee exercise their right to appeal to a higher authority, no penalty shall be imposed, in any form, pending the final outcome of their appeal.
- S. In minor disciplinary actions, when the employee elects to have a departmental hearing, and where the Hearing Officer sustains the charges and attaches a penalty, the penalty shall not be imposed if the employee elects to appeal the decision to a higher authority, and may proceed to the Appellate Division of the Superior Court.
- T. A matter will be considered a major disciplinary action if the discipline to be imposed consists of a suspension of more than five (5) days or forty (40) hours, up to termination.
- U. If major discipline is warranted, the Department may elect to go forward with the hearing. Where the hearing officer sustains the charges, along with the associated penalty, (suspension, to loss of position), this penalty may be administered immediately, notwithstanding the subject employee's right to appeal the finding to any other appropriate authority, as granted under Title 11A.
 - 1. This immediate action may be warranted due to the seriousness of the charges, for example, the commission of a crime.
 - 2. The serious nature of the misconduct may warrant immediate suspension, with pay, pending the earliest possible hearing date after which a finding of guilt would allow a suspension or removal without pay. This action is necessary to maintain safety, health, order, or effective direction of public services.

3. The subject employee still maintains the right to appeal the findings under Title 11A and maintains all rights of appeal through the New Jersey Civil Service Commission and the Appellate Division of the Superior Court.
 4. Should the employee be exonerated or where the charges or penalty are reduced, the Township of North Bergen shall reimburse and/or reinstate the subject employee in accordance with the Court or Civil Service Order, whichever is applicable, following the final disposition of all appeals.
- V. Upon final disposition of the complaint, in cases where the officer was not notified of the outcome through some written form of discipline, the officer shall be notified of the outcome of the case through a written internal agency communication.
- W. In all cases, a letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian complainant. If the allegation was not sustained, the letter shall provide the complainant with a brief explanation why the complaint was not sustained (e.g., insufficient proof, lack of witnesses, etc.). If the allegation was sustained and discipline was imposed, the letter shall state that the allegation was sustained and that the officer has been disciplined according to this agency's procedures. See Appendix K for sample response letters.

XV. Domestic Violence Incidents Involving Agency Personnel

- A. Law enforcement personnel may become involved in domestic violence incidents. It is important to the integrity of this agency, the safety of the victim and the career of the officer that such matters are handled appropriately.
- B. Whenever an officer is involved in a domestic violence incident, either as an alleged perpetrator or as a victim, the Internal Affairs Unit and the Chief of Police through the chain of command, must be immediately notified. Where the officer was the alleged perpetrator, investigating officers must seize their service weapon or any other weapon possessed, as mandated by AG Directives 2000-3 and 2000-4.
- C. The primary responsibility for investigating the domestic violence incident itself, along with any related offenses, belongs to the agency with jurisdiction over the incident. The processing of domestic violence complaints, restraining orders, criminal complaints, etc., will remain with that agency. In many cases, this will not be the officer's employing agency.

- D. The employing agency's Internal Affairs officers will be responsible for receiving the information and documenting the matter as they would any other misconduct allegation.
 - 1. If an officer is a victim of a domestic violence, the incident shall be recorded and employee assistance, as well as all other related domestic violence resources, shall be offered.
- E. If a criminal charge has been filed, Internal Affairs must notify the Hudson County Prosecutor's Office immediately, even if the incident took place in another county. As the chief law enforcement officer of the county, it is critical that the Hudson County Prosecutor be made aware of any outstanding criminal charges against any law enforcement officer in their county.
- F. Internal Affairs is responsible for reviewing the incident's investigation and conducting any additional investigation as necessary to determine if the officer violated this agency's rules and regulations or if the officer's fitness for duty is in question. In addition, Internal Affairs will track the proceedings of any criminal charges or civil matters that may arise out of the incident. Internal Affairs will also work with the Division of Criminal Justice or the Hudson County Prosecutor to determine if and when an officer may have their weapon(s) returned.

XVI. Duty to Self-Report

- A. **All employees shall immediately self-report**, in writing, the following to the Internal Affairs Unit and the Chief of Police, through the chain of command, **no more than four (4) hours after the incident**:
 - 1. Whenever an employee is arrested or criminally charged for any conduct that violates the law in this state or any other state.
 - a. In the case 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, or off-duty.
 - c. Whenever the employee is alleged to have committed an act of domestic violence, or was the victim of an act of domestic violence.
 - d. Whenever the employee receives any motor vehicle summons, excluding parking summonses.

2. This general order shall also apply to any matter mentioned above where there is a change of venue, initial or amended charges, initial or amended dispositions, or any status change that may be significant concerning the subject matter of the summons or complaint.

XVII. Internal Affairs Investigation Procedures

- A. Only after a thorough and impartial investigation can an informed decision be made as to a complaint's proper disposition. Decisions based upon such an investigation will support the credibility of the agency both among its ranks and the public at large.
- B. Complaints must be professionally, objectively and expeditiously investigated in order to gather all information necessary to arrive at a proper disposition. It is important to document complainants' concerns, even those that appear to be unfounded or frivolous. If such complaints are not documented or handled appropriately, public dissatisfaction will grow, fostering a general impression of agency insensitivity to community concerns.
- C. It is generally recommended that the complainant and other lay witnesses be interviewed prior to interviewing sworn members of the agency. This will often eliminate the need to do repeated interviews with agency members. However, this procedure does not have to be strictly adhered to if circumstances and the nature of the investigation dictate otherwise.

XVIII. Interviewing the Complainant and Civilian Witnesses

- A. The investigator assigned to an internal investigation should initially outline the case to determine the best investigative approach and identify those interviews immediately necessary. The investigator should determine if any pending court action or ongoing criminal investigation might delay or impact upon the case at hand. If it appears that the conduct under investigation may have violated the law or the investigation involves the officer's use of force that resulted in serious bodily injury or death, the Hudson County Prosecutor shall be immediately notified of the Internal Affairs investigation.
- B. If the investigation involves a criminal charge against the complainant, an initial interview should be conducted with the complainant. However, the investigator must realize that the complainant is simultaneously a criminal defendant arising out of the same incident and must be accorded all of the appropriate protections. Thus, all further contact with the complainant should be arranged with and coordinated through the Hudson County Prosecutor and the complainant's defense attorney.

- C. The complainant should be personally interviewed if circumstances permit. If the complainant cannot travel to the investigator's office, the investigator should conduct the interview at the complainant's home or place of employment if feasible. If not, a telephonic interview may be conducted. All relevant identifying information concerning the complainant should be recorded, e.g., name (unless the complainant wishes to remain anonymous), complete address, telephone numbers, place of employment, etc. The investigator should grant reasonable requests for accommodations to protect the complainant's identity, such as meeting the complainant at a place other than the investigator's office if the complainant's identity cannot be kept confidential at that location.
- D. All relevant facts known to the complainant should be obtained during the interview. An effort should be made to obtain a formal statement from the complainant at the initial interview. Whenever possible, all witnesses to the matter under investigation should be personally interviewed and formal statements taken.
- E. When taking a formal statement from a civilian, the investigator shall video- or audio-record the statement according to the same protocols that would apply if the civilian were being interviewed in connection with a criminal investigation. If a witness objects to the recording of the interview, the investigator may proceed with the interview without recording, but must document in writing the reasons for doing so.
- F. When taking a formal statement from an officer, the investigator shall video- and audio-record the statement, except that in cases that did not arise from a civilian complaint, the investigator need not record the statement unless the officer being interviewed requests such.

XIX. Reports, Records and Other Documents

- A. All relevant reports should be obtained and preserved as expeditiously as possible. Internal agency reports relating to a subject officer's duties should be examined. Examples of such reports include arrest and investigative reports, and radio, patrol, vehicle and evidence logs pertaining to or completed by the officer.
- B. The investigator should also examine and retrieve all electronic, computer, digital and video records. These may include analog and digital records created by radio and telephone recorders, computer aided dispatch systems, mobile data terminals, in-car video systems, video surveillance systems and other forms of audio and video recording.
- C. Records and documents of any other individual or entity that could prove helpful in the investigation should be examined. These may include reports from other law enforcement agencies, hospital records, doctors' reports, jail records, court transcripts,

F.B.I. or S.B.I. records, motor vehicle abstracts and telephone and cellular phone records. In some instances, a search or communications data warrant or a subpoena may be necessary to obtain the information.

- D.** Photographs and video recording tapes can be useful tools if relevant to the investigation. If a complaint involves excessive use of force, photographs of the complainant and the officer should be taken as close as possible to the time of the incident. Photographs also can be used to create a record of any other matter the investigator believes is necessary.
- E.** The North Bergen Police Department shall maintain a recent photograph of each officer. These photographs can be used if a photo array is needed for identification purposes. If a photo array is used, it must be properly retained for possible evidentiary purposes.

XX. Physical Tests

- A.** Police officers who are the subjects of internal investigations may be compelled to submit to various physical tests or procedures to gather evidence.
- B.** N.J.R.E. 503(a) states that "no person has the privilege to refuse to submit to examination for the purpose of discovering or recording his corporal features and other identifying characteristics or his physical or mental condition." Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:
 - 1.** Breath sample;
 - 2.** Blood sample;
 - 3.** Buccal swab;
 - 4.** Requiring suspect to speak;
 - 5.** Voice recordings;
 - 6.** Participation in a lineup;
 - 7.** Handwriting samples;
 - 8.** Hair and saliva samples;
 - 9.** Urine specimens;
 - 10.** Video recording; and
 - 11.** Field sobriety tests.
- C.** For Internal Affairs investigations that may result in a criminal prosecution, physical tests should be conducted pursuant to a court order or an investigative detention under Rule 3:5A. Officers that refuse to perform or participate in a court-ordered physical test may be subject to a contempt of court sanction and agency discipline for failing to comply with the order.

- D. For Internal Affairs investigations that may result in an administrative disciplinary proceeding, the Internal Affairs investigator or the appropriate supervisor may order subject officers to perform or participate in a physical test. The order must be reasonable and relevant to the investigation at hand. Officers that refuse to perform or participate in a lawfully ordered physical test can be disciplined for their refusal.

XXI. Drug Testing

- A. The testing of law enforcement officers in New Jersey for the illegal use of drugs is strictly regulated by the Attorney General's Law Enforcement Drug Testing Policy. This policy permits the testing of applicants and trainees for law enforcement positions. It further specifies that veteran law enforcement officers may be tested for drugs if reasonable suspicion exists that they are using drugs or if they have been chosen as part of a random drug testing program. In any case, drug testing is done through an analysis of urine samples by the State Toxicology Laboratory within the Department of Health.
- B. The Attorney General's Law Enforcement Drug Testing Policy identifies specific responsibilities that may be assigned to Internal Affairs. These include the collection of specimens, the establishment of a chain of custody and the maintenance of drug testing records.

XXII. Polygraph

- A. N.J.S.A. 2C:40A-1 states that an employer shall not influence, request or require an employee to take or submit to a lie detector test as a condition of employment or continued employment. To do so constitutes a disorderly persons offense. Therefore, a law enforcement officer should never be asked to take a polygraph examination as part of an Internal Affairs investigation. The investigator should not even suggest to the officer that a polygraph examination would be appropriate or that it "might clear this whole thing up." However, the subject officer may voluntarily request to take a polygraph examination.
- B. Polygraph tests of civilian complainants and witnesses should only be used when a reasonable suspicion exists that their statements are false. Polygraph examinations should not be used routinely in Internal Affairs investigations. Under no circumstances should polygraph examinations be used to discourage or dissuade complainants. In addition, a victim of sexual assault cannot be asked or required to submit to a polygraph examination.

XXIII. Search and Seizure

- A.** All people, including police officers, have a Fourth Amendment right to be free from unreasonable searches and seizures. In an Internal Affairs investigation, the Fourth Amendment applies to any search the employing agency undertakes.
- B.** Criminal investigations generally require the investigator to obtain a search warrant to conduct a search. Search warrants require probable cause to believe that the search will reveal evidence of a crime. In Internal Affairs investigations, a search warrant should be obtained before a search is conducted of a subject officer's personal property, including any home, personal car, bank accounts, safety deposit boxes, briefcases, etc. A warrant also may be necessary where a search of the subject officer's workplace is conducted and it is determined that the officer has a high expectation of privacy in the place to be searched. The Internal Affairs investigator shall consult with the Hudson County Prosecutor's Office before undertaking the search of any workplace area in a criminal investigation.
- C.** The law is somewhat less restrictive as to searches conducted during an administrative investigation. While it appears that an employing agency does not need a warrant to conduct a search during an administrative investigation, the investigator should exercise great care when searching property or items in which the subject officer has a high expectation of privacy. Internal Affairs investigators should document their reasons for conducting the search and limit its intrusiveness. If any doubts or concerns exist about the propriety or legality of a search, the investigator should seek advice from legal counsel before proceeding with the search.
- D.** During either administrative or criminal investigations, generally workplace areas may be searched without a warrant. The critical question is whether the public employee has a reasonable expectation of privacy in the area or property the investigator wants to search. The determination of this expectation must be decided on a case-by-case basis. There are some areas in a person's workplace where this privacy expectation can exist just as there are some where it does not. Areas that several employees share or where numerous employees go to utilize files or equipment would present no expectation, or a diminished expectation, of privacy. Included here would be squad rooms, lobby areas, dispatch areas, government-provided vehicles (patrol cars), general filing cabinets, etc.
- E.** The North Bergen Police Department may assign to its members and employees agency-owned vehicles, lockers, desks, cabinets, etc., for the mutual convenience of the agency and its personnel. Such equipment is and remains the property of the North Bergen Police Department. Personnel are reminded that storage of personal items in this property is at the employee's own risk. This property is subject to entry and inspection without notice.

- F. The North Bergen Police Department may assign to its members and employees agency-owned electronic devices, including computers and smartphones, for business purposes. Such equipment and its contents are and remain the property of the North Bergen Police Department. Personnel are prohibited from installing unauthorized software and from storing personal information in the device, regardless of any password protection or encryption. The devices, their contents, and any email or electronic correspondence originating from or arriving at the device are the property of the North Bergen Police Department and are subject to entry and inspection without notice.

XXIV. Electronic Surveillance

- A. N.J.S.A. 2A:156A-1 et seq. governs the use of electronic surveillance information in New Jersey. This statute specifically covers the areas of:

1. **Wire communication**, which essentially means any conversation made over a telephone, N.J.S.A. 2A:156A-2a;
2. **Oral communication**, which means any oral communication uttered by a person who has an expectation that such communication will not be intercepted, N.J.S.A. 2A:156A-2b;
3. **Intercept**, which means to acquire the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device, N.J.S.A. 2A:156A- 2c; and
4. **Electronic communication**, which means the transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio or other system, N.J.S.A. 2A:156A-2m.

All of these forms of communication are protected from intrusion and interception except under very narrowly defined exceptions.

- B. One such exception is when one person in a communication decides to intercept (e.g., record) the conversation. As long as this person is a part of the conversation, such recording is lawful. But if the person stops being a party to the conversation (e.g., he or she walks away from the group or turns the telephone over to someone else), it is no longer lawful for him or her to intercept the conversation.
- C. Pursuant to N.J.S.A. 2A:156A-4b, a law enforcement officer may intercept and record a wire or oral communication using a body transmitter if that officer is a party to the communication or where another officer who is a party requests or requires that such

interception be made. This kind of law enforcement non-third party intercept can be used during Internal Affairs investigations.

- D.** Generally, the use of evidence derived from an authorized wiretap is limited to criminal investigations and prosecutions. Agencies that wish to use wiretap information in a disciplinary proceeding shall consult with the Hudson County Prosecutor because it may be necessary to obtain a court order to so use it.
- E.** The monitoring of 9-1-1 telephone lines is required by law. Nothing prohibits the monitoring of other telephones used exclusively for agency business if the agency can demonstrate a regulatory scheme or a specific office practice of which employees have knowledge. In such instances a diminished expectation of privacy exists in the use of these telephones, and monitoring would be acceptable.
- F.** Mobile Video Recordings (MVR), or in-car video systems, which record the video image from a camera mounted in a police vehicle and an audio signal from a microphone worn by the officer can be used in internal investigations because the video image is not restricted at all and the officer is a party to the audio portion of the recording at all times.
- G.** North Bergen Police vehicles that are equipped with GPS devices can locate a vehicle with great accuracy. Information gleaned from these devices may be used in Internal Affairs investigations because the subject officer has no expectation of privacy in their whereabouts when performing police duties.
- H.** Body Worn Camera (BWC) Video, when relevant to and in furtherance of an Internal Affairs investigation, shall be made available unless otherwise noted in North Bergen Police G.O. 20-04 on Body Worn Cameras.

XXV. Lineups

- A.** A North Bergen Police Officer may be ordered to stand in a lineup to be viewed by witnesses or complainants. Probable cause need not exist, and the officer may be disciplined for refusal.
- B.** The lineup must be constructed so as not to be unfairly suggestive. The same rule applies to photo arrays. See Attorney General Guidelines for Preparing and Conducting Photo and Live Lineup Identification Procedures; October 4, 2012, Memorandum and Revised Model Eyewitness Identification Procedure Worksheets.

XXVI. Investigation of Firearm Discharges

- A.** The Internal Affairs function shall receive notice of any incidents involving any firearm discharge by agency personnel, whether on-duty or off-duty, unless the discharge occurred during the course of:
- 1.** A law enforcement training exercise;
 - 2.** Routine target practice at a firing range;
 - 3.** A lawful animal hunt; or
 - 4.** The humane killing of an injured animal; or
 - 5.** Any discharge of an agency-owned firearm by anyone other than agency personnel.
- B.** Upon receiving notice, the Internal Affairs function shall determine whether additional investigation is necessary and whether information must be reported to the Hudson County Prosecutor and/or OPIA, pursuant to AG Directive 2019-4, also known as the "Independent Prosecutor Directive," and other state law. If the firearm discharge occurs while an employee is on duty, then the Hudson County Prosecutor must be notified. If the firearm discharge results in a fatality, the matter shall be investigated by OPIA or another entity pursuant to the Independent Prosecutor Directive.
- C.** Any public statements by the North Bergen Police Department about the conduct of law enforcement officers involved in a firearm discharge require approval by the Hudson County Prosecutor or the Attorney General's Office, depending upon which entity is supervising the investigation.
- D.** Employees of the same agency as the subject officer shall not participate in the investigation or attend any investigative activities. North Bergen Police Officers, including Internal Affairs personnel, may participate in the initial investigation only if directed to do so by the Hudson County Prosecutor, OPIA, or other designee of the New Jersey Attorney General. This does not, however, preclude any officer from:
- 1.** Acting as a first responder to the scene of a use-of-force incident,
 - 2.** Helping to secure the scene, or
 - 3.** Participating in a "be on-the-lookout" (BOLO) search or pursuit related to the incident.
- E.** Officers who are directed to assist with an initial firearm discharge investigation may be required to operate independently of their ordinary chain of command and report directly to the authority in charge of the investigation or their designee. In all such circumstances, officers shall comply with that requirement.
- F.** In cases where discharge of a firearm does not result in criminal charges, the Hudson County Prosecutor, OPIA, or other designee of the New Jersey Attorney General may refer the incident back to this agency for an Internal Affairs administrative review.

- G.** In a firearm discharge investigation, the investigator must determine if the weapon was an approved weapon for that officer and if the officer was authorized to possess and carry it at the time of the discharge. The investigator must also determine if the weapon was loaded with authorized ammunition. The weapon must be examined for its general operating condition and to identify any unauthorized alterations made to it.

XXVII. Collateral Issues

- A.** The work of an Internal Affairs function should not be limited to resolving complaints by narrowly focusing on whether the subject officer engaged in misconduct. In many cases, the examination of collateral issues presented by the complaint can be as important as the resolution of the allegation itself. For example, while investigating an allegation of excessive force during an arrest, the officer's actions in making the arrest may be improper. In such cases, even though the investigation may exonerate the officer of the excessive force allegation, Internal Affairs must still examine whether the officer should have been effecting the arrest at all.
- B.** The identification and examination of collateral issues is critically important to the Internal Affairs process. Internal Affairs investigators are in the unique position of examining law enforcement operations from the inside. Their insight, if properly used, can be extremely helpful to management. In contrast, the failure to use this resource can deprive the department of the ability to identify and correct problems with personnel and procedures through self-critical analysis. It can also lead to an erosion of community support for the agency. An Internal Affairs process that is objective and complete is critical to the credibility and reputation of the North Bergen Police Department within the community.

XXVIII. Interviewing Members of the Agency

- A.** The interview of a police officer as either the subject of an Internal Affairs investigation or as a witness to an incident that is the subject of such an investigation represents a critical stage in the investigative process.
- B.** A police officer has the same duty and obligation to their employer as any other employee. Thus, where an Internal Affairs investigation is being conducted solely to initiate disciplinary action, the officer has a duty to cooperate during an administrative interview. The officer also must truthfully answer all questions put to him or her during the course of the investigation. Failure to fully cooperate with an administrative investigation and/or to be completely truthful during an administrative interview can form the basis for disciplinary action separate and apart from the allegations under investigation. This duty to fully cooperate in an investigation applies to every employee of the North Bergen Police Department, whether a police officer or civilian.

- C. Police officer interviews during an Internal Affairs investigation are rendered difficult by the conflict that exists between the officer's right against self-incrimination in criminal interviews and the obligation to answer questions truthfully during an administrative investigation. So while an agency may compel an officer to answer questions posed during the course of an administrative investigation, an officer cannot be forced to give answers that could be used against him or her in a criminal prosecution. Officers who have been compelled by order to produce incriminating information, with the belief that a failure to do so will result in termination or other serious disciplinary action, cannot have that evidence used against them in a criminal prosecution. However, an officer can be compelled to provide answers during an Internal Affairs investigation if those answers are to be used as evidence only in a disciplinary proceeding.
- D. A subject officer who reasonably believes that what he or she might say during an Internal Affairs interview could be used against him or her in a criminal case cannot ordinarily be disciplined for exercising their Miranda rights. However, an officer can be disciplined for refusing to answer questions during an Internal Affairs interview if he or she has been told that whatever he or she says during the interview will not be used in a criminal case. Informing an officer that their statement will not be used against him or her in a criminal case is called a Garrity warning. This warning informs the officer being interviewed that he or she must cooperate with the investigation and can be disciplined for failing to do so if the Hudson County Prosecutor has decided to provide the officer with "use immunity."
- E. Serious allegations of officer misconduct may implicate both a violation of a criminal statute and of the North Bergen Police Department Rules and Regulations. As a result, a criminal investigation and an administrative disciplinary investigation may be needed to properly resolve a misconduct complaint. In general, criminal investigations and administrative investigations should be kept separate to the extent possible, with criminal investigations led by the Hudson County Prosecutor's Office preceding Internal Affairs disciplinary investigations conducted by the North Bergen Police Department.
- F. In all cases where a subject officer is interviewed pursuant to an administrative or criminal investigation, the interview must be audio- or video-recorded by the investigator.

XXIX. When the Investigation is Criminal and the Officer Is a Subject

- A. The Hudson County Prosecutor's Office must be immediately notified of all allegations of criminal conduct. The Internal Affairs investigator shall refrain from taking any further investigative action until directed to do so by the Hudson County Prosecutor. An administrative investigation may only commence with the approval of the Hudson County Prosecutor's Office.

- B. Criminal interviews shall be conducted only with the prior approval, or at the direction, of the Hudson County Prosecutor. Once an investigation becomes criminal in nature, the subject officer shall be advised that he or she is not required to answer questions as a condition of employment.
- C. If the officer has invoked their Miranda rights but this department deems that it must have the answers to specific questions to properly conduct an investigation, the Internal Affairs investigator must contact the Hudson County Prosecutor to request “use immunity” for the interview to continue. This contact should be made timely so that the Hudson County Prosecutor can review all relevant reports and have a full briefing prior to determining whether to grant use immunity. Use immunity provides that anything the officer says under the grant of immunity, and any evidence derived from their statements, cannot be used against him or her in a criminal proceeding (except for perjury or false swearing if the information is not truthful). But use immunity does not eliminate the possibility that the subject officer will be prosecuted.
- D. If the Hudson County Prosecutor grants use immunity, this agency shall advise the subject officer in writing that he or she has been granted such immunity in the event their answers implicate him or her in a criminal offense. The officer must then answer the questions specifically and narrowly related to the performance of their official duties, but no answer given nor any evidence derived from the answer may be used against this officer in a criminal proceeding. At this point, any officer refusing to answer is subject to disciplinary charges and possible dismissal from employment.
- E. A grant of use immunity, if approved by the Hudson County Prosecutor’s Office, shall be recorded on the **North Bergen Police Department Internal Affairs Use Immunity Grant Advisement Form “Garrity Warning” (Appendix Form J)**, which the subject officer signs and whose signature is witnessed. The completed form must be made a part of the investigative file. In all cases, approval from the authorizing assistant prosecutor or deputy attorney general must be obtained before giving the Garrity warning.

XXX. When the Investigation is Criminal and the Officer is a Witness

- A. Criminal witness interviews shall be conducted only with the prior approval, or at the direction, of the Hudson County Prosecutor.
- B. Officers who are witnesses must cooperate. They must truthfully answer all questions narrowly and directly related to performing their duty. "Performance of duty" includes an officer's actions, observations, knowledge and any other factual information of which they may be aware, whether it concerns their own performance of duty or that of other officers. If the officer feels their answer would incriminate him or her in a criminal matter, the officer must assert their Miranda rights.

XXXI. When the Investigation is Administrative and the Officer Is a Subject

- A. An employee must answer questions specifically, directly and narrowly related to the performance of their official duties, on pain of dismissal. This obligation exists even though the answers to the questions may implicate them in a violation of agency rules, regulations and procedures that may ultimately result in some form of discipline up to and including dismissal. In short, no “right to remain silent” exists in administrative investigations.
- B. However, under civil service rules, an employee cannot be forced to testify at their own disciplinary hearing. As a matter of fairness, the Internal Affairs investigator should refrain from questioning a subject officer about a particular disciplinary offense if the officer has already been charged with that offense and is awaiting an administrative hearing on the charge.
- C. Prior to the start of any questioning, the officer shall be advised that he or she is being questioned as the subject of an investigation into potential violations of agency rules and regulations, or fitness for duty. He or she shall be advised of the subject matter under investigation, and that he or she will be asked questions specifically related to performing their official duties.
- D. This information shall be recorded on **the North Bergen Police Department Internal Affairs Administrative Advisement Form, (Appendix H)**, which the subject officer signs and whose signature is witnessed. The completed form must be made a part of the investigative file. **Appendix Form H** shall only be used for administrative, non-criminal investigations.
- E. If the subject officer refuses to answer questions during this interview, the interviewer should inquire about the reason for that refusal. If the officer states that he refuses to answer any questions on the grounds that he may incriminate himself in a criminal matter, even though the investigators do not perceive a criminal violation, the investigating officer shall discontinue the interview and contact the Hudson County Prosecutor’s Office.
- F. If the Hudson County Prosecutor agrees to grant use immunity, this agency shall advise the subject officer in writing utilizing the **North Bergen Police Department Internal Affairs Use Immunity Grant Advisement Form “Garrity Warning”, (Appendix Form J)**, that he or she has been granted use immunity if their answers implicate him or her in a criminal offense. The officer must then answer questions specifically related to performing their official duties, but no answer given, nor evidence derived therefrom, may be used against the officer in a criminal proceeding. If the officer still refuses to answer, he or she is subject to disciplinary charges for that refusal, including dismissal. This information shall be recorded on **Appendix Form J**, that the subject officer signs

and whose signature is witnessed. The completed form must be made a part of the investigative file.

- G. If the subject officer refuses to answer on any other grounds, he or she should be advised that such refusal will subject him or her to disciplinary action, including dismissal, in addition to discipline for the matter that triggered the interview in the first place. If the officer still refuses, the interview should be terminated and appropriate disciplinary action initiated.
- H. The courts have decided that a public employer must permit an employee to have a representative present at an investigative interview if the employee requests representation and reasonably believes the interview may result in disciplinary action. However, a representative shall be permitted to be present at the interview of a subject officer whenever he or she requests a representative. While the Sixth Amendment right to counsel does not extend to administrative investigations, an officer shall be permitted to choose an attorney as their representative if he or she so desires.
- I. If it appears that the presence of counsel or another representative the subject requests will not disrupt or delay the interview, no reason exists to prevent their presence as an observer. But the representative or attorney cannot cause undue delay in scheduling interviews or interfere in the interview process. If the representative or attorney is disruptive or interferes, the investigator can discontinue the interview and shall document the reasons for doing so. The investigator must control the interview and cannot allow the representative or subject to take control.

XXXII. When the Investigation is Administrative and the Officer Is a Witness

- A. When interviewing a law enforcement officer as a witness, he or she shall be advised that he or she is not the subject of the investigation at this time utilizing the **North Bergen Police Department Internal Affairs Witness Acknowledgement Form, (Appendix G)**. The witness officer shall also be made aware of the differences between being a witness in an administrative investigation and being the subject of an administrative investigation. If at any time the officer becomes a subject of the investigation, he or she shall be advised of that fact and the appropriate procedures must be followed.
- B. Officers who are witnesses must cooperate and truthfully answer all questions narrowly and directly related to performing their duty. "Performance of duty" includes an officer's actions, observations, knowledge and any other factual information of which they may be aware, whether it concerns their own performance of duty or that of other officers. If the officer feels their answer would incriminate him or her in a criminal matter, the officer must assert their Miranda rights.

XXXIII. Interviewing Procedures

- A.** Interviews should take place at the Internal Affairs office or a reasonable and appropriate location the investigator designates. The subject officer's supervisor should be made aware of the time and place of the interview so the officer's whereabouts are known. Interviews shall be conducted at a reasonable hour when the officer is on duty, unless the seriousness of the matter requires otherwise.
 - B.** The employee shall be informed of the name and rank of the interviewing investigator and all others present during the interview. The questioning session must be of reasonable duration, considering the subject matter's complexity and gravity. The officer must be allowed time for meal breaks and to attend to personal physical necessities.
 - C.** As to serious disciplinary infractions, the Internal Affairs investigator should audio or video record the interview. A transcript or copy of the recording shall be made available to the officer, if applicable, at the appropriate stage of a criminal or disciplinary proceeding. If the subject officer wishes to record the interview, he or she must inform the agency or Internal Affairs investigator if the officer plans to record the interview. A copy of the recording shall be made available to the agency upon request, at the agency's expense.
 - D.** Any questions asked of officers during an internal investigation must be "narrowly and directly" related to performance of their duties and the ongoing investigation. Officers must answer questions directly and narrowly related to that performance. All answers must be complete and truthful, but officers cannot be compelled to answer questions having nothing to do with their performance as law enforcement officers, that do not implicate a rule or regulation violation, or that are unrelated to the investigation.
 - E.** At the interview's conclusion, the investigator should review with the subject officer all the information obtained during the interview to alleviate any misunderstandings and to prevent any controversies during a later proceeding.
 - F.** Protecting the integrity of an Internal Affairs investigation is paramount to insure fairness and credibility. This benefits the officer who may be the subject, as well as any witnesses, victims and the North Bergen Police Department.
- 1.** This General Order serves as official notice that any officer who may be involved in an Internal Affairs investigation as a complainant, witness or subject, shall not disclose the Internal Affairs investigation with anyone. Failure to comply with this General Order may result in disciplinary action.

2. This does not preclude such officers from discussing the Internal Affairs investigation with a member of the Collective Bargaining Unit (PBA) or legal representation of their choosing.

XXXIV. Internal Affairs Records

- A. The North Bergen Police Department shall maintain a system for documenting the work of its Internal Affairs function and preserving records of this work.

- B. Internal Affairs Investigation Reports

1. At the conclusion of the Internal Affairs investigation, the investigator shall submit two separate and distinct reports as follows:

- a. **Investigative 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 be similar in all respects to a standard law enforcement investigative report, and should contain a complete account of the investigation. This report shall be completed on an **Administrative Memorandum Form (Appendix M)**.

- b. **Summary and Conclusions Report.** This report shall summarize the case and provide conclusions of fact for each allegation. The report should be organized as follows:

- i. *A Summary of the Allegations* against the officer, including a recitation of the alleged facts;
 - ii. *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 under **Section K (Public Reports)**, the summary of factual findings, along with the discipline imposed, should be the basis for the brief synopsis required under **Section K (Public Reports)**;
 - iii. *A Discipline Imposed* section in which the final discipline imposed on the officer will be recorded. This section should be completed once the discipline imposed becomes final.

2. If the conduct of an officer was found to be improper, the Summary and Conclusions 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 Summary and Conclusions Report.

3. If the investigation reveals evidence of misconduct not based on the original complaint, this too must be reported and memorialized in both the Investigative Report and Conclusions Report. An investigation concerning this secondary misconduct shall be conducted.
4. The Summary Report and all related files shall be forwarded to the Chief of Police for review.
5. After reviewing the Internal Affairs investigation file, the Chief of Police shall direct the appropriate course of action.

C. Internal Affairs Index File

1. The purpose of the Internal Affairs index file is to serve as a record control device to maintain an inventory of Internal Affairs case files and to summarize each case's status for authorized personnel. The instrument used for such an index file shall include a physical log book and electronic filing system (IA PRO).
2. All Internal Affairs complaints shall be recorded in the index file. Entries should record the following information:
 - a. Each case's basic information,
 - b. The subject officer,
 - c. Allegations,
 - d. Complainant,
 - e. Date received,
 - f. Investigator assigned,
 - g. Disposition and disposition date for each complaint.
3. A unique case number assigned to each Internal Affairs complaint will point to the complete investigation file's location and will simplify case tracking.

D. Internal Affairs Files

1. The Internal Affairs investigation file should contain the investigation's entire work product, regardless of the author. This includes investigators' reports and copies of all relevant documents. The file should also include all related material from other agency incidents that may be applicable. For instance, if an allegation is made of excessive force during an arrest, the Internal Affairs investigation file should contain copies of the reports from that arrest.

2. Where an Internal Affairs investigation results in the filing of criminal charges, the file shall be made available to the prosecuting agency. It is the responsibility of that agency to decide which items are discoverable and which are likely admissible. In these cases, the North Bergen Police Department must follow the prosecuting agency's instructions. The prosecuting agency must have a procedure in place to ensure, in the rare case where a compelled statement has been taken from a subject officer and a criminal case result, that any compelled statements from a subject officer are not impermissibly used in the criminal case.

E. Retention Schedule

1. Investigative records created during an Internal Affairs investigation are included in the "Records Retention and Disposition Schedule for Local Police Departments" issued by the New Jersey Division of Archives and Records Management.
 - a. Under the schedule, files concerning a criminal homicide must be permanently maintained.
 - b. The schedule also requires that any other file involving a criminal matter resulting in the subject officer's arrest must be maintained for 75 years.
 - c. While the schedule further suggests that all other criminal or administrative Internal Affairs investigative records be maintained for at least 5 years, agencies should maintain these files as they relate to a particular officer for that officer's career plus 5 years.

F. Security of Internal Affairs Records

1. Internal Affairs personnel shall maintain a filing system accessible only to unit personnel and the Chief of Police. Other personnel may be given access based on a specific need, at the direction of the Chief of Police.
2. The Internal Affairs physical files and index shall be clearly marked as confidential and maintained in a secured file cabinet located in the Office of the Chief of Police.
 - a. Internal Affairs case files may be temporally utilized by authorized personnel in the Internal Affairs Office, for the purpose of conducting current internal investigations. Upon completion of the Internal Affairs investigation, such files shall be returned to the secure file cabinet located in the Office of the Chief of Police.

3. The Benchmark System is the official Internal Affairs records index system and is password protected and only accessible to Internal Affairs personnel and the Chief of Police.

G. Confidentiality

1. The nature and source of internal allegations, the progress of Internal Affairs investigations, and the resulting materials are confidential information and remain exempt from access under the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1.1 to -13. The contents of an internal investigation case files, including the original complaint, shall be retained in a secure area of the Office of the Chief of Police and clearly marked as confidential. These records shall only be accessible to the Chief of Police, Internal Affairs personnel and officers designated by the Chief of Police.
2. The information and records of an internal investigation shall only be released or shared under the following limited circumstances:
 - a. If administrative charges have been brought against an officer and a hearing will be held, a copy of all discoverable materials shall be provided to the officer and the hearing officer before the hearing;
 - b. If the subject officer, agency or governing jurisdiction 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 investigative reports may be released to the attorney representing the subject officer, agency or jurisdiction;
 - c. Upon the request or at the direction of the Hudson County Prosecutor or New Jersey Attorney General;
 - d. Upon a court order; or
 - e. Upon a request from the Division of Pensions, following an officer's application for a retirement allowance.
3. The *Summary and Conclusions Report* 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:
 - a. The *Summary and Conclusions Report* led to a result on or after January 1, 2023, that requires disclosure pursuant to **Section K (Public Reports)**;
 - b. The agency otherwise concludes that the *Summary and Conclusions Report* is subject to release pursuant to applicable law or court order; or

- c. Upon the request or at the direction of the County Prosecutor or Attorney General at any time.
- 4. When an agency concludes that a report is subject to disclosure under this Section, it shall redact the following before disclosure:
 - a. The names of complainants, witnesses, informants, victims and cooperators, in addition to information that could reasonably lead to discovery of their identities;
 - b. 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.;
 - c. Medical information or history, including but not limited to, mental health or substance abuse services and drug or alcohol evaluation, counseling or treatment;
 - d. 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;
 - e. Any records or material prohibited from disclosure by law;
 - f. Juvenile records;
 - g. Any information which is the subject of a judicial order compelling confidentiality;
 - h. Any other information that would violate a person's reasonable expectation of privacy; and
 - i. 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.
- 5. In addition to the situations described above, 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 Chief of Police may order any redactions consistent with the above requirements. The Chief of Police should grant such access sparingly, given the purpose of the Internal Affairs process and the nature of the allegations against officers.
- 6. As a general matter, a request for internal investigation case files may satisfy the good cause requirement:

- a. 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
 - b. 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.
- 7. Agencies may receive law enforcement or judicially sanctioned subpoenas directing the production of Internal Affairs investigative records. Before responding to the subpoena, the Chief of Police should consult with the agency's legal counsel to determine whether the subpoena is valid and reasonable.
- 8. If the release of Internal Affairs documents is appropriate, this agency shall inventory the reports released and obtain a signed receipt.
- 9. Subpoena's for Employee's Personnel / Internal Affairs Files.
 - a. In matters that involve criminal and/or civil actions resulting from an Internal Affairs investigation, 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.

H. Coordination with Other Law Enforcement Agencies

- 1. In any case where a law enforcement agency has reason to believe that a candidate for employment was previously a sworn officer of another law enforcement agency, the hiring agency has an affirmative obligation to identify all such former employers. The hiring agency shall then request all Internal Affairs files for cases where the candidate was the subject officer, regardless of the ultimate disposition or status of the complaint.
- 2. If the North Bergen 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. Confidential Internal Affairs files shall not be disclosed to any other party.
- 3. In addition to the requirements of the selection process and background investigations, candidates for selection and hiring with the North Bergen Police Department must include a review of their prior Internal Affairs files. Candidates with out-of-state law enforcement experience must sign waivers of confidentiality

regarding their Internal Affairs files so that they may be reviewed by the North Bergen Police Department, where legally permissible.

4. In all cases, the Chief of Police shall retain the authority to defer a decision on hiring a particular candidate until all Internal Affairs information has been received and reviewed.

I. Reporting to the Chief of Police

1. The Internal Affairs function should prepare periodic reports for the Chief of Police that summarize the nature and disposition of all misconduct complaints the agency received. This report should be prepared at least quarterly, but may be prepared more often as directed by the Chief of Police. The report should include the principal officer; the allegation; the complainant; the age, sex, race and other complainant characteristics that might signal systematic misconduct by any member of the agency; and the investigation's status.
2. This report shall be considered a confidential, internal work product. Dissemination of the report should be limited to Command personnel, the Hudson County Prosecutor, the Appropriate Authority, or a civilian review board that meets the minimum requirements for access to Internal Affairs information, if mandated by the governing body.

J. Reporting to the Hudson County Prosecutor's Office

1. The Chief of Police or designee shall immediately notify the Hudson County Prosecutor's Office of any allegation involving criminal misconduct by a law enforcement officer.
2. Pursuant to AG Directive 2019-4, the North Bergen Police Department must notify the Hudson County Prosecutor immediately of any use of deadly force, any use of force by an officer that results in death or serious bodily injury, or any death in custody that occurs within the jurisdiction of this department.
3. In the rare cases where the North Bergen Police Department Internal Affairs Unit has not made a charging decision within 180 days of receiving a complaint, the agency must notify the Hudson County Prosecutor, who may take whatever steps he or she deems appropriate, including supersession of the investigation, to ensure prompt resolution of the matter.

4. The Internal Affairs Supervisor or designee shall submit quarterly reports to the Hudson County Prosecutor's Office regarding Internal Affairs complaints received for that period, utilizing the **summary report form attached as Appendix K on the Attorney General's website**.
 - a. The summary report forms must contain sufficient information to enable the Hudson County Prosecutor to identify warning signs of potential deficiencies in the Internal Affairs process. At a minimum, each report must include a brief summary of each Internal Affairs complaint that was pending before the agency at any point during the reporting period. The summary shall at least include the following:
 - i. Nature of the complaint,
 - ii. The date the complaint was received,
 - iii. The current status of the complaint, and,
 - iv. If the case is closed, the final disposition of the complaint with any discipline imposed.
5. The Internal Affairs Supervisor or designee shall submit the **summary report form attached as Appendix K on the Attorney General's website**, to the Hudson County Prosecutor's Office summarizing the types of complaints received and the dispositions of the complaints.
6. The North Bergen Police Department shall, no less than annually, release a brief synopsis of all complaints where a fine or suspension of ten (10) days or more was assessed to a member of the department. The synopsis shall not contain the identities of the officers or complainants.
7. Honesty is an essential job function for every New Jersey law enforcement officer. Officers who are not committed to the truth, who cannot convey facts and observations in an accurate and impartial manner and whose credibility can be impeached in court cannot advance the State's interests in criminal matters.
8. In addition, defendants in criminal matters may be entitled to certain evidence the prosecutor has concerning the credibility of prosecution witnesses, including police officers. Prosecutors are considered to possess such evidence even when law enforcement agencies create and maintain information concerning the honesty of individual officers.
9. Furthermore, prosecutors may be required to provide such evidence to the court. It is therefore imperative that the Internal Affairs investigator assist prosecutors with their legal duty to review and, if necessary, disclose evidence that may impact the credibility of police officers.

10. The Internal Affairs Unit shall review department records to determine if any current department law enforcement officers or those that retired and/or separated from the department within the last two (2) years, have any matters that fall into the following potential Brady / Giglio material:

- a.** A finding that a police 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;
- b.** A pending court complaint or conviction for any criminal, disorderly persons, petty disorderly persons, municipal ordinance or driving while intoxicated matter;
- c.** A finding that undermines or contradicts a police officer's educational achievements or qualifications as an expert witness;
- d.** A finding of fact by a judicial authority or administrative tribunal that is known to the officer's employing agency that concludes that a police officer intentionally did not tell the truth in a matter;
- e.** A sustained finding that a police officer intentionally mishandled or destroyed evidence; and
- f.** A sustained finding that a police officer is biased against a particular gender or ethnic group.

11. If the review reveals that no officers have matters which qualify as Brady / Giglio material, the Internal Affairs Function shall notify the Hudson County Prosecutor's Office Internal Affairs Division via email at **LEOWITNESS@HCPO.ORG** that the review was conducted and no officers have matters which qualify as Brady/Giglio material.

12. If the review reveals that an officer has a matter or matters which may constitute potential Brady / Giglio material as defined above, the Internal Affairs Function shall notify the Hudson County Prosecutor's Office Internal Affairs Division via email at **LEOWITNESS@HCPO.ORG** of:

- a.** The name of the law enforcement officer(s) that may have potential Brady/Giglio material and a copy of the executive summary/Internal Affairs closeout memorandum for the incident in question.

13. Thereafter, the Hudson County Prosecutor's Office will review the matter and determine if additional information is required.

14. The Internal Affairs function shall also notify the law enforcement officer of the Brady / Giglio information provided to the Hudson County Prosecutor's Office.
15. The review for potential Brady/Giglio material and department response to the Hudson County Prosecutor's Office shall be completed by February 21, 2020.
 - a. As the duty to disclose potential Brady/Giglio material remains a continuing obligation on the part of the North Bergen Police Department, the department shall notify the Hudson County Prosecutor's Office Internal Affairs Division at **LEOWITNESS@HCPO.ORG** immediately upon the determination that a law enforcement witness of this department may have potential Brady/Giglio material.
16. Copies of the Internal Affairs reports should be reviewed periodically by all command and supervisory personnel through Blue Team. Recommendations shall be made for corrective actions for any developing patterns of abuse.

K. Public Reports

1. On an annual basis, the North Bergen Police Department shall publish on its public website a report summarizing the types of complaints received and the dispositions of those complaints. This report can be statistical in nature, and the names of complainants and subject officers shall not be published. The Annual Internal Affairs Summary attached to Appendix K on the Attorney General's Internal Affairs website shall be used to satisfy the requirements of this Section.
2. On a periodic basis, and no later than January 31 of the following year, the North Bergen Police Department shall submit to the County Prosecutor and publish on the agency's public website a brief synopsis of all misconduct where a member of the North Bergen Police Department"
 - a. Was terminated;
 - b. Was reduced in rank or grade;
 - c. Was assessed a suspension of more than five days. 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 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.

3. "Sustained finding" refers to any finding where 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, following the last supervisory review of the incident(s) during the internal affairs process where the deadline for appeal has passed or following a ruling by a hearing officer, arbitrator, Administrative Law Judge, Civil Service Commission, or the Superior Court where the deadline for any subsequent appeal has passed. Allegations that cannot be sustained, are not credible, or have resulted in the exoneration of an employee, including where the previous finding has either been vacated, or overturned on the merits in any subsequent action, generally are not considered to be sustained findings subject to the disclosure requirements of this Policy. On the other hand, if the officer negotiates a plea or there is an administrative or civil settlement with the employer whereby the charge is dismissed, the charge would still be considered sustained, if there was sufficient credible evidence to prove the allegation, and the officer does not challenge the finding and obtain a favorable ruling by a hearing officer, arbitrator, Administrative Law Judge, Civil Service Commission or the Superior Court.
4. The reporting and public dissemination requirements of (a) through (j) above become applicable once an officer's discipline is sustained, as defined above. The reporting and public dissemination requirements of (k) and (l) above become applicable at the close of the reporting period during which they occur.
5. The synopsis of each case, required by this section, shall follow the format provided in Appendix L of the Attorney General Guideline on Internal Affairs Policy and Procedures 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. The synopsis shall provide sufficient detail to enable a reader who is not familiar with the case to fully understand the factual scenario that resulted in the disciplinary action. 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.
6. The required posting to the agency's public website shall remain in place and publicly accessible.

7. Agencies 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 misconduct, or statements of the sanctions imposed. No agency or officer shall 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 agency.
8. Whenever an employee 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 this agency 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 against that officer.
 - a. An employee will not be eligible to apply for retirement with any pending internal affairs investigation, complaint or case.

L. Personnel Records

1. Personnel records are separate and distinct from Internal Affairs investigation records, and Internal Affairs investigative reports shall never be placed in personnel records, nor shall personnel records be co-mingled with Internal Affairs files.
2. 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.
3. Where a complaint is sustained and discipline imposed, the only items to be placed into the employee's personnel file are:
 - a. A copy of the administrative charging form and
 - b. A copy of the disposition form, the **North Bergen Police Department Internal Affairs Final Notice of Disciplinary Action Form, DPF-31B, (Appendix O)**.
4. No part of the Internal Affairs investigative report shall be placed in the personnel file.

XXXV. COUNTY PROSECUTOR

- A. The Hudson County Prosecutor is responsible for conducting substantive oversight to ensure that the Internal Affairs function of the North Bergen Police Department is operating professionally and effectively.

XXXVI. VIOLATIONS

- A. The General Order rescinds and replaces General Order 14-21.
- B. Supervisors are responsible for the enforcement of this General Order.
- C. Violations of this order may result in disciplinary action.
- D. Any personnel who violates this General Order shall be subject to progressive disciplinary action.

A handwritten signature in black ink, appearing to read "Peter Fasilis", with a stylized, cursive script.

Peter Fasilis
Chief of Police

Appendix A

(Reserved)

Appendix B

Citizen Complaint Information Sheet

(English Version)



Internal Affairs Unit

**TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY
POLICE DEPARTMENT**

LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Citizen Complaint Information Sheet

The members of the North Bergen Police Department are committed to providing law enforcement services that are fair, effective, and impartially applied. It is in the best interests of everyone that your complaint about the performance of an individual officer is resolved fairly and promptly. The Police Department has formal procedures for investigating your complaint. These procedures are designed to ensure fairness and protect the rights of both citizens and law enforcement officers:

1. Reports or Complaints of officer/employee misconduct must be accepted from any person, including anonymous sources, at any time.
2. Complaints shall be accepted regardless of age, race, ethnicity, religion, gender, sexual orientation, disability, or immigration status of the complaining party.
3. Your complaint will be sent to a superior officer or a specially trained internal affairs officer who will conduct a thorough and objective investigation.
4. You might be asked to help in the investigation by giving a detailed statement about what happened or providing other important information or documents.
5. All complaints against law enforcement officers are thoroughly investigated. You will be kept informed of the status of the investigation and its ultimate outcome, if requested, and you provide contact information. The exact discipline imposed is confidential, but you will be advised of the ultimate finding, namely :
 - 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; standing operating procedure; rule; or training.
 - b. Unfounded: A preponderance of the evidence shows that the alleged misconduct 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; standing operating procedure; rule; or training.
 - d. Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
6. If our investigation shows that a crime might have been committed, the county prosecutor will be notified. You might be asked to testify in court.
7. If our investigation results in an officer being charged with a violation of department rules, you might be asked to testify in a departmental hearing.
8. If our investigation shows that the complaint is unfounded or that the officer acted properly, the matter will be closed.
9. Internal affairs investigations are confidential and all disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.
10. You may call the INTERNAL AFFAIRS INVESTIGATOR at (201)330-7261 with any additional information or any questions about the case

NBPD Form 65 - 12/22 (R)

Appendix B

Citizen Complaint Information Sheet

(Spanish Version)



Internal Affairs Unit

TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY
POLICE DEPARTMENT
 LAW & PUBLIC SAFETY BUILDING
 4233 KENNEDY BOULEVARD
 NORTH BERGEN, NJ 07047



PETER FASILIS
 Chief of Police

Informacion de Denuncia Ciudadana

Los miembros del Departamento de Police de North Bergen se comprometen a brindar servicios policiales justos, efectivos e imparciales. Nos conviene a todos que su denuncia sobre el desempeño de una oficial individual sea resuelta de forma justa e inmediata. El Departamento de Policía tiene procedimientos formales para investigar su denuncia. Estos procedimientos están diseñados para garantizar que sean justos y que proteja los derechos tanto del ciudadano como de los oficiales:

1. Los informes o denuncias por conducta inapropiada de oficiales/empleados se deben aceptar de parte de cualquier persona, incluyendo fuentes anónimas.
2. Las denuncias se deben aceptar independientemente de las edad, raza, etnia, religión, género, orientación sexual, discapacidad o condición de inmigración del denunciante.
3. Su denuncia se pasará a un oficial superior o a un oficial de asuntos internos capacitado específicamente, que llevará a cabo una investigación exhaustiva y objetiva.
4. Posiblemente se le pida su colaboración en la investigación, solicitándole una declaración detallada sobre los hechos o brindando información importante y documentos.
5. Todas las denuncias contra oficiales policiales se investigan exhaustivamente. Si lo solicita y nos brinda información de contacto, le mantendremos informado del estado de la investigación y de la decisión final. La medida disciplinaria impuesta es confidencial, pero se le comunicará el resultado final, concretamente:
 - a. Sostenida: La preponderancia de la evidencia demuestra que un oficial violó cualquier ley; regulación; directiva, directriz, política o procedimiento emitido por el fiscal general o el fiscal del condado, protocolo de agencia, procedimiento operativo permanente, regla o capacitación.
 - b. Infundada: La preponderancia de la evidencia demuestra que la supuesta conducta inapropiada no tuvo lugar.
 - c. Exonerada: La preponderancia de la evidencia demuestra que la supuesta conducta tuvo lugar pero no violó ninguna ley; regulación; directiva, directriz, política o procedimiento emitido por el fiscal general o el fiscal del condado, protocolo de agencia, procedimiento operativo permanente, regla o capacitación.
 - d. No sostenida: La investigación no pudo juntar evidencia suficiente para probar o desaprobar una acusación.
6. Si nuestra investigación demuestra que se pudo haber cometido un delito, se le notificará al fiscal del condado. Se le puede solicitar que testifique en el juzgado.
7. Si nuestra investigación resulta en que un oficial sea acusado de violar las reglas del departamento, se le puede solicitar que testifique en una audiencia departamental.
8. Si nuestra investigación demuestra que la denuncia es infundada o que el oficial actuó de manera adecuada, se cerrará el caso.
9. Las investigaciones de asuntos internos son confidenciales y todas las audiencias disciplinarias serán cerradas al público a menos que el oficial acusado solicite una audiencia abierta.
10. Puede llamar al INTERNAL AFFAIRS INVESTIGATOR al (201)330-7261 para darle cualquier información adicional y para hacer preguntas sobre el caso.

NBPD Form 65 - 12/22 (R)

Appendix C

Internal Affairs Report Form

(English Version)

NORTH BERGEN POLICE DEPARTMENT	
IA Case Number _____ Clear Form	
INTERNAL AFFAIRS REPORT FORM	
Person Making Report (Optional, But Helpful)	
Full Name _____	Phone _____ Preferred? ☐
Address (Apt #) _____	Email _____ ☐
City, State, Zip _____	Date of Birth _____
Officer(s) Subject to Allegation (Provide Whatever Info Is Known)	
Officer(s) Name _____	Badge No. _____
Incident Location _____	Date/Time _____
In the space below, describe the type of incident (traffic stop, street encounter) and any information about the alleged conduct. If you cannot fit your response below, feel free to use extra pages and attach them to this document. If you do not know the officer's name or badge number, provide any other identifying information.	
Other Information	
How was this reported? ☐ In Person ☐ By Phone ☐ By Letter ☐ By Email ☐ Other _____	
Any physical evidence submitted? ☐ Yes ☐ No If yes, describe: _____	
Was incident previously reported? ☐ Yes ☐ No If yes, describe: _____	
To Be Completed by Officers Receiving Report	
Officer Receiving Complaint _____	Badge No. _____ Date/Time _____
Supervisor Reviewing Complaint _____	Badge No. _____ Date/Time _____

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Complainant's Signature

Firma De Acusador

Date & Time / Fecha & Hora

Receiving Supervisor:

Badge: _____

Date & Time:

Appendix C

Internal Affairs Report Form

(Spanish Version)

NORTH BERGEN POLICE DEPARTMENT		
IA Case Number Clear Form		
INTERNAL AFFAIRS REPORT FORM		
Persona Haciendo el Reporte (Opcional, pero ayuda)		
Nombre 	Teléfono Cellular? ☐	
Dirección (Apt #) 	Correo Electrónico ☐	
Ciudad, Estado, Código Postal 	Fecha de Nacimiento 	
Oficial(es) Sujetos a la Alegación (Provide Whatever Info Is Known)		
Nombre del Oficial 	Numero de Placa 	
Lugar del Incidente 	Fecha/Hora 	
Por favor provea una descripción breve del incidente(s) que le motivo traer esta situación a nuestra atención, incluyendo la hora, fecha, y lugar.		
Otra Información(Usó Oficial)		
How was this report? ☐ In Person ☐ By Phone ☐ By Letter ☐ By Email ☐ Other 		
Any physical evidence submitted? ☐ Yes ☐ No If yes, describe: 		
Was incident previously reported? ☐ Yes ☐ No If yes, describe: 		
To Be Completed by Officers Receiving Report		
		
Officer Receiving Complaint	Badge No.	Date/Time
		
Supervisor Reviewing Complaint	Badge No.	Date/Time

[illegible]

Complainant's Signature

Firma De Acusador

Date & Time / Fecha & Hora

Receiving Supervisor:

Badge: _

Date & Time:

Appendix D

Performance Notice



Internal Affairs Unit

TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY

POLICE DEPARTMENT
LAW & PUBLIC SAFETY BUILDING
4333 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Performance Notice

To: _____		Badge No. _____	
You are hereby ☐ Commended ☐ Counseling / Training :			
Officer :	_____	Date:	_____
Supervisor:	_____	Date:	_____

Reviewed by Middle Management:

Name: _____ Date: _____
Signature: _____ Date: _____
Remarks: _____

Reviewed by Command Level:

Name: _____ Date: _____
Signature: _____ Date: _____
Remarks: _____

Appendix D

Oral Reprimand



ALLEN PASCUAL
Commissioner

**TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY
POLICE DEPARTMENT**

LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Oral Reprimand

Officer's Name:	Badge Number:
Violation:	
File Number:	
Chief of Police:	Date:

A

ppendix D

Written Reprimand



ALLEN PASCUAL
Commissioner

**TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY
POLICE DEPARTMENT**

LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Letter of Written Reprimand

Officer's Name:	Badge Number:
Violation:	
File Number:	
Chief of Police:	Date:

Notice of Minor Disciplinary Action

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Appendix E

Immediate Suspension Notice



Internal Affairs Unit

TOWNSHIP OF NORTH BERGEN DEPARTMENT OF PUBLIC SAFETY

POLICE DEPARTMENT
LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Immediate Suspension Notice

TO: _____ Date & Time: _____
(Name & Rank of Officer)

TAKE NOTICE that you are suspended from duty effective immediately for the following reason:

- ☐ You are unfit for duty
- ☐ You are a hazard to other persons if permitted to remain on the job
- ☐ An immediate suspension is necessary to maintain safety, health, order or effective direction of public services; or
- ☐ You have been formally charged with a first, second or third degree crime.
- ☐ You have been formally charged with a first, second, third or fourth degree crime while on-duty, or the criminal act is directly related to your employment.

The facts in support of the above reason are:

Supervisor making suspension

I hereby acknowledge receipt of this notice.

Signature: _____ Date: _____

Appendix F

Internal Affairs Complaint Notification



Internal Affairs Unit

TOWNSHIP OF NORTH BERGEN DEPARTMENT OF PUBLIC SAFETY

POLICE DEPARTMENT
LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD NORTH
BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Internal Affairs Complaint Notification

To: _____ Badge No. _____

You are hereby notified that an internal affairs complaint has been made against you.

This complaint involves an allegation of _____

which occurred on or about _____

You will be contacted by the investigator when you will be needed for an interview.

Signature: _____

Date: _____

Appendix G

Witness Acknowledgment Form



Internal Affairs Unit

TOWNSHIP OF NORTH BERGEN DEPARTMENT OF PUBLIC SAFETY

POLICE DEPARTMENT
LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Witness Acknowledgment Form

1. I acknowledge that I have been informed that I am a witness in an internal investigation.

This investigation concerns _____

2. I acknowledge my responsibility to answer truthfully all questions specifically related to the performance of my official duties.

3. I acknowledge that this investigation is confidential, and I am hereby ordered not to disclose any information discussed during this interview.

Signature: _____

Date: _____ Time: _____

Witnessed by: _____

Appendix H

Administrative Advisement Form



Internal Affairs Unit

**TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY**

POLICE DEPARTMENT

LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Administrative Advisement Form

Administrative Investigations Only

1. I am being questioned as part of an investigation by this agency into potential violations of department rules and regulations, or for my fitness for duty. This investigation concerns
2. This is an administrative investigation. I will be asked questions specifically, narrowly and directly related to the performance of my official duties.
3. I may be subject to departmental discipline for refusing to answer a question directly related to the performance of my duties, or for not answering truthfully.
4. I have the right to consult with a representative of my collective bargaining unit, or another representative of my choice, and have him or her present during the interview.
5. I acknowledge that this investigation is confidential, and I am hereby ordered not to disclose any information discussed during this interview.

Signature:

Signature

Date:

Time:

Witnessed by:

Appendix J

Use Immunity Grant Advisement Form “Garrity Warning”



Internal Affairs Unit

**TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY**

POLICE DEPARTMENT

LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Use Immunity Grant Advisement Form “Garrity Warning”

1. I am being questioned as part of an investigation by this agency into potential violations of department rules and regulations, or for my fitness for duty. This investigation concerns _____
2. I have invoked my *Miranda* rights on the grounds that I might incriminate myself in a criminal matter.
3. I have been granted use immunity. No answer given by me, nor evidence derived from the answer, may be used against me in any criminal proceeding, except for perjury or false swearing.
4. I understand that I must now answer questions specifically, directly and narrowly related to the performance of my official duties or my fitness for office.
5. If I refuse to answer, I may be subject to discipline for that refusal which can result in my dismissal from this agency.
6. Anything I say may be used against me in any subsequent department charges.
7. I have the right to consult with a representative of my collective bargaining unit, or another representative of my choice, and have him or her present during the interview.

Assistant Prosecutor/Deputy Attorney General Authorizing: _____

Signature: _____

Date: _____ Time: _____

Location: _____

Witnessed by: _____

Appendix K

Report Acknowledgment

Sample Response Letter

This will acknowledge receipt of the report made by you on (DATE OF REPORT) concerning the actions of a member of this department occurring on (DATE OF INCIDENT).

An investigation will be conducted into the allegations contained in your report and you will be advised of the results of the investigation upon its conclusion. In the meantime, if you have any questions, please feel free to contact this office by calling 201-330-7261, Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m.

Appendix K

Officer Exonerated

Sample Response Letter

The Internal Affairs Unit of this department has completed its investigation of your report concerning the conduct of (NAME OF SUBJECT OFFICER). The investigation and a review of all information currently available to this office indicates that the officer followed the appropriate department policies and procedures. More specifically, department policies and procedures permit the officer to (GIVE DETAILS OF THE POLICY OR PROCEDURE)...

If you have any additional information which you believe should be considered, please contact the Internal Affairs Unit at 201-330-7261.

Thank you for bring this matter to our attention.

Appendix K

Not Sustained

Sample Response Letter

The Internal Affairs Unit of this department has completed its investigation of your report concerning the conduct of (NAME OF SUBJECT OFFICER). The investigation and a review of all information failed to disclose sufficient evidence to clearly prove or disprove the allegation. More specifically, ...

- a. (witness could not be located)
- b. (document could not be located)
- c. (physical or forensic evidence could not be located)
- d. (witness did not support your complaint)
- e. (document did not support your complaint)
- f. (physical or forensic evidence did not support your complaint)
- g. (the investigation failed to yield enough evidence to support your complaint)
- h. (while some evidence supported your complaint, there was not enough evidence to support your complaint)

If you have any additional information which you believe should be considered, please contact the Internal Affairs Unit at 201-330-7261. If no additional information is received within ten days, this case will be considered closed.

Thank you for bringing this matter to our attention.

Appendix K

Unfounded

Sample Response Letter

The Internal Affairs Unit of this department has completed its investigation of your report concerning the conduct of (NAME OF SUBJECT OFFICER). The investigation revealed that the alleged incident did not occur.

If you have any additional information which you believe should be considered, please contact the Internal Affairs Unit at 201-330-7261. If no additional information is received within ten days, this case will be considered closed.

Thank you for bringing this matter to our attention.

Appendix K

Sustained

Sample Response Letter

The Internal Affairs Unit of this department has completed its investigation of your report concerning the conduct of (NAME OF SUBJECT OFFICER). The investigation revealed that the officer violated departmental rules and regulations. He/she will be subject to appropriate discipline under our agency's procedures.

If you have any questions, please feel free to contact the Internal Affairs Unit at 201-330-7261.

Thank you for bringing this matter to our attention.

Appendix L

Case Checklist and Summary Sheet



Internal Affairs Unit

TOWNSHIP OF NORTH BERGEN DEPARTMENT OF PUBLIC SAFETY

POLICE DEPARTMENT

LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD NORTH
BERGEN, NJ 07047



PETER FASILIS
Chief of Police

Case Checklist and Summary Sheet

IA Case # _____ Date received: _____
Type of complaint: _____ 45 Days: _____
Principal person(s): _____

- N/A
- ☐ 11 Complaint form completed
 - ☐ ☐ Prosecutor's Office notified
 - ☐ ☐ Citizen Information form given to complainant
 - ☐ ☐ Complaint information entered into computer
 - ☐ ☐ Officer notified of complaint
 - ☐ ☐ Department reports received
 - ☐ ☐ Medical reports received
 - ☐ ☐ Photographs taken
 - ☐ ☐ Video evidence received
 - ☐ ☐ Audio received
 - ☐ ☐ Interview of complainant
 - ☐ ☐ Interview of witnesses
 - ☐ ☐ Interview of officers
 - ☐ ☐ Special reports by officer received
 - ☐ ☐ Subject employee warnings
 - ☐ ☐ Interview of subject employee
 - ☐ ☐ Special report by subject employee
 - ☐ ☐ Evidence reports
 - ☐ ☐ Chronological record of investigation
 - ☐ ☐ Internal affairs investigation report
 - ☐ ☐ Officer notified of conclusion
 - ☐ ☐ Complainant notified of conclusion

Allegation	Conclusion
1. _____	☐ Sustained ☐ Not Sustained ☐ Unfounded ☐ Exonerated
2. _____	☐ Sustained ☐ Not Sustained ☐ Unfounded ☐ Exonerated
3. _____	☐ Sustained ☐ Not Sustained ☐ Unfounded ☐ Exonerated

Date Completed: _____

Disposition: _____

Appendix M

North Bergen Police Department Memorandum Form



ALLEN PASCUAL
Commissioner

**TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY**

POLICE DEPARTMENT

LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047

MEMORANDUM



PETER FASILIS
Chief of Police

TO:

FROM:

SUBJECT:

DATE:

Appendix N

Preliminary Notice of Disciplinary Action

DPF-31A

Preliminary Notice of Disciplinary Action (31-A) Civil Service Commission – State of New Jersey

Instructions for employer: This notice must be served on a permanent employee or an employee serving a working test period in the career service against whom one of the following types of disciplinary action is contemplated: (a) suspension or fine for more than five working days at any one time; (b) suspension or fine for five working days or less where the aggregate number of days suspended or fined in any one calendar year is 15 working days or more; (c) the last suspension or fine where an employee receives more than three suspensions or fines of five working days or less in a calendar year; (d) disciplinary demotion from a title in which the employee has permanent status or received a regular appointment; (e) removal; or (f) resignation not in good standing. A copy of this notice must be sent to the Civil Service Commission. Subsequent to the hearing by the appointing authority, the employee and the Civil Service Commission must be served with the Final Notice of Disciplinary Action.

FROM	Employing Agency Name	Address/ Phone Number	Date
	Attorney representing your agency should this matter be appealed		Address/Phone number/Email address
TO	Employee Name	Permanent Civil Service Title	Employee Identification Number
	Address/ Phone Number		Pension Number

You are hereby notified that the following charge(s) have been made against you: *(If necessary, use additional sheets and attach)*

Charges:

Incident(s) giving rise to the charge(s) and the date(s) on which it/they occurred:

☐ *If checked, charges are continued on attached page.*

☐ *If checked, incidents are continued on attached page.*

☐ **You are hereby suspended effective** _____ *(Check box to indicate if employee is suspended pending final disposition of the matter)*

If you desire a departmental hearing before the appointing authority on the above charge(s), notify it within

_____ *days of receipt of this form. If you request a hearing it will be held on _____

at (time) _____ at (place of hearing) _____

**Must be a minimum of five days*

The following disciplinary action may be taken against you:

☐ Suspension for _____ working days, beginning _____ and ending _____

☐ Indefinite suspension pending criminal charges effective (date) _____

☐ Removal, effective (date) _____

☐ Demotion to position of _____ effective (date) _____

☐ Resignation not in good standing, effective (date) _____ ☐ Other Disciplinary Action

☐ Fine _____ which is equal to _____ (number of working days)

Appointing authority or authorized agent's signature and title.

Signature _____ Title _____

This form must be personally served on the employee or sent by certified or registered mail.

☐ Certified or Registered Mail ☐ Receipt Number _____

☐ Signature of Server _____ ☐ Date of personal service _____

Appendix O

Final Notice of Disciplinary Action

DPF-31B

Final Notice of Disciplinary Action (31-B) Civil Service Commission – State of New Jersey

Instructions for employer: This notice must be served on a permanent employee or an employee serving a working test period in the career service after a Departmental hearing (if one is requested) if one of the following types of disciplinary actions is taken: (a) suspension or fine for more than five working days at any one time; (b) suspension or fine for five working days or less where the aggregate number of days suspended or fined in any one calendar year is 15 working days or more; (c) the last suspension or fine where an employee receives more than three suspensions or fines of five working days or less in a calendar year; (d) disciplinary demotion from a title in which the employee has permanent status or received a regular appointment; (e) removal; or (f) resignation not in good standing. If the employee does not request or does not appear at the Departmental hearing, this notice must be served as the final action. A copy of this notice must be sent to the Civil Service Commission and served on the employee by personal service or by certified or registered mail.

FROM	Employing Agency Name	Address/ Phone Number	Date
	Attorney representing your agency should this matter be appealed		Address/Phone number/Email address
	Employee Name	Permanent Civil Service Title	Employee Identification Number
	Address/ Phone Number	Pension Number	

On _____ you were served with a Preliminary Notice of Disciplinary Action (31A) and notified of the pending disciplinary action.

- ☐ You requested a hearing which was held on _____ ☐ You did not request a hearing
- ☐ You requested a hearing and did not appear at the designated time and place

Sustained Charges:	Incident(s) giving rise to the charge(s) and the date(s) on which it/they occurred:

- ☐ If checked, charges are continued on attached page. ☐ If checked, incidents are continued on attached page.

The following disciplinary action has been taken against you:

- ☐ Suspension for _____ working days, beginning _____ and ending _____
- ☐ Indefinite suspension pending criminal charges effective (date) _____
- ☐ Removal, effective (date) _____
- ☐ Demotion to position of _____ effective (date) _____
- ☐ Resignation not in good standing, effective (date) _____ ☐ Other Disciplinary Action
- ☐ Fine _____ which is equal to _____ (number of working days)

Appointing authority or authorized agent's signature and title.

Signature _____ Title _____

This form must be personally served on the employee or sent by certified or registered mail.

- ☐ Certified or Registered Mail ☐ Receipt Number _____
- ☐ Signature of Server _____ ☐ Date of personal service _____

APPEAL PROCEDURE TO THE EMPLOYEE: You have the right to appeal within 20 days from receipt of this form. All appeals must include a copy of this form. Pursuant to P.L. 2010, c. 26, effective July 1, 2010 there is a \$20 fee for disciplinary appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, c.156 (C.44:8-107 *et seq.*), P.L. 1973, c. 256 (C.44:7-85 *et seq.*), or P.L. 1997, c.38 (C.44:10-55 *et seq.*), and veterans as defined by N.J.S.A.11A:5-1 *et seq.* are exempt from this appeal fee. Appeals should be addressed to the Civil Service Commission, P.O. Box 312, Trenton, New Jersey 08625-0312. Any appeal postmarked after the 20 days statutory time limit will be denied. We recommend sending your appeal by certified mail to prove your filing in the event of lost or misdirected mail. Do not give your appeal to your personnel office for forwarding to the Civil Service Commission.

For more information on the rules that govern Major Discipline and the appeals process, please visit our website at: www.state.nj.us/csc.

DISTRIBUTION: Employee, Union Representative or Attorney, Management, Civil Service Commission.
When using a form downloaded from the internet you still must provide the indicated above number of copies to all parties.