

ATLANTIC CITY POLICE DEPARTMENT



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SUBJECT: INTERNAL AFFAIRS

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REVISION DATE

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BY THE ORDER OF:

James A. Sarkos, Chief of Police

SIGNATURE:

DATE:

SUPERSEDES ORDER #:

G.O. 60 of 1984 Disciplinary Action, G.O. 21 of 1985 Internal Affairs Section, G.O. 2 of 1988 Disciplinary Action, G.O. 1 of 1989 Disciplinary Action, G.O. 14 of 1991 Complaint Review Policy, G.O. 15 of 1991 Internal Affairs, G.O. 4 of 1993 Internal Affairs and Complaint Review, G.O. 4 of 2000 Hearing Officer, and all other previously issued conflicting orders

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PURPOSE: This agency is committed to providing law enforcement services that are fair, effective and impartially applied. Toward that end, officers are held to the highest standards of official conduct and are expected to respect the rights of all citizens. Officers' adherence to these standards, motivated by a moral and professional obligation to perform their job to the best of their ability, is the ultimate objective of this agency.

The effectiveness of this law enforcement agency is dependent upon public approval and acceptance of law enforcement authority. The Atlantic City Police Department must be responsive to the community by providing formal procedures for the processing of complaints from the public regarding individual officer performance.

The purpose of this policy is to improve the quality of law enforcement services. Citizen confidence in the integrity of the law enforcement agency increases through the establishment of meaningful and effective complaint procedures. This confidence engenders community support for the law enforcement agency. Improving the relationship between the officers and the citizens they serve facilitates cooperation vital to the department's ability to achieve its goals. An effective disciplinary framework also permits Atlantic City Police Department law enforcement officials to monitor officers' compliance

with department policies and procedures. Adherence to established policies and procedures assists officers in meeting Atlantic City Police Department objectives while a monitoring system permits managers to identify problem areas requiring increased training or direction. Finally, this policy will ensure fairness and due process protection to citizens and officers alike.

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

POLICY: **In accordance With the Atlantic County Prosecutor’s Office Directive PD-00006-91, this agency has adopted New Jersey Attorney General’s Internal Affairs Policies and Procedures. ([Attorney General Law Enforcement Directive NO. 2019-5](#))**

It is the policy of this agency to accept and investigate all complaints of alleged officer misconduct or wrongdoing from any internal agency, external agency, citizen and/or anonymous source(s). Following a thorough and impartial examination of the available factual information, the investigation against the officer shall receive one of the following dispositions: administratively closed, exonerated, sustained, not sustained, or unfounded. Discipline shall be administered according to the degree of misconduct and any prior disciplinary action.

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

It is the policy of the Atlantic City Police Department that officers conducting the investigation of any allegation of misconduct must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer, and show proper respect to all members of the public. Accordingly, all supervisors and any other officer who may be called upon to do an internal investigation must be thoroughly familiar with the New Jersey Attorney General’s Guideline entitled, “Internal Affairs” and this policy entitled, “Internal Affairs.”

It is the policy of the Atlantic City Police Department that prevention is the primary means of reducing and controlling misconduct. To that end, it is the policy of the Atlantic City Police Department to discover and correct organizational conditions which permit the misconduct to occur. Special emphasis is placed on recruitment, selection and training of officers and supervisors, community outreach and the analysis of misconduct complaints and their outcome.

It is the policy of the Atlantic City Police Department that each officer shall be provided ready access to the Atlantic City Police Department’s written directive system which contains specific directions for conducting all aspects of law enforcement work. Complaint categories of misconduct shall be clearly described and defined in this policy. The disciplinary process shall be thoroughly explained in this policy and department policy entitled, “Rules and Regulations.”

PROCEDURES:

Definition of Terms

- A. **Chief of Police** – The Chief of Police or designee of the Chief of Police shall be further known in this policy as COP.
- B. **Complaint Categories** – The New Jersey Attorney General Internal Affairs Guideline recognizes for completion of the Professional Standards Summary Reports the following nine complaint categories which are defined as follows:
 - 1. **Excessive Force** – Complaint regarding the use or threatened use of excessive force against a person.
 - 2. **Improper Arrest** – Complaint that the restraint of a person's liberty was improper or unjust, or violated the person's civil rights.
 - 3. **Improper Entry** – Complaint that entry into a building or onto property was improper or that excessive force was used against property to gain entry.
 - 4. **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.
 - 5. **Other Criminal Violation** – Complaint regarding the commission of an illegal act not specified elsewhere.
 - 6. **Differential Treatment** – Complaint that the taking, failure to take, or method of police action was predicated upon irrelevant factors such as race, appearance, age, or sex.
 - 7. **Demeanor** – Complaint that a department member's bearing, gestures, language or other actions were inappropriate.
 - 8. **Domestic Violence** – Complaint that a department member violated the provisions of N.J.S.A. 2C:25-17 et seq. This category is not limited to cases in which a criminal or disorderly persons complaint is filed or a temporary or final restraining order is issued.
 - 9. **Other Rule Violation** – Complaint for conduct which violates agency rules, but is not specified above. This includes, but may not be limited to, the following conduct:
 - a. Insubordination;
 - b. Drunkenness on duty;
 - c. Sleeping on duty;
 - d. Neglect of duty;
 - e. False statements;
 - f. Malingering;

- g. Untidiness;
 - h. Tardiness;
 - i. Faulty driving; or
 - j. Failure to follow procedures.
- C. Forms and/or reports to be used in accordance with this directive shall be maintained in fill-ins, PowerDMS and/or part of are defined as follows:
1. **Request for Extension of Investigation – (IA-1):** This form shall be used to seek approval from the COP when additional time beyond the 120-day period is needed to complete an IAS or Supervisor’s investigation. The 120-day time period begins on receipt of the Atlantic County Prosecutor’s Office declination letter to proceed with an Atlantic City Police Department internal investigation.
 2. **Internal Investigation Plan – (IA-2):** This form/section shall be used to develop an investigative plan prior to conducting IAS investigations.
 3. **Internal Investigation Report – (IA-3):** This form/section shall be used to memorialize the investigation of any IAS matter.
 4. **Annual Report for Public – (IA-4):** Each agency must annually release reports to the public summarizing the allegations received and the investigations concluded for that period. These reports shall include the identity of each officer subject to final discipline, a brief summary of their transgressions, and a statement of the sanction imposed. This synopsis shall not contain the identities of the complainants or any victims. Where discipline relates to domestic violence, the synopsis shall not disclose the relationship between a victim and an officer.
 5. **Internal Investigation Supplemental Report – (IA-5):** This form/section shall be used to supplement the initial investigation report.
 6. **Internal Investigation Attachment Log – (IA-6):** This form/section shall be used to account for all attachments accumulated during the investigation.
 7. **Internal Investigation Allegations & Conclusions – (IA-7):** This form/section shall be used to establish a narrative of the alleged misconduct, the relationship to the specific provision of the Rules and Regulations and/or written directive allegedly violated, and will provide one of the following recommended dispositions for each allegation:
 - a. **Administratively Closed:** In some cases, the complaint or investigation is closed prior to reaching a disposition. These should be counted as "Administratively Closed." Examples include situations when a complainant voluntarily requests that a complaint be withdrawn, or the subject officer terminates his or her employment prior to disposition of the complaint.
 - b. **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. (For example, at the conclusion of an investigation into an excessive force allegation, the agency finds that the officer used force (alleged conduct) but that the force was not excessive (alleged violation).

- c. Sustained: The investigation disclosed sufficient evidence to prove the allegation, and the actions of the officer violated provisions of rule and regulation or agency procedures.
 - d. Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
 - e. Unfounded: A preponderance of the evidence shows that the alleged conduct did not occur.
- 8. **Internal Investigation Review Sheet – (IA-8):** This form/section shall be used when an IAS investigation is reviewed through the chain of command.
 - 9. **New Principal/Allegation Identification Form – (IA-9):** This form shall be used when an employee shifts from a witness to a principal. This form shall also be used to document perceived violations of policy and procedure not relevant to the complaint or the alleged misconduct being investigated.
 - 10. **Principal Acknowledgement Form – (IA-10 / Appendix J):** This form shall be used during IAS investigations when interviewing the principal in an IAS investigation.
 - 11. **Witness Acknowledgment Form – (IA-11 / Appendix I):** The form shall be used during IAS investigations when interviewing a witness in an IAS investigation.
 - 12. **Miranda and Waiver Form – (IA-12 / Appendix G):** This form shall be used in an IAS investigation when interviewing an employee accused of committing a crime after consultation with the Atlantic County Prosecutor's Office.
 - 13. **Weingarten Representative Acknowledgement Form – (IA-13 / Appendix N):** This form shall be provided to the Weingarten representative present during an IAS interview.
 - 14. **Reportable Incident Form (Initial Complaint) – (IA-14):** Department employees shall utilize this form to document a reportable incident on any department employee.
 - 15. **External Agency, Citizen or Anonymous Complainant Form – (IA-15):** This form shall be offered to any external agency, citizen or anonymous source who wants to complain about an employee of the department.
 - 16. **Complainant Information Sheet – (IA-16 / Appendix A):** This form, which explains the department's IAS procedures, shall be provided to all complainants and includes information on what role the complainant can

expect to play. If feasible, the **IA-16 / Appendix A** should be provided to the complainant at the time the complaint is made.

17. **Statement Forms – (IA-17 / Appendix B):** These forms shall be used to document additional complainant or witness information.
18. **Agencies Referral Form – (IA-18):** This form may be supplied to complainants in need of a referral to another agency.
19. **Internal Affairs Section Complaint Notification – (IA-19 / Appendix C):** This form shall be used to advise an employee when an IAS complaint (as recorded in the IAS central file recordkeeping system), has been made against him or her and the advisement will not interfere or impede with the IAS investigation or does not require secrecy.
20. **Immediate Relief from Duty Notice – (IA-20 / Appendix D):** This form shall be used when any employee is immediately relieved from duty pending the outcome of an evaluation and/or investigation.
21. **Positive/Negative Action Notice – (IA-21 PAN or IA-21 NAN):** These forms are to be used by any supervisor requesting an officer receive a commendation, or remedial action(s) and/or discipline.
22. **Blank – (IA-22):** This form was removed and replaced by revised procedures within department policies entitled, “Use of Force,” “K-9 Policy & Procedures” and “Motor Vehicle Crash Review Board.”
23. **Use Immunity Grant Advisement Form – “Garrity Warning” – (IA-23 / Appendix H):** This form shall be used when the Atlantic County Prosecutor’s Office grant use immunity.
24. **Blank – (IA-24):** This form was removed and replaced by tracking within On Target Performance Systems (OTPS) Administrative Investigative Management (AIM).
25. **Supervisor’s Investigation Reports – (IA-25):** This form shall be completed for minor rule infraction complaints referred by the IAS.
26. **Official Request for Report – (IA-26):** This template or a variation of this template may be used to officially request a written report from an employee.
- 27-33. **Complaint/Report Acknowledgement Letter – (IA-27), Administratively Closed – (IA-28), Officer Exonerated – (IA-29), Not Sustained – (IA-30), Sustained – (IA-31), Unfounded – (IA-32) and Progress Letter – (IA-33):** Correspondence to maintain advisement to the complainant and principal.
34. **Periodic Brief Synopsis for Public – (IA-34):** Each agency shall periodically release a brief synopsis of all Internal Affairs Section complaints where a fine or suspension of ten days or more was assessed to a member of the agency. The brief synopsis shall not contain the identities of the officers or complainants.

35. **Information Release – (IA-35):** This form shall be completed to request and obtain any protected information of any person(s) involved with the complaint.
36. **Withdraw of Complaint – (IA-36):** This form may be completed at any time by a complainant. (Note: The completion of this form does not exclude an investigation to its logical conclusion.)
37. **Blank – (IA-37):** This form was removed and replaced by forms contained within department policy entitled, “Photo or Live Lineup Identifications.”
38. **Professional Standards Summary Report Form – (IA-38a, IA-38b or IA-38c):**
 - a. **IA-38a Table 1 – Complaints Filed:** The purpose of this report is to serve as a record control device. It will maintain an inventory of IAS case files and summarize the status of each case for authorized personnel. The instrument used for such an index file will vary by agency and could include a log book, index cards or a computerized data base.
 - b. **IA-38b Table 2 – Agency Dispositions:** The purpose of this report is to track the type of complaints alleged and their respective dispositions.
 - c. **IA-38c Table 3 – Court Dispositions:** The purpose of this report is to track Municipal Court and Superior Court complaints alleged and their respective dispositions.
39. **Professional Standards Summary Report Form Guide – (IA-39):** This guide is to assist with properly categorizing complaints and the completion of the following applicable forms: IA-38a, IA-38b or IA-38c.
40. **Internal Affairs Recording Receipt – (IA-40):** This form shall be used to reflect chain of custody for all recordings of IAS, except recordings obtained from our Communications Bureau.
41. **Internal Affairs Initial Complaint Log – (IA-41):** This form shall be used to document a detailed chronology of each investigation so that critical actions, decisions and inquiries are documented.
42. **Atlantic County Prosecutor’s Office – IAS Section – Initial Complaint:** This form must be completed and forwarded to the Atlantic County Prosecutor’s Office for all received Atlantic City Police Department IAS complaints.
43. **Atlantic City Communications Bureau – Audio Request Form:** Shall be used to obtain any Communications Bureau audio recordings. See department policy entitled, “Records.”
44. **Atlantic City Communications Bureau – Video Request Form:** Shall be used to obtain any Communications Bureau video recordings. See department policy entitled, “Records.”

45. **Figure 1** is a chart which details interviewing law enforcement officers in internal matters.
46. **General Receipt** is to be used for all IAS transfer of property other than audio requests from Atlantic City Communications Bureau. All recordings created by or held by IAS shall be documented within an **IA-40**.
47. **Minor Notice of Disciplinary Action (CS-379)**: This notice must be served on an employee who will be receiving or who has received any of the following penalties:
 - a. Suspension of five days or less;
 - b. Fine (amount equal to five days' pay or less);
 - c. Demotion of five days or less.

NOTE: More severe disciplinary actions which are not specified in this form require a **DPF-31A** and **DPF-31B** or **DPF-31C** form to be subjected as outlined in NJAC 4A:1-5.15.

48. **Preliminary Notice of Disciplinary Action (DPF-31A)** and **Final Notice of Disciplinary Action (DPF-31B or DPF-31C)**: These forms shall be used to formally notify the principal of charges approved by the Chief of Police in connection with an approved or completed IAS investigation. These disciplinary forms shall only be used for the following penalties:
 - 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.

- D. **Internal Affairs Complaint** is a complaint made by one of the following sources: internal agency, external agency, citizen or anonymous and authorized by the COP for an Internal Affairs Section investigation.
- E. **Minor Rule Infractions** are, but shall not be limited to, complaints for conduct such as demeanor, untidiness, tardiness or failure to follow procedures. Minor rule infractions shall be investigated by the subject employee's supervisor(s) in accordance with this policy, unless determined otherwise by the COP or County Prosecutor. Faulty driving shall be minimally investigated in accordance with department policies entitled, "Motor Vehicle Crash Investigation," "Motor Vehicle Crash Review Board," "Rules and Regulations" and this policy.

- F. **Misconduct** is defined as any behavior, performance or non-performance that may violate:
1. Departmental rules, regulations and procedures; or
 2. Applicable criminal and civil laws; or
 3. United States or New Jersey Constitutions; or
 4. Conduct which adversely reflects upon the officer or the department.
- G. **On Target Performance Systems (OTPS) Administrative Investigative Management (AIM)** shall be further known in this policy as AIM and is a department software system that upon installation and training shall be minimally used to replace a work process currently completed, forwarded, reviewed and maintained on paper documents. For example, employees required to complete a **Use of Force Report (Attachment A)** shall do so within AIM and forward the incident type via AIM to their Supervisor instead of completing a fillable electronic Adobe or Microsoft Word form, printing the form and handing the form to a Supervisor for review and signature. Minimally, the forms and/or reports associated with the following policies shall be completed, forwarded, reviewed and maintained within AIM:
1. Early Warning Alert System
 2. Field Training & Evaluation Program
 3. Internal Affairs
 4. Motor Vehicle Crash Review Board
 5. Performance Evaluations
 6. Pursuit & Forcible Stopping Guidelines
 7. Use of Force
- H. **Principal** is a person whose conduct is the focus of the investigation. The principal can also be known as the subject.
- I. **Reportable Incident** is any conduct by another employee that reasonably appears to constitute any known violation of any one of the nine complaint categories named within this policy, and/or any of the following:
1. Prohibited discrimination (See department policy entitled, "Harassment in the Workplace.").
 2. An unreasonable use of force or a threat of force (See department policy entitled, "Use of Force.").
 3. A constitutional violation.
 4. Failure to follow any of the documentation requirements, including documentation of civilian complaint filing procedures.

5. Providing false information in an investigation of an employee for misconduct or in any report, log, or transmittal of information to department communication center.
6. Any violations discovered during a supervisory review (staff inspection) of personnel. Supervisors conducting the review shall be held accountable for their referral decisions.
7. Retaliation against any employee for reporting misconduct.

J. **Serious Rule Infractions** are, but shall not be limited to, complaints for conduct such as retaliation, insubordination, drunkenness on duty, sleeping on duty, neglect of duty, false statements or malingering, as well as the following:

1. **Criminal Activity:** 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. **Complaints of Domestic Violence:** Complaint that a department member violated the provisions of N.J.S.A. 2C:25-17 et seq. This category is not limited to cases in which a criminal or disorderly persons complaint is filed or a temporary or final restraining order is issued.
8. **Repeatedly Occurring, Multiple and Simultaneous Occurring, or Multiple and Separately Occurring Minor Rule Infractions:** Repeatedly occurring, multiple and simultaneously occurring, or multiple different and separately occurring complaints for conduct may include, but shall not be limited to, demeanor, untidiness, tardiness or failure to follow procedures. Faulty driving shall be minimally investigated in accordance with department policies entitled, "Motor Vehicle Crash Investigation," "Motor Vehicle Crash Review Board," "Rules and Regulations" and this policy.

Note: Though repeatedly occurring, multiple different and simultaneously occurring, or multiple different and separately occurring minor rule infractions may be investigated as a serious rule infraction, the COP on a case-by-case basis may consider factors when deciding to authorize and have reclassified the repeatedly occurring, multiple different and

simultaneously occurring, or multiple different and separately occurring minor rule infractions as an IAS investigation or not and who is to investigate. Example factors: Time between each minor rule infraction violated, type(s) of minor rule infractions violated and manner in which each minor rule infraction complaint allegation was received (internal agency, external agency, citizen or anonymous).

- K. **System of Progressive Discipline** minimally includes, but shall not be limited to, the following elements:
1. Oral Performance Notice;
 2. Written Performance Notice;
 3. Monetary Fine;
 4. Suspension without Pay;
 5. Loss of a Promotional Opportunity;
 6. Demotion;
 7. Discharge from Employment (Termination).
- L. **Use Immunity** provides that anything the officer says under the grant of immunity, and any evidence derived from his or her 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. A criminal prosecution may proceed even though the target or defendant has received use immunity.
- M. **Witness** is a person reasonably believed to have information concerning the event under investigation, but whose own conduct is not the focus of the investigation.
- N. **Executive's Senior Management Team** is a team of individuals of the upper management to include the Chief of Police and the Deputy Chief's

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. The Atlantic City Police Department should make every effort to eliminate the organizational conditions that may foster, permit or encourage an employee's inappropriate behavior. In the furtherance of this objective, special emphasis should be placed on the following areas:
1. Selection and Recruitment – Selecting and appointing the highest quality individuals to serve as law enforcement officers must be a priority of every law enforcement agency. During the selection process, written tests, psychological tests, background investigations and individual interviews should be completed by each candidate in an attempt to identify those who

would be best suited for law enforcement employment. These procedures may also be used for promotional testing, and assignment to especially sensitive responsibilities or those that pose the greatest opportunities for abuse or wrongdoing. See department policies entitled, "Selection & Recruitment" and "Promotion Process."

2. Training –

- a. Basic and in-service training for law enforcement officers should emphasize the sworn obligation of those officers to uphold the law and provide for the public safety of the citizenry. Police ethics should be a major component in the training curricula. In addition, the rules, regulations, policies and procedures of the 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.
- b. The Atlantic City Police Department's 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?" Perhaps a particular officer or group of officers needs a refresher course in a certain subject. In addition, changes in the law, the agency or even within the community may trigger the need for a type of training never before given to the officer or department.
- c. Training in this sense can be anything from informal counseling of an officer about a particular policy (document review) or procedure to formal department-wide training. The department may also take advantage of training offered by other agencies, including police academies, the county prosecutors, the Division of Criminal Justice, other public or private entities or web-based programs. See department policy entitled, "Training."

3. Supervision – Proper supervision is critical to the discipline and management of the Atlantic City Police Department. To maximize our effectiveness, supervisors should 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 performance which is below expectations (BE) or misconduct. Supervisors are expected to recognize potentially troublesome officers, identify training needs of officers and provide professional support in a fair and consistent manner. Also, department policies entitled, "Early Warning Alert System," "Employee Assistance Program" and "Performance Evaluations."

4. Staff Inspections –

- a. While the primary responsibility for enforcing department policies rests with the line supervisors, management cannot rely solely on those supervisors for detecting violations. Administrators should establish a mechanism to determine whether the Atlantic City Police Department policies and procedures are being properly implemented. It is necessary for management to know if behavior is, in fact, consistent with Atlantic City Police Department rules and

regulations, policies and procedures. The task of detecting such defects should be delegated to an inspection unit or function.

- b. The Atlantic City Police Department may establish an inspection unit which operates directly out of the Office of the Chief of Police or by periodically assigning the inspection task to selected section or unit supervisors. Individuals so assigned must be of unquestioned integrity and hold sufficient rank to achieve the objectives of the inspection function.
 - c. The inspection function should determine (by actual on-site inspection) whether personnel are properly implementing Atlantic City Police Department policies at the operational level. This function is also responsible for reviewing and evaluating procedures. In addition, the inspection unit or function should evaluate the material resources of the department and the utilization of those resources. This includes, but is not limited to, motor vehicles, communications equipment, computers, office machinery and supplies. The inspection function or unit should report any deficiencies to the COP, and recommend any possible solutions and improvements.
5. 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 citizen advisory councils, religious groups, schools, businesses and other community leaders. These meetings help commanding officers identify potential crisis situations and keep channels of communication open between the Atlantic City Police Department and the community. The disciplinary process is publicized and briefly explained on the department's public website (www.acpolice.org) and from time-to-time during the above-mentioned meetings.

Responsibility for Discipline

- A. The successful implementation of discipline requires the COP to delegate responsibility for the disciplinary process to individual units and supervisors within the agency, and perhaps to Human Resources. Although the levels of authority may vary within the Atlantic City Police Department chain of command, the failure to carry out disciplinary responsibilities at any level in the chain of command will contribute to the Atlantic City Police Department's ineffectiveness. The task of clearly delineating the authority and responsibility to initiate and impose discipline is essential to the Atlantic City Police Department administration.
- B. Every supervisor must establish a familiarity with the Atlantic City 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. If a supervisor fails to follow these procedures or avoids his or her 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 COP.

- C. To provide such direction and control, supervisory personnel is granted the proper authority to carry out their responsibilities. For supervisors to properly exercise their authority, he or she must be fully familiar with applicable Atlantic City Police Department rules and regulations. Supervisory personnel may be permitted to impose specific disciplinary measures (subject to approval of the COP) including oral performance notices, written performance notices and suspensions. In addition, the supervisor should be permitted to make written recommendations for other disciplinary actions and/or remedial actions. The extent of authority is explained in department policy entitled, "Rules and Regulations."

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. It is incumbent upon the Atlantic City Police Department to ensure that its members are fit to safely and effectively perform the duties of their profession. If, for whatever reason, an officer's fitness for duty is questioned, the Atlantic City Police Department must have the officer evaluated by competent professionals to answer that question. If the COP, commander, supervisor or internal affairs investigator has reasonable concerns about an officer's fitness for duty, then he or she is 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 affect an immediate relief from duty pending the outcome of an evaluation and/or investigation. See "Immediate Relief from Duty of an Employee by a Supervisor" with section X of this policy.
- C. At the same time, 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. All officers are encouraged to take advantage of the resources provided by the New Jersey Resiliency Program for Law Enforcement, as well as the other resources identified in AG Directive 2019-1, also known as the "Officer Resiliency Directive."

Requirement 1

- A. Every law enforcement agency must establish, by written policy, an internal affairs function or unit within the agency.
 - 1. The Atlantic City Police Department Internal Affairs Section is herein established and shall be known throughout this policy as the IAS.
 - a. The IAS will consist of department personnel assigned to IAS by the COP.

- b. Personnel assigned to the IAS serve at the pleasure of and are directly responsible to the COP and/or the COP's designated IAS commander(s).
- c. The COP's designated IAS commander(s) have the authority to report directly to the COP.

Duties and Responsibilities

- A. The purpose of the IAS is to establish a mechanism for the receipt, investigation and resolution of officer misconduct complaints. The goal of the IAS 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.
- B. The IAS may investigate minor rule infraction complaints by members of the department or refer minor rule infraction complaints to be investigated by the supervisor(s) of the subject employee(s). Investigators shall recommend disposition(s) and action(s) as permitted by department policy and procedures.
- C. The IAS will investigate serious rule infraction complaints by members of the department and review the adjudication of minor rule infraction complaints investigated by IAS or division, section, bureau and/or unit supervisor(s) of the subject employee(s).
- D. The IAS shall be immediately notified of the below listed incidents via AIM. Once notification has been received, the IAS in consultation with the COP will determine whether additional investigation is necessary and may reclassify one of the below listed incidents for investigation by the IAS, Motor Vehicle Crash Review Board and/or supervisor(s) of the involved employee(s).
 - 1. When an off-duty or on-duty employee discharges a department issued firearm or accidentally or unintentionally discharges any firearm, except in the following situations, shall complete a UOF AIM incident type in accordance with department policy entitled, "Use of Force." The officers completing the UOF AIM incident type shall also immediately notify the IAS Commander(s) by forwarding the UOF AIM incident to them via AIM. The responding supervisor shall also immediately notify the IAS Commander(s) by telephone, preferably through the Communications Bureau.
 - a. Approved firearm discharges that occur during department approved training; or
 - b. Department owned firearm discharges at a Chief of Police or Designee of the Chief of Police approved recreational shooting range/facility; or
 - c. Personally owned firearm discharges during recreational shooting.
 - 2. Use of force incidents that result in injury to a defendant or a third party. All employees who used such force shall complete a UOF AIM incident type in accordance with department policy entitled, "Use of Force." The officers completing the UOF AIM incident type shall also immediately notify the IAS Commander(s) by forwarding the UOF AIM incident to them via AIM.

3. Vehicular pursuits undertaken by department personnel. All officers who operate police department vehicles in vehicular pursuit shall complete a PPIR AIM incident type in accordance with department policy entitled, "Pursuit & Forcible Stopping Guidelines." The officers completing the PPIR AIM incident type shall also immediately notify the IAS Commander(s) by forwarding the PPIR AIM incident to them via AIM.
 4. Vehicular crashes involving police department vehicles. In accordance with department policy entitled, "Motor Vehicle Crash Review Board," the Traffic Section commander will ensure a Traffic Section supervisor is tasked to complete a PDVC AIM incident type, unless the Traffic Section commander is tasked to complete the PDVC AIM incident type. The supervisor completing the PDVC AIM incident type shall also immediately notify the IAS Commander(s) by forwarding the PDVC AIM incident to them via AIM.
- E. The IAS has an obligation to investigate and/or review any allegation of employee misconduct that is a potential violation of the agency's rules and regulations or that indicates the employee is unable, unwilling or unfit to perform his or her duties. 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 City of Atlantic City or while the subject officer was off-duty.
- F. IAS supervisors may conduct an IAS investigation on its own initiative or upon notice to or at the direction of the COP or the IAS commander(s).
- G. IAS investigations are as important to the Atlantic City Police Department as any criminal investigation. Therefore, members of the IAS and members assigned an IAS investigation or minor rule infraction complaint investigation have the authority to interview any member of the Atlantic City Police Department and to review records and reports of the Atlantic City Police Department relative to their assignment. In addition, personnel of the Atlantic City Police Department are instructed that:
1. IAS and members assigned an IAS investigation or minor rule infraction complaint investigation act at the behest of the COP; and
 2. During an IAS investigation or minor rule infraction complaint investigation, every member of the Atlantic City Police Department, regardless of rank, shall treat an order or a request (from a member of the IAS or member assigned an IAS investigation or minor rule infraction complaint investigation) as if the order or request came directly from the COP.
- H. Whether investigated by the IAS or assigned to supervisor(s) of the subject employee(s) for investigation and disposition, the IAS shall use AIM to maintain a comprehensive IAS central file on all complaints received and authorized for an IAS investigation. AIM shall also be used to maintain a comprehensive central file for investigations not authorized for an IAS investigation. Examples of AIM central filing:
1. Serious rule infraction complaints or minor rule infraction complaints authorized for an IAS investigation by the COP shall receive an "IAS" number based on year received and what number case it is for the year. Example: 2015-IAS-0001 should represent the first complaint authorized

for an IAS investigation by the COP which was received in year 2015 via an IA-14 or IA-21.

2. Minor rule infraction complaints not authorized for an IAS investigation by the COP may receive a number based on year and how received. Examples:
 - a. 2015-IA14-0001 may represent an internal agency minor rule infraction complaint reported via an IA-14 which was not approved by the COP to be investigated as an IAS investigation, but reclassified into an IA-25 for investigation by supervisor(s) of the subject employee(s).
 - b. 2015-21N-0001 may represent an internal agency minor rule infraction complaint reported via an IA-21 which was not approved by the COP to be investigated as an IAS investigation. This type of complaint investigation may have been complete when received by the COP or reclassified into an IA-25 for further investigation by another supervisor of the subject employee(s).

Selection of Personnel for the IAS

- A. Personnel assigned to conduct IAS investigations should be energetic, resourceful and committed to the Atlantic City Police Department mission and the IAS function. They must display a high degree of perseverance and initiative. The IAS investigator must maintain an appropriate balance between professional commitment and personal and group loyalties. IAS personnel must be of unquestioned integrity and possess the moral stamina to perform unpopular tasks. It is important that these investigators possess the ability to withstand the rigors and tensions associated with complex investigations, social pressures and long hours of work. The investigator must possess the ability to be tactful when dealing with members of the department and the community. It is recommended that personnel assigned to the IAS provide the Atlantic City Police Department with the opportunity to access all segments of the community. For example, if a particular community has a significant proportion of the population that speaks a foreign language, the COP may assign an officer to the IAS who speaks that language.
- B. Law enforcement executives should assign personnel to internal affairs who have sufficient experience and rank to effectively handle sensitive investigations that may include investigations of supervising officers. In addition, law enforcement executives should encourage (but need not require) officers to complete a tour in the agency's internal affairs function prior to promotion to a leadership position in the agency.
- C. Investigations of officer misconduct may proceed in one of two ways. An investigation may be conducted for the purpose of imposing a disciplinary sanction or initiating a criminal prosecution. The distinction between the two is important because each type of investigation has differing legal requirements. Consequently, it is important that the IAS investigator be familiar with proper investigative techniques and legal standards for each type of proceeding. It is essential that experienced investigators be assigned to IAS investigations. Each investigator must be skilled in interviews and interrogation, observation, surveillance and report writing.

- D. IAS investigators should be trained not only in the elements of criminal law, court procedures, rules of evidence and use of technical equipment, but also in the disciplinary and administrative law process. Initially upon assignment, and on an ongoing basis, these investigators should receive training in internal affairs and disciplinary procedures, including training required by the Division of Criminal Justice.
- E. The COP shall not assign to the IAS any person responsible for representing members of a collective bargaining unit. The conflict of interest arising from such an assignment would be detrimental to the IAS, the subject officer, the person so assigned, the bargaining unit and the department as a whole. In order to maintain the integrity and confidentiality of investigations, any witness and representative present at an interview shall be required to sign and adhere to a non-disclosure agreement. Witnesses shall be required to sign the form attached as **IA-11 / Appendix I**. Representatives shall be required to sign the form attached as **IA-13 / Appendix N**.
- F. 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. One example is if the investigator and the officer are family members or close personal friends. Additionally, agencies should ensure, if feasible, that the initial investigator of a subject officer is not an officer who is a supervisor within the subject officer's chain of command. In rare cases, this requirement may prove difficult to fulfill because an agency is particularly small.
- G. Under no circumstances may a law enforcement agency's internal affairs investigatory function be contracted or delegated to a private entity. Instead, when necessary, law enforcement agencies may request that an internal affairs complaint be investigated directly by the County Prosecutor, who shall determine whether to investigate the matter, refer the matter to the Internal Affairs function of another law enforcement entity, or return the matter to the originating law enforcement agency if the County Prosecutor determines that the original agency can appropriately investigate the matter.
- H. Where appropriate, an agency may enter into an agreement with another law enforcement agency to conduct an Internal Affairs investigation, and smaller law enforcement agencies that consistently have difficulty carrying out the internal affairs function are encouraged to explore regional internal affairs arrangements in concert with other law enforcement agencies.
- I. Nothing in this policy shall prevent a law enforcement agency from retaining a qualified private individual to serve as a hearing officer or an expert witness.

Training of Internal Affairs Personnel

- A. Each agency shall ensure that officers assigned to the internal affairs function complete training as mandated by the Division of Criminal Justice.
- B. Each County Prosecutor shall ensure that each agency within the Prosecutor's jurisdiction implement and maintain a system of ensuring appropriate training for all personnel involved in the agency's internal affairs function.

- C. The Division of Criminal Justice shall conduct periodic “train-the-trainer” courses for all persons assigned responsibility for internal affairs training within the County Prosecutor’s Offices. These trainers shall be responsible to train the internal affairs officers of agencies within their jurisdiction of the County Prosecutor.

Requirement 2- Accepting Reports of Officer Misconduct

- A. Every law enforcement agency shall establish a policy providing that any complaint from a member of the public is readily accepted and fully and promptly investigated. Allegations of officer misconduct or complaints of inappropriate behavior can alert the law enforcement executive to problems that require disciplinary action or identify the need for remedial training. In addition, executives must also recognize that complaints from the public provide them with an invaluable source of feedback. Such complaints, whether substantiated or not, increase the executive's awareness of both actual or potential problems and the community's perceptions and attitudes about police practices and procedures. The executive should use complaints from the public as one means of determining whether the agency is falling short of its intended goals.
- B. Every law enforcement agency must accept reports of officer misconduct from any person, at any time, regardless of the hour or day of the week.
 - 1. All complaints of officer misconduct shall be accepted from the following sources:
 - a. Internal agency;
 - b. External agency;
 - c. Citizen;
 - d. Juveniles;
 - e. Undocumented immigrants;
 - f. Persons under arrest or in custody;
 - g. Anonymous sources.
 - 2. Internal affairs personnel, if available, should accept complaints. If internal affairs personnel are not available, supervisory personnel should accept reports of officer misconduct, and if no supervisory personnel are available, complaints should be accepted by any law enforcement officer. At no time should a complainant be told to return at a later time to file their report.
 - 3. Internal agency complaints shall be accepted as: (1) Misconduct observed by a supervisor; or (2) Misconduct not observed by a supervisor, but reported as a “Reportable Incident” by an employee; or (3) Duties of Employees to Self-Report.
 - a. Misconduct observed by a supervisor:

1. The observing supervisor shall complete an **IA-21N** incident type within AIM attaching all supporting documentation and forward via the chain of command to the Division Commander. The Division Commander shall forward the **IA-21N** to the IAS. The IAS shall forward the **IA-21N** to the COP for action.
 2. If immediate corrective action was taken by the supervisor or the observing supervisor recommends remedial action(s) to correct misconduct, then the observing supervisor shall document the action and/or recommendations within the **IA-21N**.
- b. Misconduct not observed by a supervisor, but reported as a “Reportable Incident” by an employee:
1. The employee reporting the misconduct shall complete an **IA-14** incident type within AIM and forward it via the chain of command to the COP for action.
 2. If the subject of the complaint is in the employee’s chain of command, the employee may submit the **IA-14** to the next level of command above the subject of the complaint or forward directly to an IAS commander.
 3. If the subject of the complaint is the COP, the complainant should submit his or her complaint to the Atlantic County Prosecutor’s Office and County Prosecutor for investigation via the **Atlantic County Prosecutor's Office Internal Affairs Initial Complaint**.
 4. If the complaint involves harassment in the workplace, then see department policy entitled, “Harassment in the Workplace” for reporting the complaint.
- c. Duties of Employees to Self-Report:
1. All employees shall immediately Self-Report by completing a Self-Report “SR” incident type within AIM and forwarding via the chain of command to the COP for action. If the employee believes his or her off-duty victim information is of such gravity that it must be brought to the immediate personal attention of the Chief of Police, then official channels may be bypassed.
 2. Self-reporting includes whenever the employee is or has been:
 - a. Arrested or criminally charged for any conduct.
 1. The Self-Report must be made immediately and in all cases prior to release or leaving the law enforcement agency. In the case of service of criminal charges, the notification

must be made immediately upon the receipt of the charges.

- b. Named as a party in any civil suit involving their conduct while on duty or otherwise while acting in an official capacity.
 - c. Named as a party in any civil suit regarding off-duty conduct while not acting in an official capacity that alleges racial bias, physical violence, or threats of physical violence by an Atlantic City Police Department employee.
 - d. Alleged to have committed an act of domestic violence.
 - e. Issued a motor vehicle summons.
 - f. Suspected in or a target of another agency's investigation.
3. Self-reporting shall also include anytime:
- a. An employee takes official law enforcement action in a situation.
 - b. An employee's case is rejected or dismissed by the Prosecutor for a lack of probable cause by an Atlantic City Police Department.
 - c. Evidence was suppressed by the court as a result of a constitutional, legal or procedural error made by an Atlantic City Police Department.
4. When employees report this information to a supervisor, the supervisor shall directly and immediately report the information to the IAS, in no case more than four hours after receipt of the notification.
5. The IAS shall determine, in consultation with legal counsel, if the report requires an investigation by the IAS. Minimally, an IAS AIM incident shall be created as a means to document any consultation with legal counsel and that an investigation is warranted and will begin unless legal counsel explicitly advises otherwise. **Note:** This provision for consultation of legal counsel may prevent: (1) The IAS from being used as an investigator for the plaintiff; and (2) Claims that the IAS was interfering with the civil case or tampering with witnesses since the civil case will also involve taking of depositions from witnesses.
4. Members of the public should be encouraged to submit their complaints via an **IA-15** as soon after the incident as possible, unless the subject of the complaint is the Chief of Police. If the subject of the complaint is the Chief of Police, the complainant should be supplied an **IA-18** and **Atlantic**

County Prosecutor's Office Internal Affairs Initial Complaint and referred to submit his or her complaint to the Atlantic County Prosecutor's Office and County Prosecutor for investigation

5. External agency 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 documented as stated in number six (6) below so the IAS may immediately investigate. In some jurisdictions, law enforcement agencies may be subject to the oversight of a civilian review board authorized to accept complaints directly from members of the public. If a civilian review board refers a complaint to a law enforcement agency, then those complaints should be forwarded to internal affairs for immediate investigation
 - a. Citizen complaints should be documented as stated in number six (6) below so the IAS may immediately investigate. If the citizen cannot personally appear at the IAS to file the complaint, a member of the Atlantic City Police Department, preferably a member of the IAS, should visit the citizen at his or her home, place of business or other location if necessary to complete an **IA-15**. Under no circumstances shall it be necessary for a citizen to make an **IA-17 / Appendix B** sworn statement to initiate the IAS process.
 - b. Anonymous complaints of improper conduct by an officer shall be accepted. All efforts will be made to encourage full cooperation by the complainant. The investigation of anonymous complaints can be troublesome. However, accurate information about officer wrongdoing may be provided by someone who, for any number of reasons, does not want to be identified. Therefore, an anonymous report must be accepted and investigated as fully as possible. In the event the Atlantic City Police Department receives an anonymous complaint, the officer accepting the complaint shall document the anonymous complaint as stated in number six (6) below so the IAS may immediately investigate. Law enforcement agencies are encouraged to establish systems to 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. Under no circumstances shall it be necessary for a complainant to make a sworn statement to initiate the internal affairs process. Furthermore, every police agency shall accept and investigate anonymous complaints.
 - c. Complaints against a law enforcement executive, or a member of the executive's senior management team, may originate from a member of the public or from an employee of the agency. All such complaints shall be documented and referred to the County Prosecutor for review. If the subject of the Internal Affairs investigation is the Police Chief, Police Director, Sheriff or Head of Internal Affairs, the County Prosecutor or the Attorney General's Office shall handle the investigation. The investigation may involve any type of alleged employee misconduct, as described under Duties and Responsibilities Section E, and shall be conducted pursuant to Requirement 4.A (Investigation of Internal Complaints). In such

matters, the County Prosecutor or the Attorney General's Office shall exercise the authority of the law enforcement executive under Section Investigation and Adjudication of Serious Rule Infraction Complaints.

- d. At the conclusion of the investigation, the internal affairs investigator and/or the investigating agency shall make factual findings, summarize the matter, and indicate the appropriate disposition (Sustained, Unfounded, Exonerated, or Not Sustained) as to each allegation of misconduct. In cases involving Police Chiefs, factual findings and preliminary notices of discipline shall be forwarded to the appropriate authority. While the appropriate authority must make the final decision regarding discipline, the County Prosecutor or the Attorney General may make a non-binding recommendation regarding the discipline to be imposed by the appropriate authority. The County Prosecutor or the Attorney General's Office also may determine that it is appropriate to handle other internal affairs investigations in their discretion. In those cases of supersession, the County Prosecutor or the Attorney General may exercise any or all of the authority of the law enforcement executive under Sections 1.0.5 and 6.3.11 in the Attorney General IAPP. Nothing in this subsection shall be construed to limit the authority of the Attorney General or the County Prosecutor to supersede in any other investigation, criminal action or proceeding.
 - e. Complaints about members of other law enforcement agencies should be referred to that agency. If the complainant expresses fear or concerns about making the complaint directly, the complainant should be supplied an **IA-18** and referred to the Atlantic County Prosecutor Office.
6. The IAS investigator, supervisor or other officer receiving the internal agency, external agency, citizen or anonymous complaint shall:
- a. Explain the department's IAS procedures to the person making the complaint as found on an **IA-16 / Appendix A**.
 - b. 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 these advisements, the department has the following forms:
 - 1. **IA-16 / Appendix A**;
 - 2. **IA-27** through **IA-33**.
7. The IAS investigator, supervisor or other officer receiving an external agency, citizen or anonymous complaint shall:
- a. Supply an **IA-15** to the complainant and request of the complainant to complete and sign the supplied **IA-15**; and
 - b. Explain to the complainant how to complete "Section One," "Section Two" and "Section Three" of the **IA-15**. The **IA-15** should have

adequate written instructions or instructions supplied by the IAS investigator, supervisor or other officer receiving the complaint for proper completion; and

- c. Complete the "CAD#" box of the **IA-15** by obtaining an Atlantic City Police Department computer aided dispatch/records management system case number; and
 - d. Complete "Section Four" of the **IA-15**; and
 - e. Complete an **IA-14** incident type within AIM; and
 - f. Scan and attach any completed **IA-15** to the created **IA-14**; and
 - g. Forward any completed handwritten **IA-15** via interoffice mail to the Internal Affairs Section; and
 - h. Forward the **IA-14** to the supervisors of the subject employee(s) and all IAS commanders.
8. The IAS investigator, supervisor or other officer receiving the complaint may advise the complainant of the importance of providing accurate and truthful information as stated within the IA-16 / Appendix A. 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. Therefore, 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.
9. Although there are complaints against officers that are legitimate and based upon facts, others are contrived and maliciously pursued. Often with the intent to mitigate or neutralize the officer's legal action taken against the complainant. The Atlantic City Police Department shall fully and impartially investigate the former, while taking a strong stand to minimize the latter. The IAS shall notify the Atlantic County Prosecutor via the **Atlantic County Prosecutor's Office Internal Affairs Initial Complaint** in any case where a complainant has fabricated or intentionally misrepresented material facts to initiate a complaint of officer misconduct.
10. 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 assigned investigator should use all available means to determine proper identification. Where civil litigation has been filed and the complainant is a party to or a witness in the litigation, the IAS investigator shall consult with legal counsel to determine whether an IAS investigation is appropriate or warranted.
11. In some cases, a citizen's complaint is based on a misunderstanding of accepted law enforcement practices or the officer's duties. Even if the citizen is satisfied with the explanation of law enforcement practices, the citizen's

satisfaction and resolution shall be recorded formally within the IA-14. The IAS investigator, supervisor or other officer receiving the complaint should attempt to record the citizen's satisfaction by having the complainant complete "Section Three" of the IA-15.

12. The IA-14 and IA-15 each allow for: (1) indication that the matter was resolved to the satisfaction of the complainant; or (2) not resolved to the satisfaction of the complainant; and (3) the date the IA-14 and IA-15 were forwarded to the IAS for review filing and/or investigation if necessary. The IAS Commander or designee of the Commander should periodically audit these types of reports by contacting the complainant and recording the results of such contact within the "Note(s)" section of the applicable IA-14. For example, the "Note(s)" section of the applicable IA-14 may indicate that the citizen was contacted to verify that the matter was in fact resolved to the satisfaction of the citizen as documented within the IA-14 and/or IA-15. This type of audit by the IAS Commander should ensure the Atlantic City Police Department supervisor or other officer receiving the complaint is properly implementing their authority to resolve citizen complaints.
13. Regardless of the means of resolution, the integrity of the IAS process, particularly the receipt of citizen complaints, demands that all internal agency, external agency, citizen and anonymous complaints and inquiries be uniformly documented for future reference and tracking. Internal affairs complaint tracking can be accomplished via an IA-14 and inquiries via an IA-41.
14. Complaints against a law enforcement executive, or a member of the executive's senior management team, may originate from a member of the public or from an employee of the agency. The Atlantic County Prosecutor or designee is the sole arbiter as to who is considered a "Member of the executive's senior management team." All such complaints shall be documented and referred to the County Prosecutor for review. If the subject of the Internal Affairs investigation is the Police Chief, Police Director, Sheriff or Head of Internal Affairs, the County Prosecutor or the Attorney General's Office shall handle the investigation. The investigation may involve any type of alleged employee misconduct, as described in Section 4.1.3, and shall be conducted pursuant to Section 6 (Investigation of Internal Complaints). At the conclusion of the investigation, the internal affairs investigator and/or the investigating agency shall make factual findings, summarize the matter, and indicate the appropriate disposition (Sustained, Unfounded, Exonerated, or Not Sustained) as to each allegation of misconduct. In cases involving Police Chiefs, final dispositions and recommendations shall be forwarded to the appropriate authority. While the appropriate authority must make the final decision regarding discipline, the County Prosecutor may make a non-binding recommendation regarding the discipline to be imposed by the appropriate authority. The County Prosecutor or the Attorney General's Office also may determine that it is appropriate to handle other internal affairs investigations of high-level officials in their discretion.

Requirement 3

- A. The IAS must notify an officer in writing using an IA-19 / Appendix C that a complaint has been made against him or her and that an IAS investigation will begin. Such notification shall not include the name of the complainant. This notification is not necessary if doing so would:

1. Interfere (disrupt, delay, inhibit, restrict, affect, hinder, obstruct, impede, hamper or take over control) with the nature of the investigation; or
2. Require secrecy.

Immediate Relief from Duty of an Employee by a Supervisor

- A. A supervisor is authorized and may immediately relieve an employee from duty pending the outcome of an evaluation and/or investigation if the supervisor determines that one of the following conditions exists:
 1. The employee is unfit for duty; or
 2. The employee is a hazard to any person if permitted to remain on the job; or
 3. An immediate relief from duty is necessary to maintain safety, health, order or effective direction of public services; or
 4. The employee has been formally charged with a first, second- or third-degree crime; or
 5. The employee has been formally charged with a first, second, third- or fourth-degree crime or a disorderly person's offense while on-duty, or the act is directly related to his or her employment.
- B. The supervisor imposing an immediate relief from duty pending the outcome of an evaluation and/or investigation must:
 1. Advise the employee in writing using an **IA-20 / Appendix D** of why an immediate relief from duty is sought and the charges and general evidence in support of the charges.
 - a. If the employee refuses to accept the **IA-20 / Appendix D** written notification of immediate relief from duty, the **IA-20 / Appendix D** shall be given to a representative of the employee's collective bargaining unit.
 2. Provide the employee with sufficient opportunity to review the charges and evidence stated within the **IA-20 / Appendix D** and to respond, either, orally or in writing.
 3. Advise the employee's immediate supervisor in writing of the immediate relief from duty and the facts and circumstances requiring the immediate relief from duty.
- C. Before the immediate relief from duty of an officer, the COP or authorized person should determine which of those criteria apply. The decision whether or not to continue to pay an officer who has been relieved from duty pending the outcome of an evaluation and/or investigation rests with the COP and appropriate authority, who should carefully consider all ramifications of these choices.
- D. Dependent upon the amount of time an employee is to be suspended by the COP and appropriate authority, the department must complete and file formal charges

against the suspended employee by using the most applicable form in the appropriate amount of time or return the employee to work. Examples:

1. **DPF-31A** shall be completed with the employee within five days of the employee being suspended for five (5) days or more.
2. **CS379** shall be completed with an employee being suspended for less than five (5) days.

Requirement 4

- A. All allegations of officer misconduct shall be thoroughly, objectively, and promptly investigated to their logical conclusion in conformance with this policy, regardless of whether the officer resigns or otherwise separates from this agency.

Time Limitations for Investigation of an Internal Affairs Complaint

- A. Under N.J.S.A.40A:14-147, disciplinary charges alleging a violation of the agency's rules and regulations must be filed within 45 days of the date the person filing the charge obtained sufficient information to do so. This "45-day rule" does not apply to disciplinary charges alleging officer misconduct or incapacity. In addition, citizens are not required to make their complaint within 45 days of the incident. But once the agency has received the citizen's complaint, the 45-day rule applies.
- B. It is vitally important that agencies 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.
- C. 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. The simpler the case, the quicker the inquiry should be completed.
- D. 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.
- E. If investigators are unable to complete an internal affairs investigation within 45 days of receiving a complaint, they must notify the agency's law enforcement executive on or about the 45th day. In such situations, the law enforcement executive should seek to identify the reasons for the extended investigation and whether the internal affairs function requires additional resources or oversight to complete the inquiry in a prompt manner. In addition, the law enforcement executive 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.
- F. Investigators are required to provide further notice to the law enforcement executive 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 law enforcement executive should exercise increasing scrutiny of the investigators' work the longer the case remains open.

- G. In the rare cases where the agency has not filed disciplinary charges (or decided not to do so) within 180 days of receipt of the complaint, the agency must notify the County Prosecutor. The County Prosecutor, or their designee, shall investigate the reasons for the extended investigation and shall also examine whether the agency's internal affairs function faces any systemic issues that require additional resources or oversight. The County Prosecutor may take any steps necessary to ensure prompt resolution of the pending matter, including supersession of the agency's investigation. The agency shall provide further notice to the 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). The chart in Figure 1 provides an overview of that information.

Figure 1.

Timing of the Internal Affairs Investigations	
Length of investigation from receipt of complaint	Special notice required
1 to 44 days("Routine")	None. Case resolved in the ordinary course.
45 days ("More complex")	Law enforcement executive
90 days	Law enforcement executive
135 days	Law enforcement executive
180 days ("Rare cases")	County Prosecutor Law enforcement executive
225 days	Law enforcement executive
270 days	County Prosecutor Law enforcement executive

- H. The law enforcement executive should consult with counsel about compliance with the 45day rule, which includes several exceptions and tolling provisions. For example, the "45-day rule" does not apply to internal affairs investigations alleging incapacity. In addition, members of the public are not required to make their complaint within 45 days of the incident. But once the agency 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, agencies will once again be bound by the 45-day rule. Therefore, in the event a county prosecutor has initiated a criminal investigation of an internal affairs matter, the IAS must remain in contact with the county prosecutor on a regular basis to determine the investigation's progress. Where a county prosecutor has decided to terminate a criminal investigation and return the matter to our agency for appropriate disciplinary action, the IAS investigator must be able to document the date on which the county prosecutor disposed of the criminal investigation.

- J. Where this agency can conduct an IAS investigation and file disciplinary charges within 45 days of the receipt of a complaint, the 45-day rule does not become an issue. However, if this 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. Investigators should use an **IA-41** for this chronology.
- K. Along these same lines, it is important that there is no delay between the conclusion of the investigation by the assigned investigator and the decision to file charges by the person who has that responsibility. The need to eliminate bureaucratic delay is one of the reasons that the IAS should be closely aligned with the COP or law enforcement executive.
- L. In addition, all agencies must comply with the time limitations established by N.J.S.A. 40A:14-200 et seq. regarding the imposition of discipline. Lastly, agencies operating under the purview of Title 11 A must comply with the deadlines for disciplinary action imposed by Civil Service Commission Rules N.J.A.C. 4A:1-1.1 and the following.
- M. Retirement or Lay Off
 - 1. Complete the investigation (A principal interview might not be possible.)
 - 2. If administrative charges flow from the investigation, a Notice of Disciplinary Action (**DPF 31A-B**) should be generated and signed by the necessary individuals.
 - 3. If the employee retires after a Notice of Disciplinary Action (**DPF 31A-B**) was generated and signed by the necessary individuals, the Legal Unit shall make notification to the Chief of Police. The retired employee may be affected upon completion of the [Police and Firemen's Retirement System Certification of Service and Final Salary – Retirement](#) form as explained in [Pension Fact # 76 – A Publication of the New Jersey Division of Pensions and Benefits](#), entitled, "Honorable Service."
 - 4. If the officer has been laid off after a Notice of Disciplinary Action (**DPF 31A-B**) was generated and signed by the necessary individuals, the notice should be placed in the officer's personnel file with a memo stating that the charges are being held in abeyance until such time as the officer is rehired.

Investigation and Adjudication of Minor Rule Infraction Complaints

- A. 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. Complaints of demeanor and minor rule infractions should be forwarded to the commanding officer of the subject officer's unit because it is often difficult for an immediate supervisor to objectively investigate a subordinate. In addition, that arrangement might obscure the possibility that part of the inappropriate conduct was the result of poor supervision by the immediate supervisor. While the structure of each law enforcement agency is different, 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. This includes complaints from within the agency. Often Human Resources may need to be notified and involved.

- B. Supervisors investigating minor rule infraction 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. Accordingly, all officers who may be called upon to do an internal investigation must be thoroughly familiar with this policy, including the protection of the subject officer's rights and the procedures for properly investigating internal complaints.
- C. The investigator should interview the complainant, all witnesses and the subject officer, and review relevant reports and documents, gather evidence and conduct any other investigation as appropriate. The investigator should then submit the more applicable report (IA-25 or IA-2, 3, 5-8 as determined by COP or designated IAS Commander(s)), to the COP or appropriate supervisor summarizing the matter and indicating the appropriate disposition within 120 days of receiving the Atlantic County Prosecutor's Office declination letter. Should an extension be needed beyond the 120 days, the investigator should complete and submit an IA-1 for approval by an IAS commander. Appropriate dispositions include:
 - 1. Administratively Closed: In some cases, the complaint or investigation is closed prior to reaching a disposition. These should be counted as "Administratively Closed." Examples include situations when a complainant voluntarily requests that a complaint be withdrawn, or the subject officer terminates his or her employment prior to disposition of the complaint.
 - 2. Exonerated: A preponderance of the evidence shows the alleged conduct did occur, but did not violate any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standard operating procedure; rule; or training. (For example, at the conclusion of an investigation into an excessive force allegation, the agency finds that the officer used force (alleged conduct) but that the force was not excessive (alleged violation).)
 - 3. Sustained: The investigation disclosed sufficient evidence to prove the allegation and the actions of the officer violated a provision of the agency's rules and regulations or procedures.
 - 4. Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
 - 5. Unfounded: A preponderance of the evidence shows that the alleged conduct did not occur.
- D. If the investigator determines that the complaint is administratively closed, exonerated, not sustained, or unfounded, the report is to be submitted to the COP or appropriate supervisor summarizing the matter and indicating the appropriate

disposition. Upon the COP approving the disposition and applying action(s) to occur, the report shall be forwarded to the IAS for review and entry in the index file and the report filed.

- E. If the complaint is sustained, the report is to be submitted to the COP or appropriate supervisor summarizing the matter and indicating the appropriate disposition. The superior officer so authorized should recommend the appropriate disciplinary action(s). Typical disciplinary actions for minor rule infraction complaints include oral performance notices or written performance notices. Upon the COP approving the disposition and applying action(s) to occur, the report shall be forwarded to the superior officer so authorized by the COP. The superior officer so authorized by the COP shall complete the appropriate disciplinary document and provide a copy of that document to the officer being disciplined (e.g., via AIM incident type Notice of Disciplinary Action (NDA)). A copy of the disciplinary document shall be forwarded to the COP or appropriate supervisor for review, placed in the officer's personnel file and sent to the IAS for entry into the index file.
- F. Each agency should establish its own protocol for reviewing and purging oral performance notices from an employee's personnel file. Written performance notices should remain permanently in the employee's personnel file. See department policy entitled, "Police Department Employee Files" for filing and retention.

Requirement 5

- A. The Atlantic City Police Department IAS shall notify subject officers and complainants the outcome to an investigation.
 - 1. If the allegation was administratively closed, unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian complainant.
 - 2. If the allegation was not sustained, the **IA-30** shall provide the complainant with a brief explanation why the complaint was not sustained (e.g., insufficient proof, lack of witnesses, etc.).
 - 3. If the allegation was sustained and discipline was imposed, the **IA-31** shall simply state that the allegation was sustained and that the subject officer has been disciplined according to department procedures. It is not necessary to specify the discipline imposed.
- B. One or more of the following correspondences should be used to properly advise complainants:
 - 1. **IA-28** and/or **IA-28a** Administratively Closed;
 - 2. **IA-29** and/or **IA-29a** Officer Exonerated;
 - 3. **IA-30** and/or **IA-30a** Not Sustained;
 - 4. **IA-31** and/or **IA-31a** Sustained;
 - 5. **IA-32** and/or **IA-32a** Unfounded;

- C. Should there not be a final disposition within 30 days from the receipt of the complaint, an **IA-33** Progress Letter may be sent to the complainant every 30 days until final disposition is reached.
- D. Law enforcement officers also should be aware that the Office of the Attorney General ("OAG") has advised the public that, if a complainant has not received appropriate notification pursuant to this AG Directive, the complainant first must contact the local police department handling the complaint. After taking that step, if the issue is unresolved, the complainant may call the county prosecutor's office overseeing that police department. Then, if the issue remains unresolved, the complainant may contact the Office of the Attorney General at 1(833)-4-SAFENJ or at www.safestopnj.com/complaint. OAG will provide an update on the status of the complaint within 30 days of receipt of the complaint.

Requirement 6

- A. Where preliminary investigation indicates the possibility of a criminal act on the part of the subject officer or the investigation involves the use of force by the subject officer which results in serious bodily injury or death, the county prosecutor must be notified immediately. In either case, no further action should be taken, including the filing of charges against the subject officer, until directed by the county prosecutor.

Investigation and Adjudication of Serious Rule Infraction Complaints

- A. All serious rule infraction complaints as defined by this policy shall be forwarded to the IAS. Serious rule infraction complaints includes complaints for conduct such as retaliation, insubordination, drunkenness on duty, sleeping on duty, neglect of duty, false statements or malingering, as well as the following: criminal activity, excessive force, improper arrest, improper entry, improper search, differential treatment, complaints of domestic violence and repeatedly occurring, multiple different and simultaneously occurring, or multiple different and separately occurring minor rule infraction complaints.
- B. Unless otherwise directed to do so by the county prosecutor, the 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 county prosecutor unless an imminent threat exists to the safety or welfare of an individual. Once a complaint has been forwarded to the prosecutor's office, the prosecutor's office shall endeavor to review the allegation within 30 days and advise the Atlantic City Police Department whether a criminal investigation will be conducted. In the event the prosecutor's office cannot reach a decision within the initial 30-day period, the deadline may be extended in 30 day increments at the discretion of the county prosecutor. The Atlantic City Police Department shall be advised of any extensions of the deadline.
- C. If a criminal investigation is initiated, the Atlantic City Police Department shall receive periodic and timely updates concerning the course of the investigation. While a criminal investigation is pending, complainants and witnesses may be referred by the Atlantic City Police Department to the county victim witness office for information concerning the criminal investigation. Once the criminal investigation is complete and a disposition of the allegation has been made, the prosecutor's office shall provide the Atlantic City Police Department with its investigative file for use in the internal affairs investigation subject to applicable State statutes, court rules and case law. If the prosecutor's office declines to

initiate a criminal investigation or the investigation is administratively closed, the Atlantic City Police Department shall be advised of the outcome in writing.

- D. As for administrative complaints, the internal affairs supervisor or COP will direct that an internal affairs investigator conducts an appropriate investigation. The investigator should then submit an **IA-2, 3, 5-8** to the COP or appropriate supervisor summarizing the matter and indicating the appropriate disposition within 120 days of receiving the Atlantic County Prosecutor's Office declination letter. Should an extension be needed the investigator should complete and submit an **IA-1** for approval by an IAS commander.
- E. Investigators must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer. IAS investigators, and anyone who may be called upon to do an internal investigation, must be thoroughly familiar with this policy, including the protection of the subject officer's rights and the procedures for properly investigating complaints made with the IAS.
- F. The IAS shall notify the suspect officer in writing via an **IA-10 / Appendix J** that an internal investigation has been started, unless the notification would interfere with the nature of the investigation or require secrecy. The internal affairs investigator should interview the complainant, all witnesses and the subject officer, review relevant reports and documents, and obtain necessary information and materials.
- G. An administrative investigation may commence with the disposition of a complaint against the subject officer by the Superior Court or a municipal court. In the alternative, an administrative investigation may commence with a county or municipal prosecutor's decision to dismiss a complaint against a subject officer. A finding of guilt by the Superior Court or a municipal court may assist in resolving an administrative investigation because such a finding requires proof beyond a reasonable doubt, which is more than is required to meet the burden of proof in administrative matters.
- H. In the alternative, a disposition that does not involve a finding of guilt by the courts or where a complaint is dismissed by a county or municipal prosecutor means that proof beyond a reasonable doubt is absent. However, it does not mean that an administrative investigation cannot be pursued or must be closed. The absence of proof beyond a reasonable doubt does not foreclose the possibility that an investigation may reveal evidence that meets the burden of proof in administrative matters. Thus, the internal affairs investigator must continue the administrative investigation to determine whether evidence can be developed that meets the preponderance of the evidence, burden of proof for administrative proceedings.
- I. Upon completing an IAS investigation, the investigator will recommend a disposition for each allegation through the IAS chain of command to the COP. As previously described, these dispositions may include administratively closed, exonerated, sustained, not sustained or unfounded. Each level of review may provide written recommendations and include comment for consideration by the COP, as documented within the **IA-8**. The COP, upon reviewing the report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action be deemed appropriate. If the complaint is administratively closed, unfounded or not sustained or the subject officer is exonerated, that disposition shall be entered in the index file and the report filed.

- J. If the complaint is sustained and it is determined that formal charges should be made, the COP as defined in the footnote to section 1.09 of the Attorney General IAPP, will direct either the IAS 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. This form will also be served upon the officer charged in accordance with N.J.S.A. 40A:14-147 (e.g., Preliminary Notice of Disciplinary Action **DPF 31-A**). The notice of charges and hearing shall direct that the subject officer may: 1) enter a plea of guilty to the charges; 2) enter a plea of not guilty to the charges; or 3) waive his or her right to a hearing. If the subject officer enters a plea of guilty or waives his or her right to a hearing, he or she is permitted to present mitigating factors prior to being assessed a penalty. Conclusions of fact and the penalty imposed will be noted in the subject officer's personnel file after he or she has been given an opportunity to read and sign it. The IAS will cause the penalty to be carried out and complete all required forms.
- K. If the subject officer enters a plea of not guilty and requests a hearing, the COP will set the date for the hearing as provided by statute and arrange for the hearing of the charges. The IAS may 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.
- L. The hearing shall be held before the designated hearing officer. 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.
- M. 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 Atlantic City Police Department's overall disciplinary system as stated in this department policy and department policy entitled, "Rules and Regulations."
- N. 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 and to the COP (if he or she was not the hearing officer) for the imposition of discipline. Upon completion of the hearing, the COP will complete all required forms (e.g., Final Notice of Disciplinary Action **DPF-31C**), including the entry of the disposition in the index file. 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 subject officer's or employee's personnel file.
- O. Upon final disposition of the complaint, in cases where the officer was not notified of the outcome through some written form of discipline, the subject officer shall be notified of the outcome of the case through a written internal department communication. In all cases, a letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was administratively closed, unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian complainant. If the allegation was not sustained, the **IA-30** 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 **IA-31** shall simply state that the

allegation was sustained and that the officer has been disciplined according to department procedures. It is not necessary to specify the discipline imposed.

Domestic Violence Incidents Involving Agency Personnel

- A. Law enforcement personnel may become involved in domestic violence incidents. It is important to the integrity of the agency, the safety of the victim and the career of the officer that such matters are handled appropriately. Thus, it is imperative that every law enforcement agency establish a policy for investigating and resolving domestic violence complaints involving its employees. See department policy entitled, "Employee Involved Domestic Violence."
- B. Whenever an officer is involved in a domestic violence incident, either as an alleged perpetrator or as a victim, internal affairs must be promptly notified. Where the officer was the alleged perpetrator, investigating officers must seize his or her service weapon or any other weapon possessed, as mandated by New Jersey Attorney General Directives 2000-3 and 2000-4.
- C. Every law enforcement agency should promulgate a rule which requires any officer or employee to notify the agency if he or she has been charged with an offense, received a motor vehicle summons or been involved in a domestic violence incident. In cases of domestic violence, the investigating agency should also notify the employing agency's internal affairs investigators as soon as possible. See department policies entitled, "Early Warning Alert System" and "Rules and Regulations."
- D. 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.
- E. 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. If the report is that the officer is the victim of domestic violence, it should still be recorded and followed up in case employee assistance is warranted. See department policy entitled, "Employee Assistance Program."
- F. If a criminal charge has been filed, the IAS must notify the county prosecutor immediately even if the incident took place in another county. As the chief law enforcement officer of the county, it is critical that a prosecutor be made aware of any outstanding criminal charges against any law enforcement officer in his or her county.
- G. The IAS is responsible for reviewing the incident's investigation and conducting whatever further investigation is necessary to determine if the officer violated department rules and regulations or if the officer's fitness for duty is in question. In addition, the IAS will track the proceedings of any criminal charges or civil matters that may arise out of the incident. See IA-38c for tracking criminal charges and AIM incident type Civil Action/Legal process (CALP) for tracking civil matters. The IAS will also work with the Division of Criminal Justice or the county prosecutor to determine if and when an officer may have his or her weapon(s) returned.

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 department both among its ranks and the public at large.
- B. As with all other investigations, lawful procedures must be used to gather all evidence pertaining to allegations against a law enforcement officer. Investigations for internal disciplinary or administrative purposes involve fewer legal restrictions than criminal investigations. Restrictions that do exist, however, must be recognized and followed. Failure to do so may result in improperly gathered evidence being deemed inadmissible in court. Restrictions that apply to internal affairs investigations may have their basis in State statutes, case law, collective bargaining agreements, local ordinances, Civil Service Commission rules or agency rules and regulations. Internal affairs investigators shall familiarize themselves with all of these provisions.
- C. 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 citizens' concerns, even those that appear to be unfounded or frivolous. If such complaints are not documented or handled appropriately, citizen dissatisfaction will grow, fostering a general impression of agency insensitivity to community concerns.
- D. Should the complainant voluntarily request that their complaint(s) be withdrawn, then this request should be documented upon an **IA-36** or other appropriate documentation (e.g., the complainant may be anonymous).
- E. The internal affairs investigator may use any lawful investigative techniques including inspecting public records, questioning witnesses, interviewing the subject officer, questioning agency employees and surveillance. The investigator therefore must understand the use and limitations of such techniques.
- F. 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.
- G. Interviewing the Complainant and Civilian Witnesses
 - 1. The investigator assigned an internal case for 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 county prosecutor shall be immediately notified of the internal affairs investigation.
 - 2. 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 county prosecutor and the complainant's defense attorney.

3. The complainant should be personally interviewed. 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, complete address, telephone numbers and area codes, race or ethnic identity, sex, date of birth, place of employment, social security number if necessary and place of employment (name and address).
4. 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.
5. 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 on an **IA-17 / Appendix B**.
6. 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

H. Reports, Records and Other Documents

1. All relevant reports should be obtained and preserved as expeditiously as possible. Internal department 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 log pertaining to or completed by the officer.
2. 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. In these cases, the relevant data should be copied to an appropriate medium as soon as possible and retained by internal affairs.
3. 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, subpoena, **IA-35** and/or **General Receipt** may be necessary to obtain the information.

4. The **IA-6** should be used to log all reports, records and other documents which are part of/attached to the internal investigation file.

I. Physical Evidence

1. Investigators should obtain all relevant physical evidence. All evidence, such as fingerprints, clothing, hair or fabric fibers, bodily fluids, stains and weapons should be handled according to established evidence procedures. See department policy entitled, "Evidence & Property Control."
2. With respect to audio and video recordings, the original recording is the best evidence and should be secured at the investigation's outset. Transcripts or copies of the original recordings can be used as investigative leads. Entire audio and video recordings should be reviewed to reveal the totality of the circumstances. Completion of an **Audio Request Form** or **Video Request Form** may be necessary to obtain audio or video recordings from the Atlantic City Police Department Communications Bureau. See department policy entitled, "Records."

J. Photographs

1. 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.
2. Photographs also can be used to create a record of any other matter the investigator believes is necessary. Whenever possible, digital color photography should be used.
3. The Atlantic City Police Department should maintain a recent photograph of each officer. These 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. The photo array must be constructed so as not to be unfairly suggestive. The same rule applies to live lineups. See New Jersey Attorney General Guidelines for Preparing and Conducting Photo and Live Lineup Identification Procedures; October 4, 2012, Memorandum and Revised Model Eyewitness Identification Procedure Worksheets.

K. Physical Tests

1. Police officers who are the subjects of internal investigations may be compelled to submit to various physical tests or procedures to gather evidence. 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:
 - a. Breath sample
 - b. Blood sample
 - c. Buccal swab

- d. Requiring suspect to speak
 - e. Voice recordings
 - f. Participation in a lineup
 - g. Handwriting samples
 - h. Hair and saliva samples
 - i. Urine specimens
 - j. Video taping
 - k. Field sobriety tests
- 2. 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.
 - 3. 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.

L. Drug Testing

- 1. The testing of law enforcement officers in New Jersey for the illegal use of drugs is strictly regulated by the New Jersey Attorney General's Law Enforcement Drug Testing Policy and this department's policy entitled, "Drug Testing." These policies permit the testing of applicants and trainees for law enforcement positions. It further specifies that veteran law enforcement officers may only be tested for drugs if reasonable suspicion exists that they are using drugs or if they have been chosen as part of a regulated 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 Law and Public Safety.
- 2. The New Jersey Attorney General's Law Enforcement Drug Testing Policy and this department's policy entitled, "Drug Testing" 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. Every officer assigned to the IAS should be familiar with the New Jersey Attorney General's Law Enforcement Drug Testing Policy and this department's policy entitled, "Drug Testing."

M. Polygraph

1. 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 person's 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.
2. 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 citizen complainants. In addition, a victim of sexual assault cannot be asked or required to submit to a polygraph examination.

N. Search and Seizure

1. All citizens, 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. The internal affairs investigator must be cognizant of the various principles governing search and seizure, particularly where the investigator will conduct a search as part of a criminal investigation or will search personal property belonging to the subject officer.
2. 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 his or her 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 should consult with the county prosecutor's office before undertaking the search of any workplace area in a criminal investigation.
3. 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.
4. 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.

5. However, employees may have a greater expectation of privacy in their own lockers, assigned desks or possibly in a vehicle assigned to them solely for their use. If a department intends to retain the right to search property it assigns to officers for their use, including lockers and desks, it should put officers on notice of that fact. This notification will help defeat an assertion of an expectation of privacy in the assigned property. The agency should issue a directive regarding this matter and provide notice of the policy in any employee handbook or personnel manual (including the rules and regulations) the agency provides. Notice should also be posted in the locker area and on any bulletin boards. In accordance with department's policy entitled, "Rules and Regulations," the following is hereby notice to all Atlantic City Police Department employees:

- a. The department may assign to its members and employees departmentally owned vehicles, lockers, desks, cabinets, etc., for the mutual convenience of the department and its personnel. Such equipment is and remains the property of the 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.
- b. In addition, if the department permits officers to use personally owned locks on assigned lockers and other property, it should be conditioned on the officer providing the department with a duplicate key or the lock combination.

6. With the introduction of new technologies in law enforcement, it may become necessary to search computers and seize their contents. The critical question remains whether the public employee has a reasonable expectation of privacy in information stored in a computer. While the determination of a reasonable expectation of privacy must be decided on a case-by-case basis, the law enforcement agency should take steps to actively and affirmatively diminish this expectation. The agency should state, in writing, that it retains the right to enter and review the contents of any department-issued computer at any time. In accordance with department's policies entitled, "Rules and Regulations" and "Computer Use Policy," the following is hereby notice to all Atlantic City Police Department employees:

- a. The department may assign to its members and employees departmentally owned computers for business purposes. Such computer equipment and its contents are and remain the property of the department. Personnel are prohibited from installing unauthorized software and from storing personal information in the computer, regardless of any password protection or encryption. The computers, their contents, and any email or electronic correspondence originating from or arriving at the department

computer are the property of the department and are subject to entry and inspection without notice.

7. The courts routinely examine agency practice in evaluating the expectation of privacy. Written notification thus would quickly be nullified if representatives of the agency never entered or inspected any of these areas. In addition to notifying employees of the department's right to search and inspect, the agency should also, with some regularity, inspect these areas to establish the practice coinciding with the policy. Any search of departmental or personal property should be conducted in the presence of the subject officer and a property control officer. A voluntary consent to a search may preclude some Fourth Amendment problems. A consent search eliminates the need to determine what threshold standard must be met before conducting the search or seizure, either for an administrative or criminal investigation. For consent to be legally valid in New Jersey, a person must be informed that he or she has the right to refuse to permit a search (*State v. Johnson*, 68 N.J. 349 (1975)). If a consent search is undertaken, the internal affairs investigator shall follow standard law enforcement procedures and have the subject officer sign a consent form after being advised of the right to refuse such a search.

O. Electronic Surveillance

1. 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:
 - a. "Wire communication," which essentially means any conversation made over a telephone (N.J.S.A. 2A:156A-2a);
 - b. "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);
 - c. "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
 - d. "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).
2. All of these forms of communication are protected from intrusion and interception except under very narrowly defined exceptions.
 - a. 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.
 - b. Another exception exists where a person, acting at the direction of an investigative or law enforcement officer, gives prior consent to intercept a wire, electronic or oral communication and is a party to

the communication. This "consensual intercept" can only be made after the New Jersey Attorney General or a county prosecutor, or their designee, approves it.

3. 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. Department policy entitled, "Audio/Video Recordings" dictates procedures for such recordings. This kind of law enforcement non-third-party intercept can be used during internal affairs investigations.
4. 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 should consult with their county prosecutor because it may be necessary to obtain a court order to so use it.
5. The monitoring of 9-1-1 telephone lines is required by law. Nothing prohibits the monitoring of other telephones used exclusively for departmental 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.
6. The New Jersey Wiretap Act applies only to oral, wire and electronic communications. While not specifically covered by this law, reasonable limitations should exist on video surveillance. The primary issue is one of privacy. Video surveillance, especially covert surveillance, should not be used in areas where employees have a high expectation of privacy, such as locker rooms and bathrooms. In public areas, video surveillance may be used. In many law enforcement agencies, certain areas such as lobbies, cell blocks and sally ports have video surveillance for security reasons. Video obtained from these sources is applicable to internal investigations. Questions about the specific application of video surveillance, especially covert surveillance, should be addressed to the county prosecutor's office. It must be emphasized that this refers to video surveillance with no sound recording component.
7. Many law enforcement agencies use in-car video systems, which record the video image from a camera mounted in the car and an audio signal from a microphone worn by the officer. These recordings 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.
8. Some agencies equip their patrol vehicles or other vehicles with Global Positioning System (GPS) devices. These 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 his or her whereabouts when performing police duties.

P. Lineups

1. A law enforcement 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. The lineup must be constructed so as not to be unfairly suggestive. The same rule applies to photo arrays. See New Jersey Attorney General Guidelines for Preparing and Conducting Photo and Live Lineup Identification Procedures; October 4, 2012, Memorandum and Revised Model Eyewitness Identification Procedure Worksheets.

Q. Investigation of Firearms Discharges

1. All incidents involving officer non-training firearm discharges, whether occurring on or off duty, must be thoroughly investigated. Whenever a firearm discharge results in injury or death, the county prosecutor and internal affairs must be notified immediately. IAS personnel will proceed in the investigation as directed by the prosecutor, and should review all administrative reports the department requires. These reports should include a description of the incident, the date, time and location of the incident, the type of firearm used, the type of ammunition used and number of rounds fired, the identity of the officer, and any other information a superior officer request. The involved officer's supervisor should assist the internal affairs investigator as needed.
2. The Atlantic County Prosecutor's Office has established a "Shooting Response Team" (SRT) to investigate the discharge of a firearm by a law enforcement officer. The SRT should coordinate their investigations with the IAS. Officers investigating firearm discharges must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer. All supervisors and any other officer who may be called upon to do a firearm discharge investigation therefore must be thoroughly familiar with the department's entire internal affairs policy, including protection of the subject officer's rights and the procedures for properly investigating firearm discharges.
3. The investigator must consider relevant law, any New Jersey Attorney General or county prosecutor policies and guidelines, and agency rules, regulations and policy. In addition to determining if the officer's actions were consistent with department regulations and policy, the internal affairs investigator should also examine the relevance and sufficiency of these policies. The investigator should also consider any relevant aggravating or mitigating circumstances.
4. The investigation of a shooting by an officer should include photographs, ballistics tests, and interviews with all witnesses, complainants and the officer involved. All firearms should be treated as evidence according to departmental procedures. A complete description of the weapon, its make, model, caliber and serial number must be obtained and, if appropriate, N.C.I.C. and S.C.I.C. record checks should be made.
5. In a firearm discharge investigation, the investigator must determine if the weapon was an approved weapon for use by 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. See department policy entitled, "Authorized Weapons & Ammunition."

6. Any public statements by a law enforcement agency about the conduct of law enforcement officers involved in a firearm discharge require approval by the County Prosecutor or the Attorney General's Office, depending upon which entity is supervising the investigation.
7. In cases where discharge of a firearm does not result in criminal charges, the prosecutor, OPIA, or other designee of the Attorney General will refer the incident back to the agency for an internal affairs administrative review.

R. Collateral Issues

1. The work of the IAS should not be limited to resolving citizen reports by narrowly focusing on whether the subject officer engaged in misconduct. In many cases, the examination of collateral issues presented by the citizen's report 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.
2. Examining collateral issues can provide the Atlantic City Police Department and its executive officers with information concerning:
 - a. The utility and effectiveness of the department's policies and procedures. See department policy entitled, "Written Directive System" for requesting a new policy or change to an existing policy.
 - b. The competency and skills of individual law enforcement officers.
 - c. Appropriate topics for in-service training programs.
 - d. The allocation of resources by the law enforcement agency and other municipal agencies.
3. 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 law enforcement agency 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 department. An internal affairs process that is objective and complete is critical to the credibility and reputation of the law enforcement agency within the community.

S. Interviewing Members of the Department (General Background)

1. 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. The information gained during such an interview often will go a long way toward resolving the matter, regardless of the outcome. Atlantic City Police Department employees shall answer truthfully all questions and/or interrogatories by investigators/supervisors of an internal affairs complaint. Atlantic City Police Department employees are hereby notice of the following:
 - a. You are subject to violations of Departmental Regulations and that of the New Jersey Criminal Code 2C:28-3 (a crime of the fourth degree), if you provide false or misleading information. Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties, leading to termination and/or imprisonment.
2. Previous to an interview and/or following an interview, the investigator may require an employee to submit an **IA-26** written report detailing relevant facts in the investigation. If an **IA-26** written report is required, the investigator and involved employee(s) shall:
 - a. Investigator:
 1. Advise subject employees via an **IA-10 / Appendix J**;
 2. Advise witness employees via an **IA-11 / Appendix I**;
 3. Provide the subject or witness employees with the background information regarding the nature and timeframe of the complaint via an **IA-26**;
 - b. Involved Employee(s):
 1. Be subject to violations of Departmental Regulations and that of the New Jersey Criminal Code 2C:28-3 (a crime of the fourth degree), if false or misleading information is provided by him or her.
 2. Answer within an **IA-26** with "acceptable responses." "Not applicable" or "N/A" are not "acceptable responses."
3. Answer the stated "Summary of Complaint and/or attached **IA-14** AIM incident type within the **IA-26** by:
 - a. Explaining his or her own actions and observations;
 - b. Explaining his or her own knowledge involving the internal affairs complaint and/or ACPD Case #;
 - c. Supplying the name(s) of any and all employees on scene and/or involved in any way for this complaint and/or ACPD Case #;
 - d. Supplying the name(s), address(es) and contact number(s) of any and all witnesses for this complaint and/or ACPD Case #;

- e. Supplying any other factual information, you are aware of which concerns the performance of duty of another employee for this complaint and/or ACPD Case #;
 - f. Supplying any other factual information, you are aware of which concerns your own performance of duty for this complaint and/or ACPD Case #;
 - g. Supplying any information surrounding this investigation that you know or knew [directly or indirectly] that hasn't been asked and/or answered;
 - h. Attaching any supporting document(s)/file(s) that were requested of you or that you would like considered in regards to this investigation;
 - i. Providing any original paper document via interoffice mail or in-person delivery;
 - j. Answering all interrogatories (also known as requests for further information), which are a formal set of written questions.
4. Answer the **IA-26** within 24 hours of receiving the **IA-26**. Should the receiving employee have already logged on and checked AIM for the employee's tour of duty and not be in receipt of an **IA-26** or be on a regularly scheduled day off, detailed for the day, etc., then the employee shall within 24 hours of the employee's first day of returning to work answer the **IA-26**.
5. The difficulty in conducting officer interviews, particularly subject officer interviews, is the differing legal principles that apply depending on the nature of the interview and the type of investigation being conducted. For example, a subject officer suspected of criminal conduct will be interviewed in a manner far different than an officer suspected of committing just a disciplinary infraction. A further distinction may be made when the officer to be interviewed is believed to be a witness to either criminal conduct or an administrative infraction.
6. While a police officer has the same constitutional rights as any other citizen during a criminal investigation, their status as a police officer may create special concerns. For the most part, the internal affairs investigator should utilize the same procedures and apply the same legal principles to the subject officer as he or she would to any other target or suspect in a criminal investigation. However, the internal affairs investigator should recognize that the interview process of a police officer is somewhat different than that of any other citizen.
7. A police officer has the same duty and obligation to his or her 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 agency, whether law enforcement officer or civilian. If the investigation reveals evidence of misconduct not based on the original complaint, an investigation concerning this secondary misconduct should be conducted by completing the investigation with recommendations, or by completing an **IA-9**, **IA-21**, and/or **Body Worn Camera Review** and forwarding it to an IA Commander for approval.

8. For the internal affairs investigator, it is critical to distinguish between those investigations involving potential criminal conduct and those limited to administrative disciplinary infractions. The investigator also must be able to identify and apply the appropriate procedures to be utilized during the interview process in either a criminal or an administrative investigation. Failure to identify and apply the appropriate procedures can compromise and render inadmissible evidence gathered during the interview process in a criminal investigation or needlessly complicate the interview process during an administrative investigation.
9. The vast majority of internal affairs investigations will be limited to alleged disciplinary infractions and the vast majority of law enforcement officer interviews conducted during an internal affairs investigation will be limited to gathering evidence of disciplinary infractions. But in cases of a potential criminal violation, it is absolutely necessary that the internal affairs investigator coordinate officer interviews with the county prosecutor's office.
10. Because the county prosecutor is ultimately responsible for prosecuting criminal cases, the internal affairs investigator shall defer to the prosecutor's supervision and direction in conducting officer interviews. The investigator shall consult with the county prosecutor prior to initiating an officer interview in matters that could involve criminal conduct, and shall pay particular attention to the county prosecutor's instructions concerning the types of interviews to be conducted and procedures to be utilized (e.g., Miranda warning, Garrity warning, etc.).
11. 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 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.
12. 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 his or her 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 his or her statement will not be used against him or her in a criminal case is called a Garrity warning (**IA-23 / Appendix H**). 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 because the county prosecutor has decided to provide the officer with "use immunity."

13. It is for this reason that the internal affairs investigator must continually reassess the nature of an internal affairs investigation as evidence is being gathered. Having initially determined that a particular allegation is criminal or administrative in nature, it is important for the internal affairs investigator to revisit that decision during the course of an investigation to determine whether any of the evidence gathered following the initial determination changes the investigation's nature and scope. If the nature and scope of an investigation change, the investigator must be prepared to change the methods and procedures he or she utilizes to reflect the new focus. For example, if an investigator initially determines that an allegation appears to be a disciplinary matter but later evidence leads the investigator to conclude that criminal conduct may have occurred, he or she must cease using the methods and procedures appropriate for an administrative investigation and notify the county prosecutor immediately before proceeding further.
14. In the sections that follow, the details of interviewing law enforcement officers in internal matters will be discussed. The chart in **Figure 1** provides an overview of that information.
15. Serious rule infraction complaints may implicate both a violation of a criminal statute and the Atlantic City Police Department's rules and regulations. As a result, a criminal investigation and an administrative disciplinary investigation may be needed to properly resolve a misconduct complaint. Where both a criminal and an administrative disciplinary investigation are needed, the internal affairs investigator from the subject officer's agency is often expected to conduct both. Under these circumstances, the methods employed in the criminal investigation conflict with those used in the administrative investigation.
16. Typically, this conflict will become most apparent during subject officer interviews. As already explained, a subject officer has the right to remain silent during a criminal investigative interview. But the same officer must cooperate and answer questions posed by his or her employer during an administrative disciplinary interview. So, while the internal affairs investigator cannot require a subject officer to answer questions during a criminal interview, he or she can require that officer to answer questions during an administrative disciplinary interview.
17. The confusion caused by these issues can be alleviated several ways. One way is to separate the investigations by time - - the criminal investigation is completed first and then the administrative investigation may follow. Another way is to conduct bifurcated investigations. In a bifurcated investigation, the responsibility for a criminal investigation is separated from that for an administrative investigation. Thus, one investigator (typically from the prosecutor's office) is assigned the responsibility of gathering evidence of criminal wrongdoing while a second (typically the

internal affairs investigator from the subject officer's agency) is assigned the responsibility of gathering evidence of a disciplinary infraction.

18. With a bifurcated investigation, the internal affairs investigator will not be forced to juggle the roles of criminal and administrative investigator during an internal affairs investigation. This is particularly important during the subject officer interview for three reasons. First, the internal affairs investigator will not be forced to decide whether and when to issue a Miranda (**IA-12 / Appendix G**) or a Garrity warning (**IA-23 / Appendix H**) during the interview. In a bifurcated investigation, the criminal investigator will be limited to issuing a Miranda warning while the administrative investigator will be limited to issuing a Garrity warning. Second, by assigning distinct roles to each investigator, there will be no confusion on the part of the subject officer as to the particular interview's purpose. Third, because a bifurcated investigation permits both the criminal and administrative investigations to take place simultaneously, the administrative investigator can be confident that, once the criminal investigation has been completed, the administrative investigation will also be substantially complete. As a result, the subject officer's agency will have no difficulty complying with the 45-day rule under N.J.S.A. 40A:14-147.

Requirement 7

- A. Whenever a possibility exists that the investigation may result in criminally prosecuting the subject officer or that the county prosecutor may be conducting a separate criminal investigation, the internal affairs investigator must consult with the county prosecutor prior to interviewing the officer.
 1. Criminal Investigation, Officer is Subject
 - a. Once an investigation becomes criminal in nature, the subject officer shall be advised of his or her right against self-incrimination consistent with the requirements of the law and this policy. Criminal interviews should be conducted only with the prior approval, or at the direction, of the county prosecutor.
 - b. The need to issue Miranda warnings generally is triggered whenever an individual's questioning is custodial in nature. For custodial interviews, the question is whether a reasonable person would believe that he or she is free to leave. So, a subject officer who is not free to leave a criminal interview should be provided a Miranda warning. The **IA-12 / Appendix G** should be used for this purpose.
 - c. However, the internal affairs investigator should be aware that other factors may also serve to affect a subject officer's decision to answer questions during a criminal interview. For example, directing an officer to appear at a particular time and place may generate confusion on the officer's part as to whether he or she is being required to participate in the interview. When these circumstances or any other questions as to the need to provide a warning in criminal interviews are present, the internal affairs investigator should always consult with the county prosecutor regarding whether the subject officer should be advised of his or her right against self-incrimination.

- d. If the subject officer waives his or her rights, the interview may then continue. Unless the subject officer specifically waives his or her Fifth Amendment rights, any incriminating statements obtained under direct order will not be admissible in a criminal prosecution but will be admissible in an administrative hearing. The subject officer should be afforded the opportunity to consult with an attorney prior to an interview.
- e. If the subject officer has invoked his or her Miranda rights but the department deems that it must have the answers to specific questions to properly conduct its investigation, the department must contact the county prosecutor to request “use immunity” for the interview to continue. This contact should be made timely so that the 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 his or her 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. A criminal prosecution may proceed even though the target or defendant has received “use immunity.”
- f. If the county prosecutor grants “use immunity,” the department shall advise the subject officer in writing that he or she has been granted such immunity in the event his or her answers implicate him or her in a criminal offense. The subject officer must then answer the questions specifically and narrowly related to the performance of his or her official duties, but no answer given nor any evidence derived from the answer(s) be used against this subject officer in a criminal proceeding. At this point, any subject officer refusing to answer is subject to disciplinary charges and possible dismissal from employment.
- g. A grant of “use immunity” shall be recorded on a form the subject officer signs and whose signature is witnessed. The completed form must be made a part of the investigative file. The **IA-23 / Appendix H** should be used for this purpose. In all cases, approval from the authorizing assistant prosecutor or deputy attorney general must be obtained before giving the Garrity warning (**IA-12 / Appendix G**).

2. Criminal Investigation, Officer is Witness

- a. When interviewing a law enforcement officer as a witness, he or she must be made aware of the differences between being a witness in a criminal investigation and being the subject of a criminal investigation. The officer also shall be advised that he or she is not the subject of the investigation at this time. The **IA-11 / Appendix I** should be used for this purpose. 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. 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 his or her answer would incriminate him or her in a criminal matter, the officer must assert his or her Miranda rights.
3. Administrative Investigation, Officer is Subject
- a. A public employee must answer questions specifically, directly and narrowly related to the performance of his or her 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, internal affairs investigators in civil service jurisdictions should be aware that, under civil service rules, an employee cannot be forced to testify at his or her own disciplinary hearing N.J.A.C. 4A:2-2.6(c). As a matter of fairness, the internal affairs investigator in a civil service jurisdiction 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 department rules and regulations, or fitness for duty. He or she should be advised of the subject matter under investigation, and that he or she will be asked questions specifically related to performing his or her official duties.
 - d. This information shall be recorded on a form which the subject officer signs and whose signature is witnessed. The completed form must be made a part of the investigative file. The **IA-10** should be used for this purpose. The **IA-10 / Appendix J** shall only be used for administrative, non-criminal Investigations.
 - e. If the officer refuses to answer questions during this interview, the interviewer should inquire about the reason for that refusal.
 - f. If the subject 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 department should discontinue the interview and contact the county prosecutor.
 - g. If the department wants to continue an administrative interview and the county prosecutor agrees to grant "use immunity," the department shall advise the subject officer in writing that he or she has been granted "use immunity" if his or her answers implicate him or her in a criminal offense. The officer must then answer the

questions specifically related to performing his or her 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 contained in a form that the subject officer signs and whose signature is witnessed. The completed form must be made a part of the investigative file. The **IA-23 / Appendix H** should be used for this purpose.

- h. 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.
 - i. 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 (N.L.R.B. v. Weingarten, 420 U.S. 251 (1975)). 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.
 - j. 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 his or her presence as an observer.
 - k. But the representative or attorney cannot interfere (disrupt, delay, inhibit, restrict, affect, hinder, obstruct, impede, hamper or take over control) with the interview. If the representative or attorney interferes, the investigator can discontinue the interview and should document the reasons for doing so. The investigator must control the interview and cannot allow the representative or subject to take control. This information shall be contained in a form that the representative signs and whose signature is witnessed. The completed form must be made a part of the investigative file. The **IA-13 / Appendix N** should be used for this purpose.
4. Administrative Investigation, Officer is Witness
- a. When interviewing a law enforcement officer as a witness, he or she must be made aware of the differences between being a witness in an administrative investigation and being the subject of an administrative investigation. The officer also should be advised that he or she is not the subject of the Investigation at this time. The **IA-11 / Appendix I** should be used for this purpose. If at any time the officer becomes a subject of the investigation, he or she should be advised of that fact and the appropriate procedures followed. The **IA-10 Appendix J** should be used for this purpose. The **IA-10 /**

Appendix J shall only be used for administrative, non-criminal Investigations.

- 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 his or her answer(s) would incriminate him or her in a criminal matter, the officer must assert his or her Miranda rights.

5. 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.
 - 1. In the event that a subject officer calls out sick or fails to report for duty for any reason on the date of a scheduled interview, they will immediately notify the Internal Affairs investigator. This is in addition to normal calling out procedures.
- 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. In cases of potential criminal conduct, interviews of subject officers should be recorded consistent with New Jersey Attorney General Directives [2006-2](#) and [2006-4](#). A copy of the directives may be found in fill-ins and/or PowerDMS. As to serious rule infractions, the Atlantic City Police Department should audio and/or video record the interview, or make a stenographic record. 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 may do so, and a copy of the recording shall be made available to the Atlantic City Police Department upon request, at the Atlantic City Police Department's expense. If the officer plans to record the interview, the officer's audio/video recording device must be approved by an IAS Commander in accordance with department policy entitled, "Audio/Video Recordings." The officer's audio/video recording device must also be approved by an IAS Commander prior to recording the interview in accordance with this section. Chain of custody for all recordings created by or held by IAS shall be documented within an **IA-40** or other appropriate record as determined by an IAS Commander.

- 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 (*Gardner v. Broderick*, 392 U.S. 273 (1988)). 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 area 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 controversy during a later proceeding, as well as the following:
 - 1. Make two copies of the recording by transferring the digital recording to the appropriate digital media. The investigator will label one of the two Compact Discs as "ORIGINAL" and the other as "WORKING COPY." The ORIGINAL shall be maintained in a master IAS secured location. The WORKING COPY shall be included as a case attachment. The statement, if transcribed, will also be included as a case attachment regarding administrative investigations. In both criminal and administrative cases, the ORIGINAL digital media shall be secured and handled as evidence. In both criminal and administrative cases, the WORKING COPY shall be properly receipted out and in using an **IA-40** or other appropriate record as determined by an IAS Commander when turned over to person(s) outside of the IAS.
 - 2. Label the digital media (where space allows), with a black Sharpie® or similar permanent marker in accordance with department policy entitled, "Interview, Interrogation & Access to Counsel" to include:
 - a. Case or incident number(s);
 - b. Related Case or Incident Number(s);
 - c. Date and Time of Interview.
 - d. Statement of Subject or Witness;
 - e. Signature of Subject or Witness and Date;
 - f. Signature of Interviewer and Badge Number; and
 - g. Initials and Badge Number of Witnessing Investigator(s).

6. Internal Affairs Records

- a. The Internal Affairs Report: At the conclusion of the internal affairs investigation, the investigator shall submit two separate and distinct reports as follows:
 - 1. Internal Investigation Report (**IA-3**): 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.
 - 2. Internal Investigation Summary & Conclusions Report (Appendix O):
 - a. This report shall summarize the case and provide conclusions of fact for each allegation. The report should be organized as follows:
 - 1. A Summary of the Allegations against the officer, including a recitation of the alleged facts;
 - 2. 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 requirement 12.B. the summary of factual findings, along with the discipline imposed, should be the basis for the brief synopsis required under requirement 12.B;
 - 3. 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. See requirement 12.B. for guidance on when the officer's discipline is final.
 - b. If the conduct of an officer was found to be improper, the Summary and Conclusion Report (Appendix O) must cite the Atlantic City Police Department rule, regulation or Standard Operating Procedure violated. Any aggravating or mitigating circumstances surrounding the situation, such as unclear or poorly drafted Atlantic City Police Department policy, inadequate training or lack of proper supervision, shall also be noted in the Summary and Conclusion Report.

- c. 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 the Summary and Conclusions Report. An investigation concerning this secondary misconduct shall be conducted by completing an **IA-9** and forwarding it to an IA Commander for approval.
- d. If the investigation reveals or does not reveal a pattern, practice or trend of inappropriate behavior or conduct, then the investigator shall specifically state this fact within the conclusion for each subject employee. Examples:
 - 1. I have checked the subject employee(s) of this case within the department's early warning alert system and **have not found** any incomplete written reviews and/or actions to occur (as order by the COP), which may develop into a pattern, practice or trend of inappropriate behavior or conduct.
 - 2. I have checked the subject employee(s) of this case within the department's early warning alert system and **have found** an incomplete written review which may development into a pattern, practice or trend of inappropriate behavior or conduct. I recommend the completion of the written review.

Requirement 8

- A. The Atlantic City Police Department must establish and maintain an IAS record system consisting of, at least, an internal affairs index system and a filing system for all documents and records. Access to these records shall be restricted.
 - 1. Internal affairs personnel shall maintain a filing system accessible only to personnel assigned to the IAS and the COP. Other personnel may be given access based on a specific need, such as a deputy chief in the law enforcement executive's absence. Access to these records is specifically addressed with department policy entitled, "Police Department Employee Files." The list of those authorized to access these files must be kept to a minimum.
 - 2. Physical security measures also should be taken, such as using securely locked filing cabinets in secured offices. If a law enforcement agency uses computers to maintain internal affairs records of any kind, special security measures must be taken. A stand-alone personal computer is the most secure system to limit unauthorized access to internal affairs records. If a stand-alone computer is not feasible, reasonable measures, including the use of fire walls and/or password protected software, should be utilized to control access to investigative files and related materials as approved by the appropriate Information and Technology authority.

- B. The IAS personnel shall maintain a filing system accessible only to personnel assigned to the IAS.
- C. Index File
1. The purpose of the IAS 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 may vary for the Atlantic City Police Department and could include a log book, index cards or a computerized data base.
 2. All internal affairs complaints shall be recorded in the index file **IA-38a** or AIM software. Entries should record each case's basic information, including the subject officer, allegations, complainant, date received, investigator assigned, disposition and disposition date for each complaint. 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. Investigation Files
1. An internal affairs investigation file is needed for all internal affairs reports. Given the wide range of internal affairs allegations a law enforcement agency receives, these investigation files might consist of only the initial report form and the appropriate disposition document. On the other hand, investigation files might include extensive documentation of an investigation. The internal affairs investigation file should contain the investigation's entire work product, regardless of the author. This includes investigator's reports, transcripts of statements, and copies of all relevant documents. The file should also include all related material from other department 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 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. Under the schedule, files concerning a criminal homicide must be permanently maintained. 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. While the schedule further suggests that all other criminal or administrative internal affairs investigative records be maintained for at least 5 years, the Atlantic City

Police Department should maintain these files as they relate to a particular officer for that officer's career plus 5 years.

2. The Atlantic City Police Department is not required to purge their records at the intervals outlined above, and may adopt longer retention schedules if such schedules benefit the Atlantic City Police Department. In the case of internal affairs investigative records, longer retention times will provide the Atlantic City Police Department with the resources and evidence necessary to assist with defending civil lawsuits.
3. While the internal affairs records of other types of law enforcement agencies are not yet specified by the Division of Archives and Records Management, it would be appropriate for the Atlantic City Police Department to follow essentially the same retention schedule.

F. Release of certain materials upon request.

1. Confidentiality (See department policy entitled, "Police Department Employee Files.")
2. 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 the internal investigation case files shall be retained in a secure area of the IAS and clearly marked as confidential. The information and records of an internal investigation shall only be released under the following limited circumstances:
 - a. If administrative charges have been brought against an employee and a hearing will be held, a copy of all discoverable materials shall be provided to the employee and the hearing officer in advance of the hearing.
 - b. If the subject employee, 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 employee, agency or jurisdiction.
 - c. If a need arose to consult with a Subject Matter Expert (SME) during an internal investigation. The SME shall be approved in writing by the Chief of Police or Commander of the Internal Affairs Section.
 - d. Upon the request or at the direction of the county prosecutor or Attorney General.
 - e. Upon a court order; or
 - f. Upon a request from the Division of Pensions, following an officer's application for retirement allowance.

3. The Summary and Conclusions Report described in Requirement 7 Section A.6.2, 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 Requirement 12 Section B.
 - 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 Requirement 8 Section F.3, 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 disclosures 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 in Requirement 8 Section F.2 and F.3, the law enforcement executive may authorize access to a particular file or record for good cause. The request and the authorization shall be in writing, and the written authorization shall specify

who is being granted access, to which records access is being granted and for what time period access is permitted. The authorization shall also specify any conditions (i.e., the files may be reviewed only at the internal affairs office and may not be removed). In addition, the law enforcement executive may order any redactions, consistent with Requirement 8 Section F.4. The law enforcement executive should grant such access sparingly, given the purpose of the internal affairs process and the nature of many of the allegations against officers.

6. In instances of domestic violence, in addition to redaction of the victim's name, all reference to the specific nature of the qualifying relationship should also be redacted to protect the identity of the victim. For example, if the victim is an intimate partner, terms such as "spouse," "partner," "girlfriend," "boyfriend," "husband," or "wife," should also be redacted, and to the extent possible the report should just indicate that the relationship between the victim and the officer was an enumerated relationship under the Domestic Violence Act (N.J.S.A. 2C:25-17 et seq).
7. 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 interval investigations files.
8. Agencies may receive law enforcement or judicially sanctioned subpoenas directing the production of internal affairs investigative records. Before responding to the subpoena, the law enforcement executive or internal affairs investigator should consult with the agency's legal counsel to determine whether the subpoena is valid and reasonable. Courts may modify or quash invalid or unreasonable subpoenas, but will require the agency seeking to so modify or quash to file an appropriate motion. Similar considerations may provide grounds for opposing a records request from a Civilian Review Board that otherwise satisfies the minimum requirements described below. For that reason, the appropriate agency personnel should consult with legal counsel to determine under what circumstances it would be appropriate to provide notice to any individual who is referenced in records requested by a Civilian Review Board.
9. If the access, removal and/or disclosure/copy of Internal Affairs File records/documents was approved, the IAS should inventory the records/documents accessed, removed and/or disclosed/copied and obtain a signed receipt.
10. Law enforcement agencies may not waive, restrict, or otherwise limit the power of the County Prosecutor or Attorney General to direct that the information or records of an internal investigation be released or shared pursuant to Section (XXI.F.1.d.)

G. Reporting

1. The IAS should periodically prepare an **IA-38a** for the law enforcement executive that summarizes the nature and disposition of all misconduct complaints the Atlantic City Police Department received. This report should be prepared at the end of each calendar quarter of the current year (March 31, June 30, September 30 and December 31), the Quarterly Internal Affairs Case Index in the Info-Share reporting module shall be completed for each internal complaint that was initiated during that quarter. If no complaints were initiated, check the block for “No Internal Complaints for Reporting Quarter”. The reports shall be completed no later than 30 days after the close of the preceding quarter, but may be prepared more often as directed by the executive. Concluded complaints should be recorded and the reasons for termination explained. The report should minimally include, but shall be limited to, the following:
 - a. Name of principal Officer(s);
 - b. Most serious allegation of complaint;
 - c. Most serious allegation for each principal Officer;
 - d. Name of complainant, unless reported anonymously, and complainant’s age, sex, race and other complainant characteristics that might signal systematic misconduct by any member of the department; and
 - e. 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 county prosecutor and the appropriate authority.
3. An internal affairs summary report will be completed and filed with the Atlantic County Prosecutor’s Office each year. The Professional Standards Summary Report Form, Tables 1, 2, and 3 (Appendix B) in the reporting Info-Share module shall be completed and filed with the Prosecutor’s Office Internal Affairs Unit no later than January 30 of the new year summarizing internal affairs complaints and dispositions for the preceding calendar year.

Requirement 9- Coordination with Civilian Review Boards

- A. Internal investigation case files generally are not releasable to Civilian Review Boards, but the “good cause” standard may be satisfied when a Civilian Review Board requests records from a completed or closed investigation file and the Civilian Review Board has in place certain minimum procedural safeguards, as described in Requirement 9 Section B, to preserve the confidentiality of the requested records and the integrity of the internal affairs function, in addition to complying with all other applicable legal requirements. A violation of any of these requirements may result in the revocation of a Civilian Review Board’s access to confidential law enforcement information, including internal affairs records, and potentially may result in other adverse or remedial actions under federal, state, or local law.

- B. For the purposes of satisfying the requirements of Requirement 9 Section A, a Civilian Review Board must implement the following minimum procedural safeguards:
 - 1. Avoidance of Interference with Ongoing Investigations or Proceedings
- C. The Civilian Review Board must establish policies to avoid interference with ongoing investigations or proceedings, similar to the policies that an internal affairs function must adopt to avoid interference with ongoing criminal investigations or proceedings. Specifically, the policy must make clear that the Board may not commence an investigation of a particular civilian complaint or incident until after any criminal and/or internal affairs investigations have concluded and any resulting discipline has been imposed. This requirement applies regardless of whether the Civilian Review Board is granted authority to recommend discipline, or request reconsideration of any findings or disciplinary decisions, or is limited in its authority to auditing completed investigations. This requirement also applies regardless of whether, as a general matter, the Civilian Review Board is granted access to redacted or unredacted internal affairs records.
- D. After reviewing the relevant internal affairs records and conducting any other lawful investigation that the Civilian Review Board deems appropriate, the Board may, to the extent permitted by law, present its conclusions to the law enforcement executive or appropriate authority; request additional information or clarification regarding the findings or decisions made in the course of the internal affairs investigation; and/or request that the internal affairs investigation be re-opened. Whether to re-open an internal affairs investigation remains within the discretion of the law enforcement executive and, with regard to criminal matters, the County Prosecutor's Office.
- E. The Civilian Review Board may not override any finding or decision made as part of the internal affairs process, impose discipline, require that another official impose discipline, or render any finding or decision that requires deference from any other official. If a law enforcement agency declines to re-open an investigation at the request of the Civilian Review Board, the Board may issue a final public report regarding the complaint or incident after appropriately redacting the report in accordance with instructions from the law enforcement executive. The personal identity of specific subject officers, complainants, or witnesses may not be disclosed to the public.
- F. Under no circumstances may a Civilian Review Board immunize any person from prosecution or take any other action that would have the effect of conferring immunity on any person.
 - 1. Confidentiality
 - a. The Civilian Review Board must establish and adhere to written policies and procedural safeguards to preserve the confidentiality of internal affairs records and other confidential information, which shall include at least the following requirements:

- b. Closed sessions for reviews or investigations. The Board must be in a closed session whenever the content of internal affairs records are discussed or testimony or other evidence regarding a specific incident is presented.
 - c. Protection of internal affairs information. No part of any internal affairs file may be disclosed by the Civilian Review Board under any circumstances to any person who is not a Board member or employee, the law enforcement executive, or a member of the law enforcement agency's internal affairs function, except in a final public report appropriately redacted in accordance with instructions from the law enforcement executive. This prohibition on disclosure includes any statement made by police officers to law enforcement investigators under the provisions of *Garrity v. New Jersey*, 385 U.S. 493 (1967).
 - d. Personal identifiers. Even in the Civilian Review Board's final public report, the Board may not disclose the personal identity of subject officers, complainants, or witnesses.
 - e. Dedicated location for reviewing internal affairs records. Whenever Civilian Review Board members and staff are granted access to internal affairs records, that review shall take place only in a secure location designated by the law enforcement executive and no internal affairs records may be copied or removed from the designated location.
 - f. Training. All Civilian Review Board members and staff shall undergo training approved by the County Prosecutor's Office on the confidentiality of internal affairs records and other investigative material prior to being granted access to such information.
 - g. Attestation. All Civilian Review Board members and staff shall receive a copy of the Board's written confidentiality policies and sign a sworn statement that they will comply those policies prior to being granted access to internal affairs records.
- G. The law enforcement executive may condition the Civilian Review Board's access to internal affairs records on the Board's agreement to other protections that the law enforcement executive reasonably considers necessary to safeguard their confidentiality.
- 1. Conflicts of Interest
- H. The Civilian Review Board must adopt a written conflicts-of-interest policy that addresses both inherent conflicts—which preclude a person's service entirely as a Board member or staffer—and incident-specific conflicts—which require a Board member or staffer's recusal from particular matters. Prior to commencing their service, Board members and staff must sign a sworn statement that they will comply with the Civilian Review Board's written conflicts-of-interest policy.

The Civilian Review Board's conflicts-of-interest policy must include, at a minimum, the following stipulations:

1. Incident-specific conflicts. Any Board member or staffer with an incident-specific conflict must immediately recuse from all proceedings related to that matter.
2. Inherent conflicts. At least the following categories of persons are considered inherently conflicted and may not serve as a Board member or staffer:
 - a. A sworn officer or employee of a law enforcement agency within the Board's jurisdiction, or any person who has held such a position in the last five years;
 - b. A sworn officer or employee of any other state, county, or local law enforcement agency;
 - c. A prosecutor or criminal defense attorney currently practicing in the county within the Board's jurisdiction;
 - d. A relative of any of the aforementioned individuals, as defined in the New Jersey Conflicts of Interest Law at N.J.S.A. 52:13D-21.2(2)(d);
 - e. A current candidate for public office; or
 - f. With respect to Board membership, a current officer or employee of the municipality.
- J. Duty to disclose. Board members and staff have an ongoing duty to affirmatively disclose any conflict of interest that they may reasonably become aware of, whether that conflict is inherent or incident-specific.
- K. Screening. If a Board member or staffer has a close personal or business relationship with an interested party or any individual who meets any of the criteria listed under the "inherent conflicts," the Board member or staff should establish a screen to ensure the non-disclosure of sensitive information involving the Board.
- L. Criminal History of Board Members and Staff. All Civilian Review Board members and staff who support the Board's work, on a full- or part-time basis, must undergo a criminal history background check. A person who has been convicted of a crime or offense may not be granted access to the content of internal affairs records unless both the law enforcement executive and the County Prosecutor consent to that person being granted such access.

Requirement 10- Coordination with other Law Enforcement Agencies

- A. In some instances, an officer who was formerly an employee of one law enforcement agency may apply to join a different law enforcement agency. It is imperative that the law enforcement agency that may hire the officer

has access to all internal investigative files related to that officer's previous employment. Without such information, a law enforcement agency is unable to make a fully informed hiring decision.

- B. Accordingly, 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. If requested, the hiring agency shall provide a written acknowledgement to the releasing agency that it will maintain the confidentiality of said files in accordance with this policy
- C. If a law enforcement agency receives such a request regarding a former employee, then it shall immediately share copies of all internal investigative information related to that candidate with the hiring agency, in accordance with N.J.S.A. 52:17B-247. Confidential internal affairs files shall not be disclosed to any other party.
- D. This disclosure requirement does not apply when the agency responsible for sharing internal affairs files is unable to do so because the information is clearly subject to a non-disparagement or non-disclosure agreement. Such agreements must be followed even though they inhibit the ability of law enforcement agencies to fully evaluate candidates applying for positions of public trust, and therefore have the potential to compromise public safety. Given the public safety risks that such agreements pose, county and municipal governing entities and their counsel are strongly discouraged from entering into them.
- E. In all cases, law enforcement executives retain the authority to defer a decision on hiring a particular candidate until all extant internal affairs information has been received and reviewed.

Requirement 11

- A. All municipal and county law enforcement agencies shall prepare and file quarterly reports summarizing the nature and disposition of all internal affairs complaints received by the agency. At the end of each calendar quarter of the current year (March 31, June 30, September 30 and December 31), the Quarterly Internal Affairs Case Index (Appendix C) shall be completed for each internal complaint that was initiated during that quarter. If no complaints were initiated, check the block for "No Internal Complaints for Reporting Quarter". The reports will be filed with the agency's law enforcement executive and the Prosecutor's Office Internal Affairs Unit no later than 30 days after the close of the preceding quarter.
- B. 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. 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. Furthermore, prosecutors may be required to provide such evidence to the court.

C. 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. Thus, the following matters shall be reported to the county prosecutor no later than the next business day, as mandated by Atlantic County Prosecutor's Office Directive 6-91, so that he or she may evaluate the material's relevance:

1. 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 his or her professional or personal life.

Note: This provision is not intended to require that law enforcement agencies initiate internal affairs investigations into the accuracy of every statement, report or certification that may be filed with respect to civil litigation, including matrimonial and employment matters or any other personal or financial matters not directly related to the officer's employment. In most cases, such investigations would be inappropriate. Determinations as to the credibility of statements or certifications made in the context of litigation should be made by the courts or administrative tribunals. Determinations as to the credibility of statements or certifications in other personal or financial matters should be addressed if they arise in the context of an ongoing internal affairs investigation.

2. A pending court complaint or conviction for any criminal, disorderly persons, petty disorderly persons, municipal ordinance or driving while intoxicated matter.

3. A finding that undermines or contradicts a police officer's educational achievements or qualifications as an expert witness.

4. A finding of fact by a judicial authority or administrative tribunal that is known to the officer's employing agency which concludes that a police officer intentionally did not tell the truth in a matter.

5. A sustained finding that a police officer intentionally mishandled or destroyed evidence.

6. A sustained finding that a police officer is biased against a particular gender or ethnic group.

7. That law enforcement agencies report the above-listed incidents to the prosecutor's office does not constitute a mandate or requirement that the information be disclosed to the court. Prosecutors should conduct an independent review of the information provided to determine whether it needs to be disclosed and whether the officer can participate in the prosecution of criminal cases.

D. Once a decision is reached as to a particular case or defendant, the prosecutor shall, if necessary, discuss his or her decision with the internal

affairs investigator and the law enforcement executive. If it is determined that an officer cannot participate in a criminal prosecution, the prosecutor must advise the agency whether the officer's disability is limited to a particular case, a particular category of cases or all criminal matters.

- E. All municipal and county law enforcement agencies shall conduct an administrative review of all officers having prior dispositions or matters reported to the Prosecutor's Office under Section XXI, Paragraph C, (1-6) to determine the officer's status. If the officer's status has changed or changes, notification should be reported to the Chief of County Detectives via IA@acpo.org. On a yearly basis, agencies will conduct an annual review of said officers for the purposes of determining their continued status. Verification of this review will be memorialized on a signed confidential memorandum from the Chief Executive of the reporting agency to the Chief of County Detectives via IA@acpo.org. Memorandums will be forwarded to the Chief of County Detectives no later than January 30th after the reporting year.

Requirement 12

- A. On an annual basis, every law enforcement agency shall provide to the County Prosecutor and publish on its public website a report summarizing the types of complaints received and the dispositions of those complaints. This report should be statistical in nature. The County Prosecutor shall submit a summary of the reports from all agencies in its jurisdiction to the Office of Public Integrity and Accountability. The Annual Internal Affairs Summary attached to **Appendix K** shall be used to satisfy the requirements of this Section. This process shall be overseen and directed by the Attorney General's Office of Public Integrity & Accountability and the Office of Justice Data. See an **IA-34** for an example of a periodic brief synopsis for the public.
- B. On a periodic basis, and no later than January 31 of the following year, every agency shall submit to the County Prosecutor and the Attorney General, and publish on the agency's public website, a brief synopsis of all misconduct where an agency member:
 - 1. Was terminated
 - 2. Was reduced in rank or grade
 - 3. 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.

4. 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
5. 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;
6. 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;
7. 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;
8. Had a sustained finding that an officer intentionally conducted an improper search, seizure or arrest, regardless of the type or severity of discipline imposed;
9. Had a sustained finding that an officer intentionally mishandled or destroyed evidence, regardless of the type or severity of discipline imposed;
10. 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;
11. 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 4 through 10 above or would have resulted in an action under categories 1 through 3 had the member not separated from the agency; or
12. Was charged with any indictable crime under New Jersey or and equivalent offense under federal law or the law of another jurisdiction related to the complaint.

"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.

The reporting and public dissemination requirements of 1 through 10 above become applicable once an officer's discipline is sustained, as defined above. The reporting and public dissemination requirements of 11 and 12 above become applicable at the close of the reporting period during which they occur.

The synopsis of each case, required by this section, shall follow the format provided in **Appendix L** 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. Examples of acceptable synopses may be found in Appendix L (updated November 2022). 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. See an **IA-4** for an example annual report for the public.

The required posting to the agency's public website shall remain in place and publicly accessible.

- C. 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 under Requirement 12 Section B, including any agreement regarding the identities of officers subject to final discipline, summaries of misconduct, or statements of the sanctions imposed. No State, county, or municipal agency, law enforcement unit, or licensed law enforcement 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 law enforcement unit or State, county, or municipal agency.
- D. Whenever a law enforcement officer makes an application to the New Jersey Division of Pensions for retirement benefits, in anticipation of upcoming retirement and the receipt of a pension, both the employing law enforcement 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 the officer.

Personnel Records

- A. Personnel records are separate and distinct from internal affairs investigation records, and internal affairs investigative reports shall never be placed in personnel records. 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.
- B. Where a complaint is sustained and discipline imposed, the only items to be placed into the employee's personnel file are a copy of the administrative charging form and a copy of the disposition form. See form **DPF-31C** for an example. No part of the internal affairs investigative report shall be placed in the personnel file.
- C. If the officer has been laid off after a Notice of Disciplinary Action (**DPF 31A-B**) was generated and signed by the necessary individuals, the notice should be placed in the officer's personnel file with a memo stating that the charges are being held in abeyance until such time as the officer is rehired.

Risk Management Procedures

- A. To enhance its integrity, provide an optimal level of service to the community and reduce its exposure to civil liability, the Atlantic City Police Department has established procedures for dealing with problem employees. Recent court decisions, particularly those involving federal civil rights lawsuits that allege a deliberate indifference on the agency's part towards citizen complaints, have made it clear that law enforcement agencies have a duty to monitor their employees' behavior. Furthermore, these same court decisions expect law enforcement agencies to establish mechanisms that provide the internal affairs unit and the police executive with the ability to track the complaint records of individual officers and identify those officers with a disproportionate number of complaints against them. The courts also expect law enforcement agencies to utilize the information developed by these mechanisms to prevent individual officers from engaging in conduct or behavior that violates the constitutional liberties every member of the community enjoys. It also is expected that law enforcement agencies will utilize the information to prevent development of patterns, practices or trends of inappropriate behavior or conduct. Also see department policies entitled, "Early Warning Alert System" and "Employee Assistance Program."
- B. Any mechanism or procedure a law enforcement agency establishes to monitor and track the behavior and performance of individual police officers must have as two of its linchpins quality supervision and an objective and impartial internal affairs process. Supervisors who have sufficient time and resources to properly perform their duties should be able to timely identify officers with performance and misconduct issues. Supervisors can react to problems they identify through direction, counseling and effective performance evaluations. Proper training of agency supervisors is critical to the discipline and performance of law enforcement officers. 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.

- C. The internal affairs process represents the Atlantic City Police Department's response to allegations and complaints that have been brought to the Atlantic City Police Department's attention either by internal agency, external agency, citizen or anonymous sources. The Atlantic City Police Department has established and implemented a process of investigation and review that is both meaningful and objective. The Atlantic City Police Department's internal affairs process is real and provides citizens with "at least a rudimentary chance of redress when an injustice is done." It is not enough for the Atlantic City Police Department executives to adopt a policy governing, the receipt, investigation and resolution of complaints of officer misconduct; rather, the Atlantic City Police Department's internal affairs process was implemented and shall be executed with a commitment to the integrity of the Atlantic City Police Department and the constitutional rights of the citizenry.

- D. The Atlantic City Police Department has implemented a specific mechanism to track employee behavior. The mechanism is called the "Early Warning Alert System." The "Early Warning Alert System" is a risk management procedure that will offer the Atlantic City Police Department non-disciplinary avenues to address any potential patterns, practices or changes in employee performance before any may develop into problems or deficiencies.