



# Berlin Police Department

## GENERAL ORDER

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<b>ACCREDITATION STANDARDS</b>			

### OBLIGATION TO REVIEW POLICY AND SEEK ASSISTANCE AS NEEDED

It is the policy of the Berlin Police Department that all officers and applicable employees will thoroughly review and fully familiarize themselves with the attached policy and will adhere to the procedures as described in this policy. Any employee shall request assisting from their supervisor if they should be in need of further explanation or training regarding this policy.

### CONTINGENCIES AND UNFORESEEN CIRCUMSTANCES

Officers are occasionally confronted with situations where no written guideline exists and supervisor advice is not readily available. As it would be impossible to address all possible situations with written guidelines, considerable discretion is given to the officer handling the situation.

Faced with the need to make decisions or take an action where no guidelines exist, officers should rely on their experience and training, and the following resources:

1. Attorney General guidelines, memorandums, and directives
2. Departmental General Order, Special Orders, and Training Bulletins
3. New Jersey Title 39 and 2C
4. Current Search and Seizure directives

The written directives developed by the Police Department are for internal use only, and do not enlarge an officer's civil or criminal liability in any way. They should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of written directives can only be the basis of a complaint by this department, and then only in an administrative disciplinary setting.

## SERVICE ♦ INTEGRITY ♦ COMMUNITY

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

The effectiveness of a law enforcement agency is dependent upon public approval and acceptance of law enforcement authority. The department must be responsive to the community by providing formal procedures for the processing of complaints received from the public or generated by supervisors, members or employees of the agency regarding employee performance both individually and collectively.

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

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

**POLICY:** It is the policy of this department to accept and investigate all complaints of alleged employee misconduct or wrongdoing from any citizen, agency employee or any other sources, including anonymous sources. All allegations of officer misconduct or wrongdoing shall be thoroughly and objectively investigated to their logical conclusion. Following a thorough and impartial examination of the available factual information, the employee shall either be exonerated or held responsible for the alleged misconduct. Discipline shall be administered according to the degree of misconduct as outlined in the Berlin Police Department Rules and Regulations.

Officers, regardless of rank, and employees 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. Employees 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, employees may be disciplined for violation of any rule and regulation of the department or for failure to obey a lawful instruction, order or command of a superior officer or supervisor. Disciplinary action in all matters will be determined based upon the merits of each case.

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

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

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

supervisors, community outreach, and the analysis of misconduct complaints and their outcome.

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

Members of this agency shall use this policy and December 2019 Internal Affairs Policy and Procedures published by the Office of the Attorney General as guides when handling internal affairs matters.

**PROCEDURE:**

**I. Internal Affairs Bureau**

A. The Internal Affairs Bureau is herein established. The Bureau shall consist of those members of the department assigned by the Chief of Police. Personnel assigned to the Internal Affairs Bureau shall serve at the pleasure of and report directly to the Chief of Police.

1.The Chief of Police shall designate a commander for the Internal Affairs Bureau.

B. The goal of internal affairs is to ensure that the integrity of the department is maintained through a system of internal discipline where fairness and justice are assured by objective, impartial investigation and review.

C. Notwithstanding any other notification protocol herein included, the Chief of Police must be immediately advised of any allegation of wrongdoing on the part of an employee that would constitute a criminal offense or has the potential to have a significant negative impact on the operation or reputation of the department.

D. When the Chief of Police is making assignments of personnel to the Internal Affairs Bureau, consideration shall be given to ensure that the assigned members have sufficient experience and rank to effectively handle sensitive investigations that may include investigations of supervising officers.

E. Assignments to the Internal Affairs Bureau, to include the assigned Lieutenant, Sergeant and Officer, are made on a rotating basis to allow members at various ranks to perform this critical agency function, then to transfer their knowledge and experience to other bureaus within the agency.

F. Those selected to serve in the Internal Affairs Bureau cannot serve the dual responsibility to represent members of a collective bargaining unit. The conflict of interest arising from such an assignment would be detrimental to the internal affairsfunction, the subject officer, the person so assigned, the bargaining unit and the agency as a whole.

Every officer assigned to the Internal Affairs unit must attend and complete the training as mandated by the Division of Criminal Justice.

## II. Duties and Responsibilities

- A. The Internal Affairs Bureau is responsible for the investigation and review of all allegations of misconduct by employees of this department.
1. Misconduct is defined as:
    - Commission of a crime or an offense; or
    - Violation of departmental rules and regulations and policies and procedures; or
    - Conduct that adversely reflects upon the officer or the department.
- B. In addition to investigations concerning allegations of misconduct, the Internal Affairs Bureau shall be responsible for the review and/or investigation of:
1. The adjudication of minor complaints handled by supervisors.
  2. The discharge of firearms and/or controlled energy devices, whether on-duty or off-duty, by department personnel in situations other than law enforcement training exercises; range qualifications; lawful hunting of an animal; the humane killing of an injured animal.
    - Investigations into the discharge of firearms, not defined above, are investigated consistent with the procedures defined in V7C08, Use of Force and V8C34, Investigation of Use of Force and In-Custody Deaths. The Internal Affairs Bureau shall notify the Camden County Prosecutor's Office immediately of any use of deadly force, any use of force by an officer resulting in serious bodily injury, or any death in custody that occurs within its jurisdiction.
    - Any public statements by law enforcement related to the conduct of law enforcement officers involved in a firearm discharge require the approval of the County Prosecutor or the Attorney General's Office, depending upon which entity is supervising the investigation.
  3. Any discharge of an agency-owned firearm by anyone other than agency personnel.
  4. Vehicular pursuits involving department personnel.
  5. Use of force incidents, to include incidents that results in injury to any person.
  6. Misconduct investigations involving Borough employees at the direction of the Borough Administrator.
  7. Motor vehicle collisions involving department vehicles.
- C. An internal affairs function also has an obligation to investigate or review any allegation of member misconduct that is a potential violation of an AG Directive or Guideline, a Directive issued by the County Prosecutor, the rules and regulations, or any allegation that indicates the member is unable, unwilling or

unfit to perform their duties. The obligation to investigate includes not only acts of misconduct that are alleged to have occurred while the subject member was on-duty, but also acts of misconduct that are alleged to have occurred outside the employing agency's jurisdiction or while the subject member was off-duty.

1. Internal Affairs Bureau shall be responsible for any other investigation as directed by the Chief of Police.

- D. Internal Affairs Bureau members shall complete training as mandated by the Division of Criminal Justice.
- E. The Internal Affairs Bureau members shall attend any training that the Camden County Prosecutor's Office determines is required for members who conduct internal affairs investigations.
- F. Internal Affairs Bureau members may conduct an internal affairs investigation on their own initiative upon notice to the Chief of Police or at the direction of the Chief of Police.
- G. The Internal Affairs Bureau may refer investigations to supervisors for action as outlined in this written directive.
- H. Internal Affairs Bureau members, or members temporarily assigned to that function, shall have the authority to interview any employee of the department and to review any record or report of the department relative to their assignment.
  - 1. Requests and orders from Internal Affairs Bureau personnel, in furtherance of their duties and responsibilities, shall be given full cooperation and compliance as though the request or order came directly from the Chief of Police.
  - 2. Members assigned to the Internal Affairs Bureau come under the direct authority of the Chief of Police, reporting directly to the Chief of Police through the Internal Affairs Bureau Commander.
- I. The Internal Affairs Bureau shall maintain a comprehensive central investigation file on all complaints received by this department, whether investigated by a member of the Internal Affairs Bureau or assigned to the supervisors for investigation.
- J. The Internal Affairs Bureau shall maintain a computerized index file for tracking all the complaints received by the agency and the conduct of all employees. The index file will also allow for tracking the number of complaints filed against individual employees and any discipline imposed.

1. The Internal Affairs Bureau is responsible for monitoring the database and reporting any patterns or concerns regarding employee conduct to the Chief of Police.
- K. The Internal Affairs Bureau shall review all complaints made against employees, regardless of outcome, for evidence of a pattern or practice of inappropriate or unconstitutional behavior. The Chief of Police shall be immediately advised if any of these patterns are discovered.
- L. Copies of the Internal Affairs reports may be distributed to the appropriate authority and the Camden County Prosecutor's office with the approval of the Chief of Police.
- M. The Internal Affairs Bureau will prepare periodic reports as set forth in this directive.
- N. In the event a member of the Internal Affairs Bureau identifies a conflict of interest that may prevent them from being impartial in the investigation of a subject officer, the investigator shall recuse themselves from the case.
1. Examples of potential conflicts of interest:
    - The Internal Affairs Investigator and the officer are family members or close personal friends.
      - The member subject to the Internal Affairs investigation is the supervisor of the Investigating member of the internal affairs investigation.
      - If an officer subject to an administrative investigation has a good-faith basis to question the impartiality or independence of the investigation, then they may report their concerns to the County Prosecutor's Office. The County Prosecutor may, within their discretion, conduct their own review of the internal affairs investigation and determine whether any further action is warranted, including potential reassignment of the investigation to a different entity. Under no circumstances may the internal affairs investigatory function be contracted or delegated to a private entity. Instead, when necessary, a request can be made to the County Prosecutor's Office, for them to conduct the investigation.
      - 1. The County Prosecutor's Office shall make a determination if they will investigate the matter; refer the matter to the Internal Affairs function of another law enforcement entity; or to return the matter to the Berlin

Police Department because they determine the matter can be appropriately investigated.

### III. Philosophy of Discipline

- A. In keeping with the objectives of proper agency management, the disciplinary system established herein shall reflect the overarching emphasis for improving the quality of service being delivered by the employees of this department. Discipline should not engender a strictly negative connotation, as the disciplinary process is meant to correct employee actions and conduct that tend to impede the efficient and effective operation of the department. The proper use of discipline can achieve this objective without realizing a reduction in morale.
- B. Training is a component of discipline that may be the desirable alternative to other discipline in situations where the actions giving rise to the initial complaint were not deemed to be an intentional violation of established department directives. Training may also be appropriate in situations where the complaint reveals a very minor or technical violation that likely requires no more than a reinforcement of existing directives to correct the employee's behavior.
- C. Counseling as a component of discipline is an alternative for adjudicating minor complaints that should be considered when the need to address the employee in a forthright manner clearly exists, but the greater good will likely be served by limiting the discipline to formal counseling in lieu of punitive discipline. Counseling is not appropriate for serious violations or in situations where the offending employee's behavior is part of a continuing course of problematic behavior.
  - 1. Serious violations and those committed as one in a series of repeated violations require swift and certain punitive measures in order to maintain proper discipline within the department. The Rules and Regulations set forth a schedule depicting the classes of offenses and recommended penalties for all violations charged under the rules and regulations.
  - 2. The department strives to balance philosophies of discipline with the recognition that law enforcement places an extraordinary mental and emotional toll on police officers. Members of this agency are encouraged to seek treatment and support to deal with these mental and emotional pressures. Accordingly, under no circumstance shall a member face any sort of discrimination or adverse internal affairs consequences for the sole reason that the member decided to seek medical or psychological treatment for a mental health concern, including depression, anxiety, post-

traumatic stress disorder, or substance use disorder. All members are encouraged to take advantage of resources provided by the New Jersey Resiliency Program for Law Enforcement, as well as the other resources identified in AG Directive 2019-1.

#### IV. Accepting Reports Alleging Employee Misconduct

- A. All department members are directed to accept reports of employee misconduct from all persons who wish to file a complaint regardless of the hour or day of the week.
1. This includes reports from anonymous sources, juveniles, undocumented immigrants, third-person parties and persons under arrest or in custody.
  2. A person may file a report in person, over the telephone, through traditional mail, or any form of electronic media.
  3. Juveniles wishing to file a complaint are not required to have a parent or guardian present, however notification shall be made to the parent/guardian after the complaint is received.
  4. A person may file a complaint regardless of immigration status or citizenship.
  5. A person shall be encouraged to submit their complaints in person as soon after the incident as possible.
  6. If the complainant cannot file the report in person, a department member, specifically a member of the Internal Affairs Bureau if available, if a member of the Internal Affairs Bureau is not available then a Supervisory member, if a neither a supervisory member or a member of Internal Affairs is not available then a sworn member, shall visit the individual at his or her home, place of business, or at another location in order to complete the report, if feasible.
  7. The **Citizen's Complainant Information Sheet** that includes information on the agency's internal affair process and what role the complainant can expect to play shall be made available at police headquarters. If feasible, the information sheet should be provided at the time the complaint is made. Otherwise, a member of the Internal Affairs Bureau will supply the sheet to the complainant.
  8. If a language barrier is present between the complainant and member receiving the complaint, the member shall contact the Camden County Central Communications Center. The center provides a language line service for all Camden County police departments. All efforts shall be made for translation of the complaint. If an interpreter for the language line is unavailable, the complainant shall be instructed to handwrite the complainant statement and forward it to the Internal Affairs Bureau. The

Internal Affairs Bureau shall take the proper means to have the statement translated to English.

9. When a member is receiving a complaint from a civilian against a member of this department, the member accepting the complaint in-person or on the phone shall audio and video record the receipt of the complaint, according to the same protocols that would apply if the civilian were being interviewed during any other police/citizen contact. See V4C57, Body Worn Cameras (BWC).

B. Complaints, whether made in person, via telephone, via email or via other digital means shall be referred to the Internal Affairs Bureau if a member is immediately available.

1. If an Internal Affairs Bureau member is not immediately available, all supervisory personnel are directed to accept the report of employee misconduct.

2. If an Internal Affairs Bureau member and a supervisor are not available, any sworn member shall accept the complaint.

3. If a civilian employee is speaking to the complainant and no sworn member of the agency is immediately available to accept the complaint, the employee shall:

- In person – Ask the complainant if he or she would like to wait for an available sworn member. If the complainant is unable to wait, ask if he or she would provide a contact number for a return phone call. The complainant shall also be referred to the kiosk in the lobby that allows for the submission of a digital complaint or provided with a paper **Internal Affairs Complaint Report** form, **Complainant Information Sheet** and an envelope. If the complainant completes the paper form on location, the sealed envelope shall be forwarded to the Internal Affairs Bureau. If the complainant does not fill out the form at police headquarters, the complainant shall be advised that the form can be dropped back off, mailed in or picked up by a sworn member of the agency.
- Via telephone – The complainant shall be asked if he or she would provide a contact number for a return phone call. The number shall then be forwarded to a member of the Internal Affairs Bureau. If the complainant does not wish to leave a phone number, the complainant shall be connected to the voice mail of a member of the Internal Affairs Bureau.
- Via email or other digital means – The members receiving the complaint shall forward the email or digital message to the Internal Affairs Bureau for response. Under no circumstances should the above steps not be taken to accept a complaint and the

complainant be told to return at a later time to file their complaint.

1. When receiving complaints from individuals who do not speak English, and require the ability to file a complaint in another language, the member receiving the complaint shall obtain a complaint form in the individual's native language. The New Jersey Attorney General's Office maintains complaint forms, in other languages on their website. The member will obtain a copy of the complaint form on the website and allow the individual to use that form in their native language to file the complaint.
  - The Berlin Police Department will maintain a link to the New Jersey Attorney General's Office's website so the public can access the complaint forms in other languages, when they are required.

C. The member receiving the complaint will:

1. Advise the complainant that he or she will be kept informed of the status of the complaint and its ultimate disposition.
2. Complete the **Internal Affairs Complaint Report** form according to the instructions provided.
3. Have the complainant sign the completed form. If the complainant will not sign the form, the member receiving the complaint will so note that fact. However, the failure of a citizen to sign a complaint will in no way preclude the investigation of the allegations.
4. Provide the complainant with a **Citizen's Complainant Information Sheet**.
5. Remind the individual filing the complaint of the importance of providing accurate and truthful information. However, when providing such advice, the member receiving the complaint must remember that it is important to balance the need for receiving the complaints of officer misconduct against the dangers 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 a member from explaining the potential consequences of false reports to complainants if the officer is specifically asked about this.

D. All members are directed to accept reports of employee misconduct from anonymous sources. If the anonymous complainant is talking to a member, the member should encourage him/her to submit his complaint in person. In any case, the complaint will be accepted.

1. In the case of an anonymous complaint, the member accepting the

complaint shall complete as much of the **Internal Affairs Complaint Report** form as he or she can with the information provided.

E. Complaints shall be handled as follows:

1. All complaints shall be forwarded to the Internal Affairs Bureau

Commander who is responsible for screening the complaint and shall:

- Forward an **Internal Affairs Report Acknowledgement** form and a **Citizen's Complainant Information Sheet** to the complainant, if identified. These forms are not required for supervisory referral complaints.
- Enter the information into the Internal Affairs Index.
- Personally provide a **Notice of Internal Investigation** to the subject officer(s).
- Create a case file including an **Internal Affairs Checklist**.
- Designate a return date and forward the case file to the assigned investigator.

2. Complaints of demeanor and minor rules infractions may be forwarded to a supervisor for investigation and recommended disposition.

- The supervisor investigating the complaint shall not be the employee's immediate supervisor.
- If the complaint is against a member of the Patrol Bureau, the investigating supervisor shall not be a supervisor assigned to the member's platoon.

3. All other complaints shall be retained by the Internal Affairs Bureau for investigation, including complaint of:

- criminal activity;
- excessive force;
- improper or unjust arrest;
- improper entry;
- improper or unjustified search;
- differential treatment;
- complaints of domestic violence;
- serious rule infractions;
- repeated minor rule infractions

F. If the complaint is accepted during hours when the Internal Affairs Bureau is not on duty, and the complaint is of such gravity that immediate attention is required, the supervisor accepting or receiving the complaint shall contact the Internal Affairs Bureau Commander and advise him/her of the complaint. If the Internal Affairs Bureau Commander is not available, the Chief of Police shall be contacted.

G. A complaint against the law enforcement executive (Chief of Police) or a member

of the executive's senior management team (Division Commanders or Internal Affairs Bureau Commander) may originate from a member of the public or from an employee of the agency. Any such complaint shall be documented by the Internal Affairs Bureau Commander or by a Captain should the complaint be against the Internal Affairs Bureau Commander and referred to the County Prosecutor's Office for review. If the complaint is against the Chief of Police, the investigation shall be conducted by the County Prosecutor's Office or the Attorney General's Office. The investigation may involve any type of alleged employee misconduct, including violations of an AG Directive or Guideline, a Directive issued by the County Prosecutor, the Police Department's Rules and Regulations, or any violation that indicates that the member is unable, unwilling or unfit to perform their duties. The investigation shall be conducted in a manner that examines the allegations of misconduct in a thorough, objective, prompt manner that is investigated until a logical conclusion. 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 the Chief of Police, final dispositions and recommendations shall be forwarded to the appropriate authority (Borough Administrator). While the Borough Administrator, as the appropriate authority, must make the final decision regarding discipline, the Camden 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.

- H. If a complainant wants to make a complaint against an employee of another law enforcement agency, he/she will be referred to that agency. If the complainant expresses fears or concerns about making the report directly, he/she will be referred to the appropriate county prosecutor's office.
- I. Complaints received from other law enforcement agencies against employees of this department shall be forwarded to the Internal Affairs Bureau for immediate investigation.
- J. The Internal Affairs Bureau shall monitor any civil litigation involving an employee of this department, regardless of whether the litigation is a result of the employee acting within his or her duties of employment.
- K. If an internal affairs complaint is received from a complainant in conjunction with the filing of civil litigation, the Internal Affairs Bureau shall consult with legal

counsel from the Camden County Prosecutor's Office to determine whether an investigation is appropriate or warranted.

- L. Supervisors are authorized to informally resolve minor complaints that are based on a complainant's misunderstanding of accepted law enforcement practices or the duties of an officer at the time a report is made. If the complaint is not satisfied with such a resolution or there is any question by the supervisor and/or complainant on the success of the resolution, the complaint shall be forwarded to the Internal Affairs Bureau for further action as warranted.
  - 1. The process shall be recorded on a **Special Report** and forwarded to the Internal Affairs Bureau.
  - 2. The Internal Affairs Bureau shall review the complaint and forward the report to the Chief of Police for review.
  - 3. The Internal Affairs Bureau shall periodically audit the reports indicating a citizen's complaint was informally resolved to ensure that supervisors are properly implementing their authority to resolve citizen complaints.
  
- M. Any department employee who witnesses an employee's misconduct shall immediately report the misconduct up the chain of command. Any accused member in the chain of command shall be by-passed.
  
- N. Any member that is a witness to a civil rights violation shall immediately cause the action creating the civil rights violation to cease. He shall then report the conduct up the chain of command by- passing any accused members. Failure to intercede may result in a violation of federal law. (18.U.S.C.241)
  
- O. The subject employee shall be notified in writing of the complaint as soon as possible, unless the nature of the investigation requires secrecy.

## V. Suspension Pending Disposition or Investigation

- A. Any department supervisor or command officer may immediately suspend an employee from duty if he or she determines that one of the following conditions exists:
  - 1. The employee is unfit for duty; or
  - 2. The employee is a hazard to any person if permitted to remain on the job;  
or
  - 3. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services; or

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

B. The supervisor imposing the immediate suspension must:

- Immediately contact the Internal Affairs Bureau and Chief of Police to review the criteria that resulted in the need for immediate suspension.
  - The Chief of Police and Borough Administrator will make the determination on whether the employee will continued to be paid pending the outcome of the investigation.
- Advise the employee in writing of why an immediate suspension is sought and the charges and general evidence in support of the charges.
  - If the employee refuses to accept the written notification of immediate suspension, it shall be given to a representative of the employee's union.
- Provide the employee with sufficient opportunity to review the charges and the evidence and to respond either orally or in writing.
- Advise his or her immediate supervisor and the Chief of Police in writing of the suspension and the facts and circumstances requiring the suspension.
- Order the suspended employee to appear before the Chief of Police at 1000 hours on the next regular business day.

C. Administrative reassignment:

- In cases involving use of force or vehicle crashes that results in death or serious bodily injury the member involved shall be reassigned to administrative duty pending the outcome of the investigation.
- Any employee under investigation or pending a hearing on charges may be reassigned by the Chief of Police to administrative or modified duties pending the outcome of the investigation or hearing if, in the discretion of the Chief of Police, such reassignment is necessary to protect the integrity and image of the police department.
- These reassignments are subject to change at the discretion of the Chief of Police.

## VI. Investigation and Adjudication of Minor Complaints

A. Investigations involving demeanor complaints or minor rule infractions, like most internal affairs complaints are straightforward, and most of these routine complaints can be investigated and resolved quickly. The expectation is that these minor complaints, the investigation shall be completed within 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. The Chief of Police may grant an extension for good cause.

1. Under N.J.S.A. 40A:14-147, disciplinary charges alleging a violation of the department rules and regulations must be filed within 45 days of the date the person filing the charge obtained sufficient information to file the charge.
2. The 45 day rule does not apply to disciplinary charges alleging officer misconduct or incapacity.
3. Citizens are not required to make their complaint within 45 days of the incident. However, once the department has received the citizen complaint, the 45 day rules applies.
4. If investigators are unable to complete an internal affairs investigation within in 45 days of receiving the complaint, the Internal Affairs Bureau Commander shall notify the Chief of Police before the 45th day. In such situations, the Chief of Police shall seek to identify the reasons for the extended investigation and whether the internal affairs function requires additional resources or oversight to complete the investigation in a prompt manner. In addition, the Chief of Police should ensure compliance with the “45-day rule” established by N.J.S.A. 40A:14-147, which requires that certain disciplinary charges be filed within 45 days of the date the person filing the charges obtained “sufficient information” to do so.
  - In the event an internal affairs investigation is extended past the 45th day, Internal Affairs investigators are required to provide further notice to the Chief of Police every additional 45 days that the internal affairs investigation remains open (i.e. on or about the 90th, 135th, and 180th day from the receipt of the complaint), and the Chief of Police should exercise increasing scrutiny of the investigator’s work the longer the case remains open.
  - In rare cases, disciplinary charges will not have been filed within 180 days of the receipt of the complaint. In these rare cases, the Camden County Prosecutor or their designee shall be notified. The Chief of Police shall provide the County Prosecutor or their designee with the reasons for the extended investigation and shall also examine the Berlin Police Department’s internal affairs function to determine if they face any systemic issues that require additional resources or oversight. The Camden County Prosecutor or their designee may take any steps necessary to ensure prompt resolution of the pending matter, including supersession of the agency’s investigation. Notification shall be made to the Camden County Prosecutor every additional 90 days that the investigation remains open (i.e., on or about the 270th and 360th day from the receipt of the complaint).

Timing of 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

- B. The investigating member shall notify the employee who is the subject of the complaint in writing that a report has been made and that an investigation will commence, unless the notification would impede the conduct of the investigation. The investigating members shall also interview the complainant, all witnesses and the subject employee, as well as review relevant reports, activity sheets, or dispatcher forms. The investigating member shall then prepare a report summarizing the matter, indicating the appropriate disposition. Possible dispositions include the following:
- A. **Exonerated:** the alleged incident did occur, but the actions of the employee were justified, legal and proper.
  - B. **Sustained:** the investigation disclosed sufficient evidence to prove the allegation, and the actions of the employee violated provisions of rule and regulation or department written directives.
  - C. **Not Sustained:** the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
  - D. **Unfounded:** the alleged incident did not occur.
  - E. **Administratively Closed:** the investigation has been removed from investigation.
- C. When an Internal Affairs investigator is conducting an investigation, all witness interviews shall be audio and video recorded, using the same protocols that would be used to preserve the statements in a criminal investigation. The use of the investigator's BWC or the interview room recording system in the Investigative Bureau is permissible.
- D. Upon completing an internal affairs investigation, the assigned investigator shall complete an **Investigation Disposition Recommendations** form for each allegation of misconduct and forward the entire investigation package to the Internal Affairs Bureau for review.
- 1. The Internal Affairs Bureau Commander shall review the case file and recommended disposition(s) and must sign the **Investigation Disposition Recommendations** form.

2. In the comments section of the form the Commander shall record his agreement or disagreement with the recommendation(s).
  3. The case file shall be forwarded to the Chief of Police for his/her review. The Chief will approve or modify the recommended disposition(s) based upon the report and recommendations set forth on the form.
- E. Upon final disposition of the complaint, a letter shall be sent by certified mail to the complainant by the Internal Affairs Bureau explaining the outcome of the investigation.
1. If the allegation was unfounded or the employee was exonerated, this conclusion should be stated and defined for the complainant.
  2. If the allegation was not sustained, the letter shall provide the complainant with a brief explanation why the complaint was not sustained.
  3. If the allegation was sustained and discipline was imposed, the letter should simply state that the allegation was sustained and the employee has been disciplined according to department procedures.
  4. Formal notification shall not be required for supervisory complaints. The disposition will be provided to the reporting supervisor via internal departmental correspondence.
- F. When a complaint originates from within the police department, the information involving the reported infraction will be forwarded to the Internal Affairs Bureau for review. The Internal Affairs Bureau will conduct an investigation, notify the appropriate bureau commander to conduct an investigation into the allegations, or direct the appropriate supervisor to administer some form of documented counseling to the offending party as determined per the Chief of Police.
- G. The assigned supervisor shall investigate the complaint until completion:
1. The assigned supervisor will complete and hand deliver to the subject employee an **Administrative Interview Advisement Form**.
  2. The investigating supervisor shall then schedule a face to face interview with the subject employee and assure the entire interview is audio and video recorded utilizing the investigating supervisor's body worn camera.
  3. In the event an employee is being interviewed as a witness in an Administrative investigation, a **Witness Acknowledgement Form** will be completed and the interview will be audio recorded.
  4. Upon completion of the audio/video recorded interview, the assigned supervisor shall complete an **Internal Affairs Investigation Report** documenting the findings of their inquiry within forty five days. The **Internal Affairs Investigation Report** shall contain a summary of allegations, a detailed listing of the findings of the investigation along with a conclusion and recommended disposition describing the conduct

- proven by a preponderance of credible evidence
5. The assigned supervisor shall forward this report along with the **Administrative Interview Advisement Form** to the Internal Affairs Bureau Commander. Within 72 hours, the Internal Affairs Bureau Commander shall discuss the findings and recommendations with the assigned supervisor.
  6. The Internal Affairs Bureau Commander will forward to the Chief of Police the **Internal Affairs investigation Report** along with all of the associated paperwork.
  7. The Chief of Police, upon completion of the review of the report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action is deemed appropriate.
  8. Upon completion of its investigation with a finding of exonerated, not sustained, or unfounded, the Internal Affairs Bureau Commander shall notify the subject employee in writing of the disposition.

H. Initiation of disciplinary action for minor complaints

1. A **Counseling Performance Notice** may be issued to an employee by any supervisor for minor rule infractions in lieu of formal charges upon approval and review of the circumstances with the Chief of Police.
2. The employee shall be advised of the discipline and given a copy of the disciplinary document. A copy of the document shall also be forwarded to the Chief of Police.
3. A **Written Reprimand** may be issued to an employee by any superior officer within his/her line of authority as indicated by the department table of organization and the established chain of command as a result of minor and/or repeated rule violations in lieu of formal discipline. The Chief of Police must approve the reprimand **PRIOR** to issuance.
4. The employee shall be advised of the discipline and given a copy of the disciplinary document. A copy of the document shall also be forwarded to the Chief of Police.
5. Training is a component of discipline that may be the desirable alternative to other discipline in situations where the actions giving rise to the initial complaint were not deemed to be an intentional violation of established department directives. Training may also be appropriate in situations where the complaint reveals a very minor or technical violation that likely requires no more than a reinforcement of existing directives to correct the employee's behavior. Training may be delivered through verbal instruction, peer training, or in-service training.
  - Training provided in accordance with this directive shall be

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

- A. All serious complaints which shall be investigated by the Internal Affairs Bureau, including complaints of:
1. Criminal activity;
  2. Excessive force;
  3. Improper or unjust arrest;
  4. Improper entry;
  5. Improper or unjustified search;
  6. Differential treatment;
  7. Complaints of domestic violence;
  8. Serious rule infractions;
  9. Repeated minor rule infractions.
- B. Where preliminary investigative data indicates the possibility of a criminal act on the part of the subject employee, or the complaint involves the improper or excessive use of force by an employee, the County Prosecutor's Office shall be notified immediately. No further action shall be taken, including the filing of charges against the employee, until directed by the County Prosecutor's Office.
1. The County Prosecutor's Office will review the complaint within thirty days and advise the Internal Affairs Bureau whether a criminal investigation will be conducted. The County Prosecutor has the discretion to extend the review time in thirty day increments if necessary.
  2. Complainants requesting information and status on the investigation will be referred to the County Prosecutor's Office during the time the complaint is being reviewed.
  3. The commencement of a criminal investigation into the subject matter of an internal affairs complaint will cause the 45 day rule to be suspended pending the outcome of the criminal investigation. The 45 day rule will remain suspended until the disposition of the criminal investigation, at which time the department will then be bound again by the 45 day rule.
  4. The Internal Affairs Bureau shall remain in contact with the County Prosecutor's Office to determine the progress of the investigation.
  5. If the complaint is closed criminally with no action by the County Prosecutor's Office, the investigative file will be made available to the Internal Affairs Bureau for administrative investigation.
  6. In all cases where an investigation is returned to internal affairs because the prosecutor declined or terminated a criminal investigation, internal affairs shall inform the county prosecutor as to the disposition of the complaint, including any discipline imposed, once the administrative investigation is complete. Therefore, the disposition of each complete and any discipline imposed shall be sent back to the county prosecutor in writing.
  7. 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 has not been found. However, it does not mean that an administrative investigation cannot be pursued or should 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 exists or can be developed that meets the “preponderance of the evidence” burden of proof for administrative proceedings. Under no circumstances shall an internal affairs administrative investigation be closed merely because a criminal investigation was declined or terminated. In all cases where an investigation is returned to internal affairs because the prosecutor declines or terminated the criminal investigation, the Internal Affairs Bureau Commander shall inform the Camden County Prosecutor as to the disposition of the complaint, including any discipline imposed, once the administrative investigation is complete.

- C. Whenever there is a possibility that the investigation may result in criminal prosecution of the subject employee or the county prosecutor may be conducting a separate criminal investigation, the Internal Affairs Bureau must consult with the County Prosecutor’s Office prior to interviewing the accused employee.
- D. The assigned investigator shall interview the complainant, all witnesses and the subject employee, as well as review relevant reports and records, and obtain other relevant information and materials, as required to conduct a complete investigation.
- E. Interviewing the subject employee:
  - 1. The Internal Affairs Bureau member or assigned supervisor shall schedule an interview with the employee.
  - 2. One person of the employee’s choosing may attend the interview.
    - In investigations of criminal allegations, it is not appropriate for a union representative to be present. However, the employee shall be given the opportunity to consult with a union representative.
  - 3. Before questioning begins, inform the subject employee of:
    - The nature of the complaint,
    - The name of the person in charge of the interview, and the names of all persons who will be present during the interview.
  - 4. If the matter under investigation involves a possible criminal violation, the assigned investigator shall consult with the Camden County Prosecutor’s Office regarding the advisability of giving Miranda Warnings

to the subject employee.

5. Questioning sessions shall be audio and video recorded utilizing the investigator's assigned body worn camera.
    - Interview of subject employees in cases of potential criminal conduct shall be conducted at the direction of the Camden County Prosecutor's Office and recorded in accordance with Attorney General Directive 2006-2.
  6. If at any time during the questioning session the employee becomes a suspect in a criminal act, the employee shall be so informed and the questioning shall end. Thereafter, the case shall be promptly referred to the Camden County Prosecutor's Office.
  7. If, during the course of an internal investigative interview, an employee refuses to answer questions specifically and narrowly related to the performance of duty or fitness for office on the grounds that he may incriminate himself in a criminal matter and the assigned investigator determines that to properly conduct an investigation the answers to the questions must be obtained, the investigator shall promptly contact the Camden County Prosecutor's Office to inquire about obtaining use immunity.
  8. When taking a formal statement from a member of this agency, the investigator shall audio and video record the statement. The use of the investigator's Body Worn Camera (BWC) is permissible.
- F. Upon completion of all possible avenues of inquiry, the assigned investigator shall complete the following reports:
1. **Internal Affairs Investigation Report:** this is the objective report of all investigative activity, including all of the information obtained during the course of the investigation.
  2. **Investigation Disposition Recommendations and Internal Affairs Checklist & Summary Reports:** these reports, in memorandum format, will summarize the matter, and will provide recommended dispositions for each allegation. Possible dispositions, as defined in Section VI of this written directive, include the following:
    - Exonerated;
    - Sustained;
    - Not sustained;
    - Unfounded;
    - Administratively Closed.
- G. The Chief of Police, upon completion of the review of the report, supporting documentation and information gathered during any supplemental investigation,

shall direct whatever action is deemed appropriate.

- H. Upon final disposition of the complaint, a letter shall be sent by certified mail to the complainant by the Internal Affairs Bureau explaining the outcome of the investigation.
  - 1. If the allegation was unfounded or the employee was exonerated, this conclusion should be stated and defined for the complainant.
  - 2. If the allegation was not sustained, the letter shall provide the complainant with a brief explanation why the complaint was not sustained.
  - 3. If the allegation was sustained and discipline was imposed, the letter should simply state that the allegation was sustained and the employee has been disciplined according to department procedures.
  
- I. Upon completion of its investigation with a finding of exonerated, sustained, not sustained, unfounded, or administrative closed the Internal Affairs Bureau shall notify the subject employee in writing of the disposition.
  
- J. If the complaint is sustained and it is determined that formal charges should be preferred, the Chief of Police, or his designee, shall direct a member of the Internal Affairs Bureau to prepare, sign and serve charges upon the subject employee. The Internal Affairs Bureau shall prepare the **Preliminary Notice of Disciplinary Action**.
  
- K. The **Preliminary Notice of Disciplinary Action** shall direct that the employee charged must enter a plea of guilty or not guilty, in writing, on or before the date set forth in the notice for entry of plea. Such date for entry of plea shall be set within a reasonable time, at least five days after the date of service of the charges.
  
- L. If the employee charged enters a plea of guilty, the Chief of Police shall permit the employee to present factors in mitigation prior to assessing a penalty. When an employee enters a plea of guilty and comes to an agreement with the Chief of Police in terms of the discipline to be imposed, a **Stipulation and Agreement as to Disciplinary Action** shall be executed and signed by the subject officer, the Chief of Police and the Borough Administrator.
  - 1. A **Stipulation and Agreement to Disciplinary Action** may also be executed when an employee comes to an agreement with the Chief of Police in terms of discipline to be imposed for a sustained finding prior to the issuance of formal charges.
  
- M. Forms documenting discipline imposed shall be forwarded to the Chief of Police and will be placed in the employee's Internal Affairs File after service of the same is

completed. The Internal Affairs Bureau will cause the penalty to be carried out and complete all forms.

**VIII. Domestic Violence Incidents Involving Law Enforcement Officers**

- A. See Domestic Violence Involving Officers Policy

**IX. Physical Evidence**

- A. The assigned investigator should obtain all relevant physical evidence during investigations. All evidence, such as clothing, hair or fibers, stains, fingerprints, bodily fluids and weapons should be handled according to established evidence procedures.
- B. With respect to radio and telephone recordings, the original recording is the best evidence and should be secured at the outset of the investigation. Transcripts or copies of the original recordings can be used as investigative leads. Entire recordings should be monitored to reveal the totality of the circumstances.
- C. Photographs
1. In the event of a complaint involving excessive force, the following photographic documentation shall be obtained when appropriate. Whenever possible, digital color photography shall be used.
    - Photographs of the complainant at the time of the arrest or following the alleged incident of excessive force.
    - Photographs of the employee in the event that the officer was a victim.
    - A recent photograph of the accused employee(s) in the event that a photo line-up will be used for identification purposes. The photo line-up must be retained for possible evidentiary purposes.
    - Photographs of the scene of the alleged incident, if necessary.
- D. Physical Tests
1. Employees who are the subjects of internal affairs investigations may be compelled to submit to various physical tests or procedures to gather evidence. Such evidence may be used against them in a disciplinary proceeding.
  2. No person has a right to refuse to submit to an examination to obtain a record of his physical features and other identifying characteristics of his physical or mental condition. **Evidence Rule 503(a)**. Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:
    - Blood samples.
    - Breath samples.
    - Buccal swab.
    - Requiring the suspect to speak.

- Voice recordings.
- Participation in a suspect line-up.
- Handwriting samples.
- Hair and saliva samples.
- Urine analysis.
- Video Taping
- Field sobriety tests

3. Generally, a person cannot be physically forced to produce this evidence or submit to such tests, although a court order may be obtained to legally compel him to do so. Refusal to comply with the order can result in a contempt of court action, and may also result in a second disciplinary action for failure to comply with a lawful court order.

#### 4. Polygraph

- While a employee who is the subject of an internal investigation may request a polygraph examination, an employer shall not influence, request or require an employee to take or submit to a polygraph examination as a condition of employment or continued employment (N.J.S. 2C:40A-1).
- An employee cannot be required to submit to a polygraph on pain of dismissal. **Engel v Borough of Woodbridge, 124 N.J. Super. 307 (App. Div. 1973)**
- Polygraph tests of civilian complainants and witnesses should only be used when a reasonable suspicion exists that their statements are false. Under no circumstances should polygraph examinations be used to discourage or dissuade citizen complainants.
- If a polygraph is used, a qualified police polygraph operator must administer the test.
- The victim of sexual assault cannot be asked or required to submit to a polygraph examination as a condition for proceeding with an investigation (Attorney General Law Enforcement Directive N. 2009-1).

#### E. Search and Seizure

1. All department assigned storage space, desks, computer files, vehicles, phones and lockers are subject to entry and inspection without notice. Personal brief cases, bags and containers shall not be searched without a warrant or consent.
2. Physical Line-ups
3. Employees may be required to stand in “physical” line-up proceedings for the purpose of an administrative complaint investigation. There is no need for probable cause and the employee may be disciplined if he or she

refuses.

**F. Financial Records**

1. During an investigation, the subject employee may be requested to submit financial records that are deemed appropriate to either prove or disprove the allegations under investigation.

**G. Electronic Surveillance**

1. The monitoring of 911 telephone lines is required by law and the diminished expectation of privacy in the use of these lines makes monitoring of the same acceptable.
2. Video surveillance of public areas may be used, especially video surveillance used for security reasons. This includes the video surveillance system set up throughout the areas inside police headquarters.
3. The video and audio obtained from vehicle mounted and body worn cameras will be used for internal investigations, since image is not restricted and the employee is a party to the audio portion of the recording at all times.
4. Vehicles equipped with global positioning devices that permit the location of the vehicle to be fixed with great accuracy can have the information gleaned from these devices used for internal affairs investigations because employees have no expectation of privacy in his or her whereabouts during performance of their duties.

**H. Evidence Procedures**

1. Evidence obtained or seized as a result of a criminal investigation will be collected and packaged in accordance with V4C35-Evidence Procedures and will be stored at the direction of the County Prosecutor's Office.
2. Evidence obtained in the investigation of an administrative complaint will be collected and packaged by the Internal Affairs Bureau. The evidence will be stored inside the secure Internal Affairs Bureau cabinets with the respective investigation file.
3. Body worn camera recordings from internal affairs interviews will be downloaded to Evidence.com and "tagged" as an "Internal Investigation." Only the Chief of Police and members authorized to conduct internal affairs investigations shall have authorization privileges set up through Evidence.com to access and view the footage.

**X. Hearing**

- A. Employees are entitled to hearing before the appropriate authority or his designee for any charge that exposes the employee to discipline as follows:

1. Surrender of leave time
2. Monetary fine
3. Suspension with pay
4. Suspension without pay
5. Loss of promotion opportunity
6. Demotion
7. Termination

- B. Upon written notice of a request for a hearing from the subject employee the Chief of Police will set the date for the hearing no sooner than ten (10) days and no later than thirty (30) days after notice has been personally served upon the employee.
- C. The Internal Affairs Bureau shall be responsible for or assist the assigned supervisor or prosecutor in the preparation of the department's prosecution of the charges. This includes proper notification of all witnesses and preparing all documentary and physical evidence for presentation at the hearing.
- D. In the event of a hearing, the Internal Affairs Bureau will be responsible for preparing a discovery package from the internal affairs file, and providing it to the subject employee or his or her representative upon receipt of a written request for such materials.
- E. The hearing shall be held before the appropriate authority or the appropriate authority's designee. In accordance with N.J.S.A. 40A:14-148, except as otherwise provided by law, the officer, board or authority empowered to hear and determine the charge or charges made against an employee of the police department or force, shall have the power to subpoena witnesses and documentary evidence. The Superior Court shall have jurisdiction to enforce any such subpoena.
- F. All disciplinary hearings shall be closed to the public unless the employee requests an open hearing. The department reserves the right to petition the hearing officer to conduct a closed hearing if a legitimate reason exists for such request.
- G. The hearing authority is empowered to enter a finding of guilty or not guilty, or to modify the charges as deemed necessary. The decision of the hearing authority should be in writing and should be accompanied by finding of fact for each issue in the case.
- H. The Borough Administrator may elect to function in the capacity of hearing officer or appoint a hearing officer to prepare finding of fact and recommendation as to violations and quantum and type of punishment, if any.

- I. The Borough Administrator, in the capacity of hearing authority, shall fix any of the following punishments deemed appropriate under the circumstances.
  - 1. Performance notice;
  - 2. Written Reprimand;
  - 3. Monetary fine;
  - 4. Suspension without pay;
  - 5. Loss of promotion opportunity;
  - 6. Demotion;
  - 7. Discharge from employment.
  
- J. A copy of the decision or order and accompanying findings and conclusions shall be delivered to the employee who was the subject of the hearing and to the Chief of Police.
  
- K. Upon completion of the hearing the Internal Affairs Bureau will complete all required forms including the entry of the disposition in the index file.
  
- L. If the charges were sustained, the Internal Affairs Bureau will cause the penalty to be carried out. The **Final Notice of Disciplinary Action** shall be permanently placed in the Internal Affairs File of the respective employee.

**XI. Appeals**

- A. Appeals of disciplinary decisions handed down by a hearing officer shall be processed in accordance with the procedures outlined in the Department's Rules and Regulations.

**XII. Criminal/MV Complaints Against Employees**

- A. Any employee who has been charged with an indictable crime, minor offense (disorderly persons offense, petty disorderly offense), driving while intoxicated or has been involved in a domestic violence incident must make immediate notification to the on-duty supervisor at police headquarters setting forth the circumstances surrounding the complaint.
  - 1. It will be the responsibility of the on-duty supervisor to make a prompt notification to the Internal Affairs Bureau Commander.
  - 2. It shall be the responsibility of the Internal Affairs Bureau Commander to make an immediate notification to the Chief of Police and the Camden County Prosecutor.
  - 3. It will be the responsibility of the Internal Affairs Bureau Commander, in consultation with the Chief of Police, to evaluate the need for an immediate response by Internal Affairs Bureau personnel.

- B. Any employee who has received a motor vehicle summons or has adverse contact with a law enforcement officer from any level of government or jurisdiction must notify the Internal Affairs Bureau on the next regular business day.
- C. Any employee contacted or questioned by a law enforcement agency concerning an unlawful act (as a suspect or witness) or a law enforcement internal affairs matter must provide notification of such contact to the Internal Affairs Bureau via **Special Report** on his/her next scheduled day of work.
- D. Any employee who is subject to a motor vehicle stop, pedestrian stop or other official contact with a law enforcement agency, as part of that agency carrying out their official duty, including their contact as a result of a 911 call or self-initiated police contact, must provide notification of such contact to the Internal Affairs Bureau via **Special Report** on his/her next scheduled day of work.
- E. Internal Affairs Bureau personnel shall track the proceedings of any criminal or civil matters which employees of the department are involved in as a complainant, plaintiff or defendant.

### **XIII. Confidentiality**

- A. The progress of internal affairs investigations and all supporting materials are considered confidential information. All department employees are required to keep all aspects of any internal affairs case and/or investigation in strict confidence, whether involved in the investigation or not. This shall be construed as to prohibit any employee from revealing any information whatsoever, including, but not limited to:
  - 1. An employee's participation in an internal affairs interview;
  - 2. The existence of an internal affairs investigation;
  - 3. The subject matter of an internal affairs investigation;
  - 4. The target of an internal affairs investigation;
  - 5. The identity of complainants and/or witnesses; and
  - 6. Any other information related to an internal affairs investigation.
- B. The contents of internal investigation case files from the current and previous two (2) years will be retained in locked cabinets in the Internal Affairs Bureau office. Archived internal investigation case files shall be retained in sealed boxes, in one of the off-site evidence vaults, located in the agency's Quonset Hut. The files shall be clearly marked as confidential and have restricted access to members of the Internal Affairs Bureau and the Chief of Police. The information and records of an internal investigation shall only be released under the following circumstances:

1. In the event that administrative charges have been brought against an employee, and a hearing will be held, a copy of those internal investigation reports to be used as evidence in the administrative hearing shall be provided to the employee.
  2. In the event that the employee, police department or Borough has been named as a defendant in a lawsuit arising out of the specific incident covered by an internal investigation, a copy of the internal investigation reports may be released to the attorney representing the subject employee, police department or Borough.
  3. Upon the request or at the direction of the Camden County Prosecutor or Attorney General.
  4. Upon a court order.
- C. Only the Chief of Police or his designee is empowered to release publicly the details of an internal investigation or disciplinary action. The Chief of Police or his/her designee may authorize access to a particular file or record for good cause. The request and the authorization should be in writing. The written authorization should specify who is being granted access, to which records access is being granted and for what time period access is permitted. A copy of the writing will be included in the requested file.

#### **XIV. Internal Affairs Investigation Reports**

- A. The internal affairs investigation file system shall contain all investigative files resulting from internal affairs complaints and the original copy of the following reports:
  1. Vehicular Pursuit Reports
  2. Use of Force Reports
  3. Firearm's Discharge Reports
  4. Pedestrian Stop Forms
  5. Search/Frisk Forms
- B. Internal Affairs Investigation files will be numbered with a prefix corresponding to the last two digits in the calendar year in which the complaint was received followed by the chronological number of the complaint in that calendar year. Each numbered file shall be cleared marked "Confidential"
- C. A computerized Internal Affairs Index File shall be maintained as a record control device.
  1. The database shall track and inventory Internal Affairs case files and provide an overview of case status to authorized personnel.
  2. The database shall include the date the complaint was received, the complainant (internal or external), the principal officer, the investigating officer, the allegation, the complainant age, sex, and race, the disposition

- of the complaint, the discipline imposed (if sustained), and a brief explanation of the complaint in note format.
3. The database shall monitor all complaints received by the agency and the conduct of all employees, including discipline.
  4. The database shall be accessed by the Chief of Police periodically to provide a summary of the nature and disposition of all complaints received by the agency.
  5. The database shall have restricted access to members of the Internal Affairs Bureau and the Chief of Police.
- D. All internal affairs complaints shall be recorded in the aforementioned index. Entries shall include the following basic information:
1. Subject officer/employee
  2. Allegations
  3. Complainant
  4. Date received
  5. Investigator assigned
  6. Disposition and disposition date
- E. Upon completing a case, the Internal Affairs Bureau will be responsible for entering the disposition in the index file and notifying the complainant and subject employee(s) of the disposition.
- F. Personnel Files are separate and distinct from Internal Affairs Investigation files and records. Internal Affairs Investigation Reports shall never be placed in Personnel Files.
- G. Internal Affairs Files are separate and distinct from Internal Affairs Investigation Files. Internal Affairs files are kept in a separate folder within the Personnel Files.
1. When a complaint has a disposition of exonerated, not sustained, unfounded, or administratively closed there shall be no indication in the employee's Internal Affairs File that a complaint was ever made.
  2. When a complaint is sustained and discipline is imposed, the only items to be placed in the employee's Internal Affairs file are a copy of the administrative charging form and a copy of the disposition form. These forms include Counseling Notices, Written Reprimands, Preliminary Notice of Disciplinary Action, Stipulation and Agreement to Disciplinary action and Final Notice of Disciplinary Action.
    - Copies of **Counseling Notices** shall only be retained in employee Internal Affairs files for a period of six-months from the date of issuance. All other charging forms shall be retained in the

employee's Internal Affairs file permanently.

- H. Internal Affairs investigation reports, records and evidence are included in the "Records Retention and Disposition Schedule for Local Police Departments" issued by the New Jersey Division of Revenue and Enterprise Services, Records Management Services and shall be purged in accordance with the directives of that agency.
  - 1. For the purpose of this directive, all internal affairs reports, records and evidence shall be retained by the department for the career of the employee plus five years.

## **XV. Reporting**

- A. The Internal Affairs Bureau shall complete the quarterly/annual New Jersey Attorney General Professional Standards Report Form and the Camden County Prosecutor's Office Professional Standards Report Form and forward the reports to the Camden County Prosecutor's Office by the end of each quarter and annually on or before January 30th of each succeeding calendar year.
  - 1. These reports shall be made available to the public and will be posted on the agency website.
  - 2. The report shall also contain a brief synopsis of all complaints where a fine or suspension of ten days or more was assessed to a member of the agency. The synopsis shall not contain the identities of the employees or complainants, but should briefly outline the nature of the transgression and the fine or suspension imposed.
- B. The Internal Affairs Bureau must report any sustained complaints involving honesty, credibility, criminal and quasi-criminal convictions and bias to the Camden County Prosecutor's Office upon completion of the said investigations. Such notifications include:
  - 1. A finding that a police officer has filed a false report or submitted false certification in any criminal, administrative, employment, financial or insurance matter in his or her professional life.
  - 2. A pending court complaint or conviction for any criminal, disorderly persons, petty disorderly persons, municipal ordinance or driving while intoxication matter.
  - 3. A finding that undermines or contradicts a police officer's education 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.

- C. On a quarterly basis, the Internal Affairs Bureau Commander shall report internal affairs activity to the County Prosecutor's Office on an **Internal Affairs Summary Report**, a report prescribed by the County Prosecutor's Office. The report shall be submitted in conformance with the instructors provided by the Camden County Prosecutor's Office.
- D. On an annual basis, the Police Department shall publish on our publicly accessible website a report summarizing the type of complaints received and the disposition of those complaints. This report shall be statistical in nature, and the names of complainants and subject officers shall not be published. The publishing and posting of this report on the department webpage is the responsibility of the Internal Affairs Bureau Commander.
- E. On a periodic basis, and at least once a year, the Police Department shall submit to the County Prosecutor's Office and publish on the our publicly accessible website a brief synopsis of all complaints where a fine or suspension of ten days or more was assessed to a member of this department. This synopsis shall not contain the identities of the officers or complainants, but should briefly outline the nature of the transgression and the fines or suspension imposed.

#### **XVI. Internal Affairs Record related to Recruitment and Selection**

- A. The Police Department is committed to selecting and appointing the highest quality candidates to sworn law enforcement positions within our agency, see V1C3, Recruitment and Selection. New Jersey law enforcement agencies are required to disclose the entire internal affairs file for a candidate to prospective law enforcement employers. Candidates with of out-of-state law enforcement experience must sign waivers of confidentiality regarding their internal affairs files so that they may be reviewed by the prospective employer, when legally permissible. See V1C08, Personnel Files and V1C04, Background Investigations.
- B. 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.
- C. The disclosure requirement, to allow prospective law enforcement employers with full access to the entire internal affairs file, does not apply when this agency has engaged in 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.

#### **XVII. Risk Management Procedures**

Under the policy, each agency must notify the County Prosecutor upon initiation and completion of each EWS activation. (See, Early Warning Program)