

PEMBERTON POLICE DEPARTMENT				
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SUBJECT: INTERNAL AFFAIRS				
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BY THE ORDER OF: Chief David King		09/07/11	All	
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SUPERSEDES ORDER #:		06/16/2020		

PURPOSE: The purpose of this directive is to maintain a high quality of law enforcement services. Improving the relationship between employees and the public facilitates cooperation vital to the department's ability to achieve its goals. The Pemberton Police Department is committed to providing law enforcement services that are fair, effective, and impartially applied. Employees are held to the highest standards of conduct and are expected to respect the rights of all citizens. This department is responsive to the community by providing formal procedures for the processing of complaints regarding individual employee performance. An effective disciplinary framework permits department personnel to monitor employee compliance with department directives, assist employees in meeting department objectives, and permits managers to identify problem areas requiring increased training or direction. Finally, this directive will ensure fundamental fairness and due process protection to citizens and employees alike. The internal affairs function shall also be used to identify and correct unclear or inappropriate department directives, organizational conditions that may contribute to misconduct such as poor recruitment and selection procedures, or inadequate training and supervision of employees.

POLICY: It is the policy of the Pemberton Police Department to accept and investigate all complaints of alleged misconduct or wrongdoing from any citizen, agency employee or any other sources, including anonymous sources. Following a thorough and impartial examination of the available factual information, the employee shall be either exonerated or held responsible for the alleged misconduct. Discipline shall be administered according to the degree of misconduct. Police 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. 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 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. Police 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 employee 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 department's Internal Affairs policy. Prevention is the primary means of reducing and controlling misconduct. To that end, it is the policy of the Pemberton Police Department to discover and correct organizational conditions which permit the misconduct to occur. Special emphasis is placed on recruitment, selection and training of employees and supervisors, community outreach, and the analysis of misconduct complaints and their outcome.

PROCEDURE:

I. Internal Affairs Unit

- A. The Internal Affairs Unit is herein established. Personnel assigned to the Internal Affairs Unit shall serve at the pleasure of and be directly responsible to the Chief of Police or designee. The Chief of Police shall not assign any person responsible for the representation of employees of the collective bargaining function to the Internal Affairs Unit.
- B. The goal of Internal Affairs Unit is to insure 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. The Internal Affairs Unit shall be responsibilities for:
 - 1. The investigation and review of all allegations of misconduct by employees of this department. Misconduct is defined as:
 - a. Commission of a crime or an offense; or,
 - b. Violation of department rules and regulations, policy, procedures, and special orders.
 - c. Conduct which adversely reflects upon the employee, or the department.
 - 2. In addition to investigations concerning allegations of misconduct, the Internal Affairs Unit shall be responsible for the coordination of the following:
 - a. Internal affairs shall be notified of and document all firearms discharges by department personnel that are not related to training, all use of force incidents that result in injury to a defendant or a third party, all vehicular pursuits undertaken by department personnel and all collisions involving department vehicles. Once notification has been received, internal affairs will determine whether additional investigation is necessary.
 - b. Internal Affairs shall conduct a manual or computerized audit of its records to determine if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct.
 - 1) The Internal Affairs Supervisor shall meet with the supervisor responsible for the employee to notify them and gather additional information about the employee. Collectively a report will be submitted to the Chief of Police on whether formal follow up intervention is needed. Upon his/her approval a meeting will be arranged with the employee.
 - 2) The meeting will be conducted to inform the employee that he/she has been identified for follow-up in the early warning program, purpose of the meeting, and that these meeting are to be facilitative and non-disciplinary in nature.

- 3) The early warning program meeting will result in options or course of actions being determined and established by the Chief of Police with input from the identified employee, Internal Affairs Supervisor, and any other Division Commander or supervisor involved.
- c. Any other investigation as directed by the Chief of Police or designee.
3. The Internal Affairs Unit may conduct an internal investigation on their own initiative upon notice to the unit supervisor, or at the direction of the Chief of Police or designee.
 4. The Internal Affairs Unit may refer investigations to an employee's supervisor for investigation of minor policy and/or rules and regulations infractions.
 5. The Internal Affairs Unit investigators or personnel temporarily assigned to that function shall have the authority to interview any employee of the department and to review any record or report of the department relative to their assignment. Requests from the Internal Affairs Unit personnel, in furtherance of their duties and responsibilities, shall be given full cooperation and compliance as though the requests came directly from the Chief of Police. The Internal Affairs supervisor shall have direct access to the Chief of Police. There may be instances when, at the direction of the Chief of Police, the designated internal affairs officer will not be included in the internal affairs chain of command. In those instances the investigating officer shall report directly to the Chief of Police.
 6. The maintenance of a comprehensive central file on all complaints received by this department whether investigated by the Internal Affairs Unit personnel or assigned to an employee's supervisor for investigation and disposition.
 7. The preparing and mailing of a **Complaint Acknowledgement Letter** to all civilian complainants.
 8. An annual Internal Affairs Unit Summary Report, which includes data collected during the preceding year on internal investigations, shall be forwarded to the Burlington County Prosecutor's Office.
 9. An annual report summarizing the types of complaints received and the dispositions of the complaints should be made available to members of the public. The names of complainants, witnesses, and subject employees shall not be published in this report.
 10. The internal affairs unit should prepare periodic, but quarterly at a minimum, reports for the Chief of Police that summarize the nature and disposition of all misconduct complaints received by the department. The report should include the subject employee, the allegation, the complainant, the age, sex, race and other complainant characteristics, which might signal systematic misconduct by any employee of the department, and the status of the investigation. This report shall be considered a confidential, internal work product. Dissemination of the

report should be limited to command personnel, the Burlington County Prosecutor, and the Appropriate Authority.

11. The Pemberton Police Department shall periodically release 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 officers or complainants.

II. Accepting Complaints

A. Initiation of Citizen Complaints

1. All department personnel are directed to accept reports of agency or employee misconduct from all persons who wish to file a complaint regardless of the hour or day of the week. Citizens are to be encouraged to submit their complaints in person as soon after the incident as possible. If the complainant cannot file the report in person, a representative from the Internal Affairs Unit shall visit the individual at their home, place of business, or at another location in order to complete the report, if possible. Telephone complaints shall also be accepted.
2. If a member of the Internal Affairs Unit is immediately available, they shall take the complaint.
3. If a member of the Internal Affairs Unit is not immediately available, the complainant will be referred to the duty supervisor. In the absence of the duty supervisor, any department personnel shall accept the report of employee misconduct.
4. Department personnel receiving the complaint will:
 - a. Provide the person making the complaint with the **Internal Affairs Information Sheet**, which explains the department's internal affairs procedures.
 - b. The officer shall advise the complainant that he or she will be kept informed of the status of the complaint, if requested, and its ultimate disposition.
 - c. Complete as much of the **Internal Affairs Complaint Form** as possible before forwarding it to the Internal Affairs Unit.
 - d. Have the complainant sign the completed form. If the complainant will not sign the form, the employee receiving the complaint will so note that fact. However, the failure of a citizen to sign a complaint will in no way preclude the investigation of the allegations.
5. All department personnel are directed to accept reports of agency or employee misconduct from anonymous sources. If the anonymous complainant is talking to an employee, the employee should encourage them to submit their complaint in person. In any case, the complaint will be accepted.

- a. Any employee of the department who interferes with or delays the reporting or investigation of such complaints may be subjected to disciplinary action.
6. If a complainant wants to make a complaint against an employee of another law enforcement agency, he/she will be referred to that agency. If the complainant expresses fears or concerns about making the report directly, he/she will be referred to the respective county prosecutor's office.
7. If a complaint is received from another law enforcement agency, the complaint will be forwarded to the Internal Affairs Unit for immediate handling.
8. Any employee that is a witness to a civil rights violation shall immediately cause the action creating the civil rights violation to cease. He/she shall then report the conduct up the chain of command by-passing any accused employees. Failure to intercede may result in a violation of federal law. (18.U.S.C.241)
9. Complaints shall be handled as follows:
 - a. All complaints will be forwarded to the Internal Affairs Unit for screening and entry into the record keeping system.
 - b. Unless otherwise directed by the Chief of Police or designee, complaints of demeanor and minor rule infractions shall then be forwarded to the supervisor of the employee for investigation.
 - c. All other complaints shall be retained by the Internal Affairs Unit, including complaints of:
 - 1) **CRIMINAL ACTIVITY:** Complaint regarding the involvement in unlawful behavior.
 - 2) **EXCESSIVE FORCE:** Complaint regarding the use or threatened use of excessive force against a person.
 - 3) **IMPROPER or UNJUST ARREST:** Complaint that the restraint of a person's liberty was improper or unjust.
 - 4) **IMPROPER or EXCESSIVE 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 or UNJUSTIFIED SEARCH:** Complaint that the search of a person or property was improper, unjustified or otherwise in violation of established police procedures.
 - 6) **SERIOUS DIFFERENTIAL TREATMENT or DEMEANOR:** 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. Complaint that a department employee's bearing, gestures, language or other actions were inappropriate.

- 7) **SERIOUS RULE INFRACTIONS:** Complaint such as disrespect toward a supervisor(s), drunkenness on duty, sleeping on duty, neglect of duty, false statements, or malingering.
- 8) **REPEATED MINOR RULE INFRACTIONS:** Complaint such as untidiness, tardiness, faulty driving or failure to follow procedures.
- 9) **HARASSMENT IN THE WORKPLACE:** Complaint such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- 10) **VEHICLE PURSUITS:** Investigation and review of vehicle pursuits by department personnel.
- 11) **USE OF FORCE:** Investigation and review of use of force incidents by department personnel.
- 12) **CIVIL LITIGATION:** Where civil litigation has been filed and the complainant is a party to the litigation or a principal witness in the litigation, the internal affairs investigator shall consult with legal counsel to determine whether an investigation is appropriate or warranted.

10. In cases not involving allegations of criminal conduct, the accused employee shall be notified of the complaint once preliminary investigative data has been gathered. The Internal Affairs investigator shall serve the subject employee with the **Notification Form**, unless the nature of the investigation requires secrecy.

B. Initiation of Department Complaints

1. All Personnel that witness another employee's misconduct shall immediately notify their supervisor. The supervisor shall notify the Internal Affairs Unit. However, should the witnessed employee misconduct be committed by the employee's supervisor, said employee shall report same directly to the Internal Affairs Unit and/or Chief of Police.
2. The **Internal Affairs Complaint Form** shall not be used on internal complaints that originate from within the department involving department personnel.
 - a. The **Internal Affairs Investigation Report** shall be used for all internal complaints that originate from within the department involving department personnel.

III. Immediate Suspensions

A. Suspension Pending Disposition or investigation

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

- a. The employee is unfit for duty; or
 - b. The employee is a hazard to any person if permitted to remain on the job; or
 - c. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services; or
 - d. The employee has been formally charged with a first, second or third degree crime; or
 - e. The employee has been formally charged with a first, second, third or fourth degree crime or a disorderly persons offense while on-duty, or the act touches upon his or her employment.
2. The supervisor imposing the immediate suspension must:
- a. Immediately notify the Chief of Police or designee through the chain of command.
 - b. Advise the employee in writing, using the **Immediate Suspension Notice Form**, of why an immediate suspension is sought and the charges and general evidence in support of the charges.
 - 1) If the employee refuses to accept the written notification of immediate suspension, it shall be given to a representative of the employee's collective bargaining unit.
 - c. Provide the employee with sufficient opportunity to review the charges and the evidence and to respond either orally or in writing, if they so choose.
 - d. Advise their immediate supervisor in writing of the suspension and the facts and circumstances requiring the suspension.
 - e. The suspended employee shall report to the Chief of Police by 0800 hours on the next regular business day along with the supervisor imposing the suspension.
3. Administrative Reassignment
- a. Administrative reassignment may be used in cases involving the use of force which results in death or serious bodily injury, unless the employee is suspended or placed on administrative leave pending the outcome of the investigation.
 - b. The administrative reassignment is subject to change by the Chief of Police or designee upon the outcome of the investigation.
4. Filing formal charges
- a. Within five days of the suspension, the department must complete and file a **Preliminary Notice of Disciplinary Action** against the suspended employee.

IV. Investigation and Adjudication

A. Minor Administrative Complaints

1. When preliminary investigative data indicates a complaint has been made which may result in the administration of minor corrective action/discipline, the complaint shall be forwarded to the employee's supervisor for investigation. The supervisor shall interview the complainant, all witnesses and the subject employee, as well as review relevant reports. The supervisor shall then prepare a report summarizing the matter, indicating the appropriate disposition.
2. If the supervisor determines the disposition of the complaint is exonerated, sustained, not sustained or unfounded, the investigation report is to be forwarded to the Internal Affairs Unit for review, and entry in the Internal Affairs record keeping system. If the supervisor believes the case should be administratively closed, the reports shall be forwarded to the Internal Affairs Unit for that determination of disposition to be made.

B. Major Administrative Complaints

1. 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 decision by a county prosecutor or a municipal prosecutor to dismiss a complaint against a subject officer. A finding of guilt by the Superior Court or a municipal court may assist in the resolution of an administrative investigation because a finding of guilt in those courts requires proof beyond a reasonable doubt which is more than is required to meet the burden of proof in administrative matters.
2. In the alternative, a disposition which does not involve a finding of guilt by the courts or where a complaint is dismissed by a county or municipal prosecutor means that there is an absence of proof beyond a reasonable doubt. 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 investigator must continue the administrative investigation to determine whether evidence can be developed that meets the burden of proof in administrative proceedings, namely a preponderance of the evidence.
3. When preliminary investigative data indicates a non-criminal, but serious administrative offense, which may result in disciplinary action exceeding that of a minor corrective action/discipline:
 - a. The supervisor must notify the Internal Affairs Unit, who will conduct a full investigation of the matter; and
 - b. The Internal Affairs Unit will notify the Chief of Police of the offense; and

- c. The Internal Affairs Unit will forward copies of the appropriate disciplinary documents, and investigation reports to the Chief of Police for review; and
- d. The Internal Affairs Unit will be responsible for the final case disposition and implementation of discipline, as determined by the Chief of Police or designee.

C. Allegations of Criminality

- 1. Where preliminary investigative data indicates the possibility of a criminal act on the part of the employee, or the investigation involves an allegation of the excessive use of force, the Chief of Police shall be notified immediately who will then notify the Burlington County Prosecutor's Office within seven days. No further action shall be taken, including the filing of charges against the employee until directed by the Chief of Police and the Burlington County Prosecutor's Office.
 - a. The Chief of Police shall be immediately notified when an employee is accused of a crime, domestic violence violations, any incident that attracts media attention, and any incident that would affect the efficient and effective operation of the department. In addition, the duty supervisor shall take any immediate action necessary to preserve the integrity of the department until the Chief of Police's arrival.
 - b. All other notifications shall be made on the next business day.
- 1. The Internal Affairs Unit shall interview the complainant, all witnesses as well as review relevant reports and records, and obtain other relevant information and materials.
 - a. A subject employee shall not be compelled to answer any questions in the absence of a grant of use immunity as conferred by the Burlington County Prosecutor's Office.
 - b. The Internal Affairs Unit investigator shall consult with the Burlington County Prosecutor regarding the advisability of giving a Miranda warning to the subject employee.

D. Interviewing the Subject Employee

- 1. Administrative Interviews
 - a. The Internal Affairs Unit investigator will notify the employee that a formal complaint has been filed.
 - b. Before questioning begins, inform the subject employee of:
 - 1) The nature of the complaint.
 - 2) The name of the person in charge of the interview, and the names of all persons who will be present during the interview.

- c. One person of the employee's choosing may attend the interview.
 - d. The employee will be advised of his or her duties and obligations to answer using the **Administrative Advisement Form**. The investigator shall further verbally confirm the employee's obligation for candor/honesty throughout an internal investigation.
 - e. If at any time during the questioning session the employee becomes a suspect in a criminal act, the employee shall be so informed and the questioning shall end. Promptly refer the case to the Burlington County Prosecutor's Office.
 - f. Questioning sessions shall be audio or video recorded.
2. Non-Administrative Interview (Allegation of Criminality)
- a. The Internal Affairs Unit investigator will notify the employee that a formal complaint has been filed.
 - b. Should the employee be afforded a grant of use immunity, the Internal Affairs Unit investigator shall schedule an interview with the employee.
 - c. 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.
 - d. Before questioning begins, inform the subject employee of:
 - 1) The nature of the complaint.
 - 2) The name of the person in charge of the interview, and the names of all persons who will be present during the interview.
 - e. Questioning sessions shall be audio or video recorded.

E. Investigative Avenues

- 1. Physical Evidence
 - a. Investigators should obtain all relevant physical evidence. All evidence, such as clothing, hair or fabric fibers, stains and weapons should be handled according to established evidence procedures.
 - b. With respect to audio file, they should be secured at the outset of the investigation. Transcripts or copies of the original recordings can be used as investigative leads. Audio files should be monitored to reveal the totality of the circumstances.
 - c. Sworn statements from all parties.

2. Photographs

- a. In the event of a complaint involving excessive force, the following photographic documentation shall be obtained when appropriate. Whenever possible, color photography shall be used.
- 1) Photographs of the complainant at the time of arrest or following the alleged incident of excessive force.
 - 2) Photographs of the subject employee in the event that employee was a victim.
 - 3) A recent photo of the employee in the event a sequential photo display will be used for identification purposes. The photo display must be properly retained for possible evidentiary purposes.
 - 4) Photographs of the scene of the alleged incident, if necessary.

3. Physical Tests

- a. Subject employees may be compelled to submit to various physical tests or procedures to gather evidence. Such evidence may be used against them in a disciplinary proceeding.
- b. No person has a constitutional right or privilege to refuse to submit to an examination to obtain a record of their physical features and other identifying characteristics of their physical or mental condition. Evid. R. 25(a). Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:
- 1) Breath sample
 - 2) Blood sample
 - 3) Buccal Swab
 - 4) Requiring employee to speak
 - 5) Voice recordings
 - 6) Participation in a suspect lineup
 - 7) Handwriting samples
 - 8) Hair and saliva samples
 - 9) Urine analysis
 - 10) Videotaping
 - 11) Field sobriety test

- c. Generally, a person cannot be physically forced to produce this or other evidence or submit to such tests, although a court order may be obtained to legally compel them to do so. Refusal to comply with the order can result in additional criminal, civil, and/or administrative sanctions.
 - 4. Polygraph
 - a. While an employee who is the subject of an Internal Affairs investigation may request a polygraph examination, an employer shall not influence, request or require an employee to take or submit to a polygraph examination as a condition of employment or continued employment (N.J.S.A. 2C:40A-1).
 - b. An employee cannot be required to submit to a polygraph test on pain of dismissal. Engel v Township of Woodbridge, 124 N.J. Super. 307 (App. Div. 1973).
 - c. If a polygraph is used, the test must be administered by a qualified police polygraph operator.
 - 5. Search and Seizure
 - a. All department assigned storage space, offices, lockers, desks, vehicles, computers, briefcases, and electronic devices are subject to a search/inspection without notice.
 - b. Personal brief cases shall not be searched without a warrant.
- F. Upon completion of all possible avenues of inquiry, the Internal Affairs Unit investigator shall complete an Internal Affairs Report.
 - 1. This is the objective report of all of the investigative activity, including all of the information obtained during the course of the investigation. The report shall indicate the recommended disposition. Possible dispositions, as defined in of this policy, 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 procedures.
 - 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:** 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 employee terminates his or her employment prior to disposition of the complaint.

- G. Forward the completed reports through the Internal Affairs Unit to the Chief of Police or designee for review and approval.
- H. The Chief of Police or designee, upon completion of the review of the report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action is deemed appropriate.
- I. Prior to issuing or approving any discipline above a written reprimand, the Chief of Police shall forward a copy of the Internal Affairs file along with the **Preliminary Notice of Disciplinary Action form** to the Township's Labor Counsel for review of legal sufficiency of the charges and discipline.
- J. In all cases, a letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian complainant. If the allegation was not sustained, the letter shall provide the complainant with a brief explanation why the complaint was not sustained (e.g., insufficient proof, lack of witnesses, etc.). If the allegation was sustained and discipline was imposed, the letter shall 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.
- K.
- L. Upon final disposition of the complaint, a letter shall be sent by certified mail to the complainant by Chief of Police explaining the outcome of the investigation.
- M. Initiation of **Performance Notice Form** for sustained complaints:
 - 1. A **Preliminary Notice of Disciplinary Action form** shall not be used when a **Performance Notice Form** is warranted.
 - 2. The supervisor recommending the issuance of a **Performance Notice Form** (counseling, oral reprimand and written reprimand) shall complete the form and forward the unsigned copy along with the completed investigation report through the Internal Affairs Unit to the Chief of Police or designee for review and approval.
 - 3. Upon approval, the **Performance Notice Form** will be returned to the subject employee's supervisor and commanding officer for signature and service.
 - 4. The employee shall be advised of the action taken by the issuing supervisor. The employee shall sign the **Performance Notice Form** and be given a copy of the document. The original document shall be forwarded to the Internal Affairs Unit for filing.
 - 5. The original copy of the **Performance Notice Form** shall be placed in the employee's personnel file.
 - a. Counseling and oral reprimands:
 - 1) One year after the date of the approved, the employee may request in writing that the disciplinary report be removed from the personnel file and placed in the Internal Affairs files, provided no other breach of discipline has occurred.

- b. Written reprimands:
 - 1) The written reprimand shall remain permanently in the employee's personnel file.

- N. Initiation of formal charges for sustained complaints:
1. A **Preliminary Notice of Disciplinary Action form** shall be used for requested discipline that could result in a suspension of one to five days.
 2. If the complaint is sustained, and it is determined that formal charges should be preferred, the Chief of Police or designee shall direct the Internal Affairs Unit to prepare the **Preliminary Notice of Disciplinary Action form**, sign, and serve charges upon the subject employee in accordance with **N.J.S.A. 11A:2-1**. A copy of this form shall also be mailed to the Department of Personnel.
 3. The **Preliminary Notice of Disciplinary Action form** shall direct that the employee charged must enter a plea of guilty or not guilty, in writing, on or before the date set forth in the notice for entry of a plea. The date will be listed on the notice and must provide a reasonable time, at least 5 days after the date of service of the charges to enter a plea and request a hearing, if applicable.
 4. Conclusion of fact and the penalty imposed will be noted in the employee's personnel file after he or she has been given an opportunity to read and sign it. The Internal Affairs Unit will cause the penalty to be carried out and complete all required forms. Note: the Final Notice of Disciplinary Action form must be filed within 20 days of disposition.
- O. If the employee charged waives a hearing and enters a plea of guilty, the Chief of Police shall permit the employee to present factors in mitigation prior to assessing a penalty.

V. Hearings

- A. 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 less than 10 days and no more than 30 days, and arrange for the hearing of the charges.
- B. Internal Affairs 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.
- C. In the event of a hearing, the Internal Affairs Unit 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.
- D. The hearing shall be held before the appropriate authority or the appropriate authority's designee. In accordance with N.J.S.A. 40A:14-148, except as otherwise provided by law, the officer, board or authority empowered to hear and determine the charge or charges made against an employee of the police department, shall have the power to subpoena witnesses and documentary evidence. The Superior Court shall have jurisdiction to enforce any such subpoena.

- E. All disciplinary hearings shall be closed to the public unless the defendant 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.
- F. The hearing authority will fix punishments that are deemed appropriate under the circumstances in accordance with the Rules and Regulations.
- G. 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 or designee if he/she was not the hearing authority.
- H. Upon completion of the hearing, Internal Affairs will complete all required forms including the entry of the disposition in the index file.
- I. If the charges were sustained, Internal Affairs will cause the penalty to be carried out. The report shall be permanently placed in the employee's personnel file.

VI. Confidentiality

- A. The progress of Internal Affairs investigation and all supporting materials are considered confidential information.
- B. Upon completing a case, the Internal Affairs Unit will enter the disposition in the Internal Affairs recordkeeping system.
- C. The contents of investigation case files will be retained in a locked cabinet in the designated Internal Affairs Office. The files shall be clearly marked as confidential.
- D. Only the Chief of Police or designee is empowered to release publicly the details of an internal investigation or disciplinary action. The employee may authorize the release of copies of formal disciplinary charges and their outcome to any third party. The employee shall make the request in writing. The decision to release rests solely in the Chief of Police.

VII. Internal Affairs Files

- A. A separate Internal Affairs file system shall be maintained in a secured file cabinet under strict control of the Chief of Police and the Internal Affairs Supervisor. Personnel records are separate and distinct from internal affairs records. Internal Affairs Investigation Reports shall not be placed in an employee's personnel records file.
 - 1. When a complaint has a disposition of exonerated, not sustained, or unfounded, there shall be no indication in the employee's personnel file that a complaint was ever made.
 - 2. When a complaint has been sustained, only the disciplinary action imposed shall be filed in an employee's personnel file.
- B. The file system shall contain all investigative files resulting from Internal Affairs complaints and the original copy of the following reports:

1. Vehicular Pursuit Reports;
 2. Use of Force Reports;
 3. Firearm's Discharge Reports.
- C. 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.
1. Investigative records shall be maintained pursuant to the New Jersey Division of Archives and Records Management Records Retention Schedule.