


<b>BEACH HAVEN POLICE DEPARTMENT</b>				
<b>VOLUME: 2</b>	<b>CHAPTER: 15</b>	<b># OF PAGES: 30</b>		
<b>SUBJECT: INTERNAL AFFAIRS</b>				
<b>EFFECTIVE DATE:</b> <b>March 4, 2012</b>		<b>ACCREDITATION STANDARDS:</b>	<b>REVISION DATE</b>	<b>PAGE #</b>
<b>BY THE ORDER OF:</b> <b>Chief Kevin Kohler</b> <b>Chief James Markoski</b>			-09/01/14      pg3      #7 -09/01/14      pg15      IX -11/30/17      pg 4      II 4b Pg 7      IV A3 Pg 8      IV	
<b>SUPERSEDES ORDER #:</b>			-05/12/20- logo changed; edited to include AG Directive No.2019-5 -10/14/2020- edited to reflect AG Directive No. 2020-7 -07/27/2021- edited to comply with AG IAPP June 9, 2021 Version	

**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. This 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. The Beach Haven Police Department must be responsive to the community by providing formal procedures for the processing of complaints regarding individual employee performance. An effective disciplinary framework permits department personnel to monitor employee compliance with department directives, assist employees in meeting department objectives, 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 process 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 Beach Haven Police Department to accept and investigate all complaints of alleged employee misconduct from any citizen or department employee. Employees, regardless of rank or assignment, shall be subject to disciplinary action for violating the public trust. Committing any offense punishable under the laws of the functioned States, the State of New Jersey, or its political subdivisions constitutes a violation of that 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. Employees may be disciplined for a violation of any policy and procedure of the department or for failure to obey any lawful instruction, order, or command of a supervisor. Disciplinary action in all matters will be determined based upon the merits of each case. It is the policy of this department that personnel conducting an investigation of any allegation of misconduct must strive to conduct a thorough and objective investigation without violating the rights of the subject employee, witness, or member of the public. All personnel who may be assigned to conduct or participate in an internal investigation must be thoroughly familiar with this directive.

It is the policy of this department that prevention is the primary means of reducing and controlling misconduct. It is further the policy of the Beach Haven Police Department to discover and correct organizational conditions which permit misconduct to occur. Special emphasis is placed on recruitment, selection and training of employees, community outreach, and the analysis of misconduct complaints and their disposition.

## **PROCEDURE:**

### **I. Internal Affairs Function**

- A. The Internal Affairs function shall be assigned to an officer as designated by the Chief of Police. Personnel assigned to the Internal Affairs function shall be directly responsible to the Chief of Police.
  - 1. The Chief of Police shall not assign any person responsible for the representation of employees of the collective bargaining function to the Internal Affairs function.
  - 2. Also, a bargaining unit representative should not be permitted to represent more than one witness or subject in a single investigation, to avoid potential conflicts of interest.
  - 3. The goal of the Internal Affairs function 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.
- B. Duties and Responsibilities
  - 1. The Internal Affairs function is responsible for 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 policies and procedures.
    - c. Conduct which adversely reflects upon the employee, or the department.
    - d. The obligation to investigate includes not only acts of misconduct that are alleged to have occurred while the subject officer was on duty, but also acts of misconduct that are alleged to have occurred outside the employing agency's jurisdiction or while the subject officer was off-duty.
  - 2. In addition to investigations concerning allegations of misconduct, the Internal Affairs function shall be responsible for:
    - a. Any firearm discharge by agency personnel, whether on-duty or off-duty, unless the discharge occurred during the course of:
      - 1) A law enforcement training exercise;
      - 2) Routine target practice at a firing range;
      - 3) A lawful animal hunt; or
      - 4) The humane killing of an injured animal.
    - b. Any discharge of an agency-owned firearm by anyone other than agency personnel;
    - c. Investigation and review of all vehicle pursuits;
    - d. Investigation and review of all use of force incidents;
    - e. Any collision involving agency-owned vehicles;
    - f. Misconduct investigations involving Borough employees at the direction of the Borough Administrator and the Chief of Police; and
    - g. Any other investigation as directed by the Chief of Police or designee.
  - 3. Internal Affairs is responsible for implementation and monitoring of the Early Warning System.
    - a. Performance files, personnel files, and internal affairs files will be monitored regularly for questionable conduct.
    - b. Three (3) incidents of questionable conduct within a 180-day period will trigger initiation of the Early Warning System as outlined in departmental policy.
  - 4. The Internal Affairs function may conduct an internal affairs investigation on their own initiative upon notice to, or at the direction of the Chief of Police or designee.

5. The Internal Affairs function may refer investigations to an employee's supervisor for investigation of minor policy and/or rules and regulations infractions.
6. The Internal Affairs 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 Internal Affairs 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. Employees assigned to the Internal Affairs function come under the direct authority of the Chief of Police.
7. The Internal Affairs function shall maintain a comprehensive central file on all complaints received by this department whether investigated by Internal Affairs personnel or assigned to an employee's supervisor for investigation and disposition.
8. The Internal Affairs function shall prepare quarterly reports that summarize the nature and disposition of all misconduct complaints received by the department for submission to the Chief of Police and the Ocean County Prosecutor (
9. An annual Internal Affairs Summary Report, which includes data collected during the preceding year on internal affairs investigations shall be forwarded to the Ocean County Prosecutor's Office.
10. 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.

## II. Accepting Complaints

### A. Initiation of Citizen Complaints

1. All department personnel 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. 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 shall visit the individual at their home, place of business, or at another location in order to complete the report, if possible.
  - a. The department will also accept third party and email complaints. (In the same manner as anonymous complaints)
  - b. Juveniles may file a complaint without parental involvement.
  - c. In cases involving non-English speaking complainants, every effort will be made to find an interpreter to translate the information on the complaint form.
2. If a member of Internal Affairs is not immediately available, all department personnel are directed to accept the report of employee misconduct. This requires the completion of the complaint form on all complaints.
3. Department personnel receiving the complaint will:
  - a. Provide the person making the complaint with the **Citizen Complaint Information Sheet** which explains the department's procedures.
  - b. Shall advise the complainant that they will be kept informed of the status of the complaint, if requested, and its ultimate disposition.
  - c. Complete the **Internal Affairs Complaint form**.
  - d. Have the complainant sign the completed form. If the complainant will not sign the form, personnel receiving the complaint will so note that fact. However, the failure of a citizen to sign a complaint will in no way preclude the investigation of the allegations.

4. All department personnel are directed to accept reports of 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. In the case of an anonymous complaint, the employee accepting the complaint shall complete as much of the **Internal Affairs Complaint form** as they can with the information provided.
5. Complaints relating to the Chief of Police will be referred to the Ocean County Prosecutor's Office for investigation
6. Complaints shall be handled as follows:
  - a. All complaints will be forwarded to the Internal Affairs function for screening and entry into the internal affairs recordkeeping system and assigned a case number from the records management system.
    - 1) Create a case file including an **Internal Affairs Checklist and Summary Sheet**.
  - b. All complaints shall be retained by the Internal Affairs function, 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, failing to take, or method of police action was predicated upon irrelevant factors such as race, attire, 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) **ALL VEHICLE PURSUIT REVIEW AND INVESTIGATION**.
    - 11) **ALL USE OF FORCE REVIEW AND INVESTIGATION**.
7. Once a complaint has been received, the subject officer shall be notified in writing using the **Complaint Notification** Form that a report has been made and an investigation will commence. Such notification shall not include the name of the complainant. This notification is not necessary if doing so would impede the investigation.
8. 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.
9. If a complaint is received from another law enforcement agency, the complaint will be forwarded to internal affairs for immediate handling.
  10. 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)
- 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 function. However, should the witnessed employee misconduct be committed by the employee's supervisor, said employee shall report same directly to the Internal Affairs function and/or Chief of Police.

### **III. Immediate Suspensions**

- A. Suspension Pending Disposition or investigation
1. A supervisor or the 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 person's offense while on-duty, or the act touches upon their employment.
  2. The suspended employee shall report to the Chief of Police by 0900 hours on the next business day, along with the supervisor imposing the suspension to conduct a Loudermill hearing that includes the following:
    - a. Advise the employee in writing of why an immediate suspension is sought and the charges and general evidence in support of the charges.
    - b. 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 function.
    - c. Provide the employee with sufficient opportunity to review the charges and the evidence to respond either orally or in writing.
    - d. Advise their immediate supervisor in writing of the suspension and the facts and circumstances requiring the suspension.
  3. Within five days of the suspension, the department must complete and file formal charges against the suspended employee.
  4. 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 officer is suspended or placed on administrative leave.
    - b. The administrative reassignment is subject to change by the Chief of Police or designee upon the outcome of the investigation.

#### **IV. Investigation of Internal Complaints**

- A. All allegations of officer misconduct shall be thoroughly, objectively, and promptly investigated to their logical conclusion in conformance with this policy, regardless of whether the officer resigns or otherwise separates from the agency.
- B. Time limitations
  - 1. Internal affairs investigations shall be completed in a prompt manner.
  - 2. Long, unnecessary delays can threaten the integrity of an investigation and the trust of the community.
  - 3. Most straightforward internal affairs complaints can and should be resolved within 45 days from the receipt of the complaint, in accordance with the “45-day rule” established by N.J.S.A. 40A:14-147.
  - 4. If the investigation is more complex, additional time may be needed to collect evidence, interview witnesses, or take other necessary investigative steps. In these cases the following notifications shall be made;
    - a. The investigator shall notify the Chief of Police on or about the 45<sup>th</sup> day.
      - 1) The Chief shall seek to identify the reasons for the extended investigation and determine whether additional resources or oversight are needed to complete the inquiry in a prompt manner.
      - 2) The Chief shall ensure compliance with the “45-day rule”
    - b. The Chief of Police shall be notified every additional 45 days that an internal affairs complaint remains open, and exercise increased scrutiny of the investigators’ work the longer the case remains open.
  - 5. In rare cases where disciplinary charges have not been filed within 180 days of the receipt of the complaint, the County Prosecutor must be notified.
  - 6. The County Prosecutor or their designee, shall investigate the reasons for the extended investigation and shall also examine whether the agency’s internal affairs function faces any systematic issues that require additional resources or oversight.
  - 7. The County Prosecutor may take any steps necessary to ensure prompt resolution of the pending matter including suppression of the agency’s investigation.
  - 8. This agency shall provide further notice to the County Prosecutor every additional 90 days that the investigation remains open.
  - 9. The Chief shall consult with counsel about compliance with the 45-day rule.
  - 10. The initiation of a criminal investigation will suspend the 45-day rule pending the disposition of that investigation.
  - 11. The 45-day rule will start anew upon termination of the criminal investigation.

#### **V. Investigation and Adjudication of Minor Complaints**

- A. Interviewing the Complainant and Civilian Witnesses
  - 1. The investigator shall examine the case to determine the best investigative approach and identify those interviews immediately necessary.
  - 2. If the conduct may have violated a law or involves the officer’s use of force that resulted in serious bodily injury or death, the County Prosecutor must be notified immediately.
  - 3. If the investigation involves a criminal charge against the complainant, an initial interview should be conducted through the County Prosecutor and the complainant’s defense attorney.
  - 4. The complainant should be personally interviewed.
    - a. If in person is not feasible, the interview may take place at the complainant’s home or place of work.

- b. A telephonic interview may be conducted if necessary.
- 5. All relevant information about the complainant shall be recorded including;
  - a. Name (unless anonymous)
  - b. Complete address
  - c. Telephone numbers with area codes
  - d. Race or ethnic identity
  - e. Sex
  - f. Date of birth
  - g. Place of employment
  - h. Social Security number
- 6. All relevant facts should be obtained during the interview and a formal statement should be obtained.
- 7. Witnesses should be personally interviewed and should provide formal statements when possible.
- 8. When taking a formal statement from a civilian, the statement should be audio or video recorded according to the same protocols that would apply if the civilian was being interviewed in a criminal investigation.
  - a. If the civilian refuses to be recorded, the officer may continue the interview and document the reasons for not recording.
- 9. When taking a formal statement from an officer, the statement shall be video or audio recorded, except in cases that did not arise from a civilian complaint.
- B. Interviewing Members of the Agency as Subject
  - 1. Administrative Investigations
    - a. The officer has an obligation to cooperate.
    - b. Failure to cooperate may result in additional disciplinary actions
    - c. An administrative interview form must be presented to the subject officer and signed.
    - d. May require special reports
    - e. Cannot charge as subterfuge
    - f. Subject employee has a right to a representative
    - g. Must be audio and video recorded
  - 2. Allegations of Criminality
    - a. Prosecutor must be notified immediately
    - b. Subject officer should be treated as any other defendant
    - c. Investigator should coordinate interview with County Prosecutor and proceed according to their instructions
    - d. Miranda Warning must be given if appropriate
    - e. If Garrity warning is necessary, must be approved by the County Prosecutor's Office
    - f. May require routine business reports
    - g. No special reports
    - h. Subject officer has a right to legal counsel
    - i. Must be audio and video recorded
- C. Interviewing Members of the Agency as Witnesses
  - 1. Administrative Investigations
    - a. Officer has an obligation to cooperate
    - b. Must be provided a Witness Acknowledgement Form
    - c. May be entitled to a Weingarten representative
    - d. Should be audio and video recorded
  - 2. Allegations of Criminality
    - a. Officer has an obligation to cooperate
    - b. No Miranda warning
    - c. Must be given a Witness Acknowledgement Form
    - d. May be entitled to a Weingarten representative
    - e. Should be audio and video recorded

D. Minor Administrative Complaints

1. If a complainant wishes to verbally make a complaint about an officer, but declines to want a formal investigation through Internal Affairs, the complaint shall be forwarded to the commanding officer.
2. When a complainant completes an Internal Affairs complaint form, the form shall be turned over to Internal Affairs for investigation.
3. When preliminary investigative data indicates a complaint has been made which may result in the administration of minor discipline, Internal Affairs shall interview the complainant, all witnesses and the subject employee, as well as review relevant reports. The Internal Affairs officer shall then prepare a report summarizing the matter, indicating the appropriate disposition.
4. If the Internal Affairs officer determines the disposition of the complaint is exonerated, sustained, not sustained or unfounded, the investigation report is to be forwarded to the Captain and Chief for review, and entry in the Internal Affairs recordkeeping system. If the Internal Affairs officer believes the case should be administratively closed, the reports shall be forwarded to the Captain and Chief for review.
5. Upon final disposition of the complaint, 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.
6. Initiation of disciplinary action for minor complaints:
  - a. The Internal Affairs officer shall write a letter to the subject officer stating the findings of the investigation and any disciplinary actions to be taken.
  - b. A copy of the letter shall be included in the subject employee's personnel file as well as the Internal Affairs file.
  - c. If training is recommended, the completed training documents shall be included in the internal affairs file.

E. Major Administrative Complaints

1. When preliminary investigative data indicates a non-criminal, but serious administrative offense which may result in disciplinary action exceeding that of an oral or written reprimand;
  - a. The supervisor must notify the Internal Affairs function, who will conduct a full investigation of the matter; and
  - b. The Internal Affairs function will notify the Chief of Police of the offense.
  - c. The Internal Affairs function will be responsible for the final case disposition and implementation of discipline, as determined by the Chief of Police or designee.
  - d. Upon final disposition of the complaint, 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.

F. 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 Ocean County Prosecutor's Office. No further action shall be taken, including the filing of charges against the employee until directed by the Chief of Police and the Ocean 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 officer in charge 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.
2. The Internal Affairs function 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 which must be approved by the Ocean County Prosecutor's Office.
3. Interviewing the subject employee
  - a. Should the employee be afforded a grant of use immunity, the Internal Affairs investigator shall schedule an interview with the employee.
  - b. Should the employee so desire, they may be represented by an attorney of their choosing during the course of the interview, so long as the availability of the attorney does not in any way hamper or impede the on-going investigation. As the investigation is criminal in nature the employee's union representative is prohibited from attending the interview.
  - c. 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.
  - d. Questioning sessions shall be audio and video recorded.
4. 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 radio and telephone recordings, the original recording is the best evidence and should be secured at the investigation's outset. Transcripts or copies of the original recordings can be used as investigative leads. Entire tape or transmissions should be reviewed to reveal the totality of the circumstances.
5. Photographs
  - a. If the complaint involves excessive use of force, photographs of the complainant shall be taken at the time of arrest or following the alleged incident of excessive force.
  - b. Photographs of the subject employee in the event that employee was a victim should also be taken following the alleged incident.

- c. Recent photos of employees shall be maintained by the department in the event a sequential photo display will be used for identification purposes. The photo display must be properly retained for possible evidentiary purposes.
  - d. Photographs of the scene of the alleged incident, shall also be taken and included in the investigative file if necessary.
- 6. 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. N.J.R.E. 503(a) states that “no person has the privilege to refuse to submit to examination for the purpose of discovering or recording his corporal features and other identifying characteristics or his physical or mental condition.” Evidence that may be obtained or procedures that may be used to obtain evidence under this new 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) Video recordings; and
    - 11) Field sobriety tests.
  - 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.
- 7. 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.
  - d. Polygraph tests of civilian complainants and witnesses should only be used when a reasonable suspicion exists that their statements are false.
  - e. Polygraph examinations should not be used routinely in internal affairs investigations.
  - f. Under no circumstances should polygraph examinations be used to discourage or dissuade complainants.
  - g. A victim of sexual assault cannot be asked or required to submit to a polygraph examination.
- 8. Search and Seizure
  - a. All people, including police officers, have a Fourth Amendment right to be free from unreasonable searches and seizures.

- b. During an investigation, the 4<sup>th</sup> Amendment applies to any search the employing agency undertakes.
  - c. Criminal investigations generally require a search warrant to conduct a search.
  - d. A warrant should be obtained prior to searching the subject officer's private property, including any home, personal car, bank accounts, safety deposit boxes, briefcases, etc.
  - e. A warrant may also be required where the search of an officer's workplace is conducted and the officer has a high expectation of privacy in the place to be searched.
  - f. The investigator should consult with the County Prosecutor's Office prior to undertaking the search of any workplace area in a criminal investigation.
  - g. All department assigned offices, lockers, desks, vehicles, computers, briefcases, and electronic devices are subject to a search/inspection without notice.
  - h. Personal brief cases shall not be searched without a warrant or consent.
9. Electronic Surveillance
- a. N.J.S.A. 2A:156A-1 et seq. governs the use of electronic surveillance information in New Jersey. This statute specifically covers the areas of:
    - 1) "Wire communication," which essentially means any conversation made over a telephone (N.J.S.A. 2A:156A-2a)
    - 2) "Oral communication," which means any oral communication uttered by a person who has an expectation that such communication will not be intercepted (N.J.S.A. 2A:156A-2b); and
    - 3) "intercept," which means to acquire the contents of any wire electronic or oral communication through the use of any electronic, mechanical or other device (N.J.S.A. 2A:156A-2c); and
    - 4) "Electronic communication," which means the transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio or other system (N.J.S.A. 2A:156A-2m).
  - b. All of these forms of communication are protected from intrusion and interception except under very narrowly defined exceptions.
  - c. One such exception is when one person in a communication decides to intercept (e.g., record) the conversation. As long as this person is a part of the conversation, such recording is lawful. But if the person stops being a party to the conversation (e.g., he or she walks away from the group or turns the telephone over to someone else), it is no longer lawful for him or her to intercept the conversation.
  - d. Another exception exists where a person, acting at the direction of an investigative or law enforcement officer, gives prior consent to intercept a wire, electronic or oral communication and is a party to the communication. This "consensual intercept" can only be made after the Attorney General or a County Prosecutor, or their designee, approves it.
  - e. Pursuant to N.J.S.A. 2A:156A-4b, a law enforcement officer may intercept and record a wire or oral communication using a body transmitter if that officer is a party to the communication or where another officer who is a party requests or requires that such interception be made. Individual departmental or agency policy

dictates procedures for such recordings. This kind of law enforcement non third-party intercept can be used during internal affairs investigations.

- f. Generally, the use of evidence derived from an authorized wiretap is limited to criminal investigations and prosecutions. Agencies that wish to use wiretap information in a disciplinary proceeding should consult with their County Prosecutor because it may be necessary to obtain a court order to so use it.
  - g. The monitoring of 9-1-1 telephone lines is required by law. Nothing prohibits the monitoring of other telephones used exclusively for departmental business if the agency can demonstrate a regulatory scheme or a specific office practice of which employees have knowledge. In such instances a diminished expectation of privacy exists in the use of these telephones, and monitoring would be acceptable.
  - h. The New Jersey Wiretap Act applies only to oral, wire and electronic communications. While not specifically covered by this law, reasonable limitations should exist on video surveillance. The primary issue is one of privacy. Video surveillance, especially covert surveillance, should not be used in areas where employees have a high expectation of privacy, such as locker rooms and bathrooms. In public areas, video surveillance may be used. In many law enforcement agencies, certain areas such as lobbies, cell blocks and sally ports have video surveillance for security reasons. Video obtained from these sources is applicable to internal investigations. Questions about the specific application of video surveillance, especially cover surveillance, should be addressed to the County Prosecutor's Office. It must be emphasized that this refers to video surveillance with no sound recording component.
  - i. Many law enforcement agencies use in-car video systems, which record the video image from a camera mounted in the car and an audio signal from a microphone worn by the officer. These recordings can be used in internal investigations because the video image is not restricted at all and the officer is a party to the audio portion of the recording at all times.
  - j. Some agencies equip their patrol vehicles or other vehicles with GPS devices. These devices can locate a vehicle with great accuracy. Information gleaned from these devices may be used in internal affairs investigations because the subject officer has no expectation of privacy in his or her whereabouts when performing police duties.
10. Employees may be required to submit financial disclosure statements.
11. Drug Testing
- a. The Attorney General's Law Enforcement Drug Testing policy permits;
    - 1) The testing of applicants and trainees for law enforcement positions;
    - 2) Testing of veteran officers if reasonable suspicion exists that they are using drugs or if they have been chosen as part of a random drug testing program.
  - b. All analysis of testing is done through the State Toxicology Laboratory within the Department of Health.
12. At the conclusion of an investigation concerning minor, major and criminal complaints, the Internal Affairs function shall report a disposition to the Chief of Police as follows:

- a. **Exonerated:** A preponderance of the evidence shows the alleged conduct did occur, but did not violate any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standing operating procedure; rule or training.
- 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:** A preponderance of the evidence shows that the alleged conduct 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. Firearms discharges

- 1. Internal Affairs shall receive notice of any incidents involving;
  - a. Any firearms discharge by personnel, whether on or off duty, unless the discharge occurred during the course of;
    - 1) Training
    - 2) Routine target practice at the firearms range
    - 3) A lawful animal hunt
    - 4) The humane killing of an injured animal; or
  - b. Any discharge of an agency-owned firearm by anyone other than agency personnel.
- 2. Upon receiving notice, Internal Affairs shall determine if additional investigation is necessary and whether it must be reported to the County Prosecutor or OPIA.
- 3. If the discharge occurs while the employee is on duty, then the County Prosecutor must be notified.
- 4. If the discharge results in a fatality, the matter shall be investigated by OPIA or another agency pursuant to the Independent Prosecutor Directive.
- 5. Any statements by an LE agency about the conduct of law enforcement officers involved in a firearm discharge, require approval by the County Prosecutor or AG's office.
- 6. Agency Law enforcement officers including Internal Affairs officers will only participate in the initial investigation if directed to do so by the County Prosecutor or OPIA.
- 7. No law enforcement officer shall share any information learned during the course of the use-of-force investigation to any witness without authorization.
- 8. If the officer learns of any unauthorized dissemination, he/she must report such incident to the authority in charge of the investigation or their designee.
- 9. Officers who are directed to assist in the initial firearms investigation may be required to act independently of their ordinary chain of command and report directly to the authority in charge.
- 10. In cases where the discharge does not result in criminal charges, the County Prosecutor OPIA or Attorney General will refer the incident back to the agency for an administrative review.
- 11. Officers conducting administrative investigations of firearms discharges must strive to conduct a thorough and objective investigation without compromising the rights of the subject officer or any other law enforcement officer.
- 12. Any reports of the incident should include a description of the incident, the date, time and location of the incident, type of firearm used, type of ammunition and

- number of rounds fired, the identity of the officer, and any other information a superior officer requests.
13. The investigator must consider relevant law, and Attorney General or County Prosecutor policies and guidelines, and agency rules, regulations and policies.
  14. The investigation of an officer involved shooting shall include photographs, ballistics tests, and interviews with all witnesses, complainants and officers involved.
  15. All firearms shall be treated as evidence.
  16. A complete description of the weapon including the make, model, caliber, and serial number must be obtained and the weapon checked through NCIC/SCIC if applicable.
  17. In a firearms discharge investigation, the investigator must determine if the weapon was an approved weapon for that officer and if that officer was authorized to carry that weapon at the time of discharge.
  18. The investigator must also determine if the weapon was loaded with authorized ammunition and examine the weapon to determine its operating condition and any alterations that may have been made.
- H. Upon completion of all possible avenues of inquiry, the Internal Affairs function shall complete the **Internal Affairs Investigation Report** and submit all reports, statements and tape recordings to the Chief of Police within thirty (30) days from the date that the matter was assigned to the internal affairs officer. If charges are in order, they must be served pursuant to time limit set by **N.J.S.A. 40A:14-147**.
1. If an internal affairs investigation cannot be completed before the 45 day time period as set forth by **N.J.S.A. 40A:14-147**, approval must be obtained from the Chief of Police to extend the length of the investigation. The investigation shall be an objective report of all of the investigative activity, including all of the information obtained during the course of the investigation. The report should be clear, concise, and satisfactorily answer all ancillary questions or collateral issues that arise from the investigation.
  2. Extended time may be granted depending upon the complexity of the matter. All charges must be filed within 45 days from the date that sufficient evidence exists to substantiate a charge, or charges, for violations of rules, regulations, policy, procedures or special orders.
  3. The Internal Affairs report shall have a conclusion, disposition and a recommended disciplinary penalty, if applicable.
- I. Internal Affairs will forward the Internal Affairs file to the Chief of Police who will review all the reports, supporting documentation, information gathered during any supplemental investigation.
1. If a finding of exonerated, not sustained, or unfounded, the Chief of Police or designee shall notify the subject employee in writing of the disposition without undue delay.
  2. If the complaint is sustained and it is determined that formal charges should be preferred, the Chief of Police shall direct Internal Affairs to prepare the **Notice of Discipline form** and have it served upon the subject employee. The Chief of Police will sign and file these charges.

## VI. Criminal/Motor Vehicle Complaint Against Employees

- A. Any employee who has been charged with an indictable offense, drug offense or any offense under the Prevention of Domestic Violence Act must make immediate notification to his/her supervisor setting forth the circumstances surrounding the complaint.
1. It will be the responsibility of the supervisor to make a prompt notification to the Internal Affairs function and the Chief of Police.

2. It shall be the responsibility of the Internal Affairs officer to make an immediate notification to the Ocean County Prosecutor.
  3. It will be the responsibility of the Internal Affairs officer, in consultation with the Chief of Police, to evaluate the need for an immediate response by Internal Affairs personnel.
- B. Any employee who is charged with a minor offense (disorderly persons offense, petty disorderly persons offense or municipal ordinance), received a motor vehicle summons, or has been **involved** in (but not charged, as a result of) a domestic violence incident must notify the Chief of Police 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 Chief of Police via memo on his/her next scheduled day of work.
  - D. Internal Affairs shall track the proceedings of any criminal or civil matters which officers of the department are involved in as a complainant, plaintiff, or defendant.

## VII. Hearings

- A. Upon written notice of a request for a hearing from the subject employee, the Chief of Police or designee will set the date for the hearing within a reasonable time and arrange for the hearing of the charges.
- B. The Appropriate Authority is the hearing officer relative to all disciplinary proceedings involving an employee of the department. The Appropriate Authority may use an independent hearing officer. The Chief of Police shall review each and every disciplinary matter involving employees of the police department. An employee is not entitled to a hearing for recommended penalties that will not rise above a written reprimand.
- C. The Internal Affairs function shall assist with 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. 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 officer or officer 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.
- D. In the event of a hearing, the Internal Affairs function will be responsible for preparing a discovery package from the Internal Affairs file, and providing it to the subject employee or their representative.
- E. All disciplinary hearings shall be closed to the public unless the subject employee requests an open hearing.
- F. 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 findings of fact for each issue or charge in the case.
- G. The hearing officer shall impose any of the following methods of discipline consistent with the facts and circumstances of the sustained violation:
  1. Training;
  2. Counseling;
  3. Oral reprimand;
  4. Written reprimand;
  5. Surrender of time;
  6. Suspension;
  7. Demotion;
  8. Dismissal.

- H. 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.
- I. Upon completion of the hearing, the Internal Affairs Unit will complete all required forms.
- J. If the charges were sustained, the Internal Affairs Unit will cause the penalty to be carried out. The **Internal Affairs Unit Final Disposition Report** shall be placed in the employee's personnel file.

#### VIII. Confidentiality

- A. The progress of an Internal Affairs investigation 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. Upon completing a case, the Internal Affairs function will enter the disposition in the Internal Affairs recordkeeping system.
- C. The nature and source of internal allegations, the progress of internal affairs investigations, and the resulting materials are confidential information. The contents of an internal affairs investigation case file, including the original complaint, shall be retained in the internal affairs cabinet in the Chief's office and clearly marked as confidential. The information and records of an internal affairs investigation shall only be released or shared under the following limited circumstances:
  - 1. If administrative charges have been brought against an officer and a hearing will be held, a copy of all discoverable materials shall be provided to the officer and the hearing officer before the hearing;
  - 2. If the subject officer, agency or governing jurisdiction has been named as a defendant in a lawsuit arising out of the specific incident covered by an internal affairs investigation, a copy of the internal affairs reports may be released to the attorney representing the subject officer, agency or jurisdiction;
  - 3. Upon request or at the direction of the County Prosecutor or Attorney General; or
  - 4. Upon a court order
- D. In addition, the Chief of Police may authorize access to a particular file or record for good cause.
  - 1. The request and the authorization should be in writing, and should specify who is being granted access, which records are being accessed and the time period for which access is granted.
  - 2. The authorization should specify conditions of the access
  - 3. The Chief may order any redactions necessary to protect sensitive or privileged information, including an officer's medical or mental health records or the details of an on-going criminal investigation.
- E. As a general matter, a request for internal affairs investigation files may satisfy the good cause requirement:
  - 1. If a Civilian Review Board that meets certain minimum requirements requests to access a completed or closed investigation file; or
  - 2. If another law enforcement agency requests the files because it is considering hiring an officer who was formerly employed as a Beach Haven Police officer.



- F. This agency may review judicially sanctioned subpoenas directing the production of internal affairs investigative records. Prior to responding to the subpoena, the Chief or the internal affairs investigator should consult with the Borough attorney to determine whether the subpoena is valid and reasonable.
- G. If the release of internal affairs documents is appropriate, an inventory of the reports released shall be made and a signed receipt obtained.
- H. The Beach Haven Police Department may not waive, restrict, or otherwise limit the power of the County Prosecutor or Attorney General to direct that the information or records of an internal affairs investigation be release or shared.

## **IX. 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 Internal Affairs. Access shall be restricted to those approved by the Chief of Police who possesses a bona fide need in connection with official department business.
- 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. 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.
- D. An Internal Affairs index file shall be maintained as a record control device. It will serve as an inventory of internal affairs case files and provide an overview of case status to authorized personnel. An index card file or computerized database shall be utilized.
- E. 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.
- F. Upon completing a case, Internal Affairs will be responsible for entering the disposition in the index file and the Chief of Police shall notify the complainant and subject employee(s) of the disposition.
- G. Personnel records are separate and distinct from internal affairs investigation files. Internal affairs investigation reports shall never be placed in personnel records.
  - 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 is sustained and discipline imposed, the only items to be placed in the employee's personnel file is the **Internal Affairs Unit Final Disposition Report**.
- H. 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. Files concerning a criminal homicide must be permanently maintained.
  - 2. Files involving a criminal matter that resulted in the arrest of the subject employee must be maintained for 75 years.
  - 3. All other criminal or administrative internal affairs investigative files shall be maintained for five years after the subject employee's retirement.

- I. Coordination with Civilian Review Boards
  - 1. A Civilian Review Board must implement the following minimum procedural safeguards;
    - a. Avoidance of interference with ongoing investigations or proceedings.
      - 1) The Board may not commence an investigation of a particular civilian complaint or incident until after criminal and/or Internal Affairs investigations have been concluded and any resulting discipline imposed.
      - 2) After reviewing the relevant Internal Affairs records and conducting any other lawful investigation, the Board may present its findings to the law enforcement executive or appropriate authority.
        - 1. They may also request additional information or clarification regarding the findings or the decisions made during the course of the investigation.
        - 2. They may request an Internal Affairs case to be reopened
        - 3. Discretion as to whether to open a close matter lies with the law enforcement executive or in criminal matters, the County Prosecutor.
      - 3) The Civilian Review Board may not override any finding or decision made as part of the internal affairs process, impose discipline, require that another official impose discipline, or render any finding or decision that requires deference from any other official.
      - 4) If the request to reopen an investigation is declined, the Board may issue a final public report regarding the complaint or incident after appropriately redacting the report in accordance with instructions from the law enforcement executive.
      - 5) The personal identity of specific subject officers, complainants, or witnesses **may not** be disclosed to the public.
      - 6) Under no circumstances may a Civilian Review Board immunize any person from prosecution or take any other action that would have an effect of conferring immunity on any person.
    - b. Confidentiality
      - 1) The Civilian Review Board must establish and adhere to written policies and procedural safeguards to preserve the confidentiality of Internal Affairs records and other confidential information, which shall include at least the following requirements:
        - 1. Closed sessions for reviews or investigations
        - 2. Protection of Internal Affairs information- no part of any internal affairs file may be disclosed under any circumstances to anyone who is not a member of the Board, the law enforcement executive or member of the Internal Affairs function except in a final public report that has been redacted accordingly.
        - 3. Personal identifiers- the Board may not disclose the personal identity of subject officers, complainants, or witnesses.
        - 4. Dedicated location for reviewing Internal Affairs records- review of Internal Affairs records shall take place in a secure location determined by the law

enforcement executive. No file may be copied or removed from that dedicated location.

5. Training- All Civilian Review Board members shall undergo training approved by the County Prosecutor's Office on the confidentiality of Internal Affairs records and other investigative material prior to being granted access to such information.
6. Attestation- All Civilian Review Board members and staff shall receive a copy of the Board's written confidentiality policies and sign a sworn statement that they will comply with those policies prior to being granted access to Internal Affairs records.

c. Conflicts of Interest

- 1) The Board must adopt a written conflicts of interest policy that addresses both inherent conflicts and incident specific conflicts prior to commencing service.
- 2) Board members must sign a sworn statement that they will comply with the written conflicts of interest policy.
- 3) The Civilian Review Board's conflicts of interest policy must include, at a minimum, the following stipulations:
  1. Incident specific conflicts
  2. Inherent Conflicts
    1. A sworn officer or employee of a law enforcement agency within the Board's jurisdiction, or any person who has held such a position in the last five years;
    2. A sworn officer or employee of any other state, county, or local law enforcement agency;
    3. A prosecutor or criminal defense attorney currently practicing in the county within the Board's jurisdiction;
    4. A relative of any of the aforementioned individuals, as defined in the New Jersey Conflicts of Interest Law N.J.S.A 52:13D-21.2(2)(d);
    5. A current candidate for public office; or
    6. With respect to Board membership, a current officer or employee of the municipality.
  3. Duty to disclose- duty to disclose any conflict of interest that they may become reasonably aware of, whether the conflict is incident specific or inherent.
  4. Screening- If a Board member or staffer has a close personal or business relationship with an interested party or an individual who meets any of the criteria listed under "inherent conflicts", The Board member or staff should establish a screen to ensure the non-disclosure of sensitive information involving the Board.

d. Criminal History of Board Members and Staff

- 1) All civilian Board members and staff must undergo a criminal history background check.
- 2) A person convicted of a crime or offense, may not be granted access to the contents of Internal Affairs records unless both the law enforcement executive and County Prosecutor consent to that person being given access.

- J. Coordination with other Law Enforcement Agencies
  - 1. If this department plans to hire an individual who is a former officer in another agency, it is imperative the officer conducting the background investigation has access to that individual's Internal Affairs Files.
  - 2. If this department receives a request regarding such information on a former employee, copies of the Internal Affairs files shall be shared with the requesting agency.
  - 3. If requested, the hiring agency shall provide written acknowledgement to the releasing agency that it will maintain the confidentiality of said files in accordance with this policy.
  - 4. The Chief reserves the right to defer the hiring of a particular candidate until all extant internal affairs information has been received and reviewed.
- K. Reporting to the County Prosecutor
  - 1. Internal Affairs activity must be reported to the County Prosecutor on a quarterly basis.
  - 2. The following matters shall be reported to the County Prosecutor so that he/she may evaluate the materials relevance:
    - a. A finding that a police officer has filed a false report or submitted a false certification in any criminal, administrative, employment, financial or insurance matter in their professional or personal life;
    - b. A pending court complaint or conviction for any criminal, disorderly persons, petty disorderly persons, municipal ordinance or driving while intoxicated matter;
    - c. A finding that undermines or contradicts a police officer's educational achievements or qualifications as an expert witness;
    - d. A finding of fact by a judicial authority or administrative tribunal that an officer intentionally did not tell the truth in a matter;
    - e. A sustained finding that a police officer mishandled or intentionally destroyed evidence; and
    - f. A sustained finding that a police officer is biased against a specific gender or ethnic group.
- L. Public Records
  - 1. On an annual basis, every law enforcement agency shall provide the County Prosecutor and publish on its public website, a report summarizing the types of complaints received and the dispositions of those complaints.
  - 2. The report shall be statistical in nature.
  - 3. The report shall be generated using the Annual Internal Affairs Summary attached to Appendix K on the Attorney General's website.
  - 4. On a periodic basis, no later than January 31 of the following year, every agency shall submit to the County Prosecutor and publish on their website a brief synopsis of all complaints where a termination, demotion, and/or suspension more than five days was assessed to an agency member. (Appendix L)
    - a. The synopsis shall include the identity of each officer subject to such discipline, a brief summary of their transgressions, and a statement of the sanctions imposed.
    - b. The synopsis shall not contain the identities of the complainants or victims.
    - c. If the discipline relates to domestic violence, the synopsis shall not disclose the relationship between the victim and an officer.
    - d. Whenever possible, notice shall be given to victims of domestic violence in advance of any disclosure.
  - 5. This agency may not, as part of any plea or settlement agreement in an internal affairs investigation or otherwise, enter into any agreement concerning the content of a synopsis subject to public disclosure under the previous section, including any agreement regarding the identities of officers subject to final

discipline, summaries of transgressions, or statements of the sanctions imposed.



## **Beach Haven Police Department Civilian Complaint Information Sheet**

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

1. Reports or Complaints of officer/employee misconduct must be accepted from any person, including anonymous sources, at any time.
2. Complaints shall be accepted regardless of age, race, ethnicity, religion, gender, sexual orientation, disability, or immigration status of the complaining party.
3. Your complaint will be sent to a superior officer or a specially trained internal affairs officer who will conduct a thorough and objective investigation.
4. You might be asked to help in the investigation by giving a detailed statement about what happened or providing other important information or documents.
5. All complaints against law enforcement officers are thoroughly investigated. You will be kept informed of the status of the investigation and its ultimate outcome, if requested, and you provide contact information. The exact discipline imposed is confidential, but you will be advised of the ultimate finding, namely :
  - a. Sustained: A preponderance of the evidence shows an officer violated any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standing operating procedure; rule; or training.
  - b. Unfounded: A preponderance of the evidence shows that the alleged misconduct did not occur.
  - c. Exonerated: A preponderance of the evidence shows the alleged conduct did occur, but did not violate any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standing operating procedure; rule; or training.
  - d. Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
6. If our investigation shows that a crime might have been committed, the county prosecutor will be notified. You might be asked to testify in court.
7. If our investigation results in an officer being charged with a violation of department rules, you might be asked to testify in a departmental hearing.
8. If our investigation shows that the complaint is unfounded or that the officer acted properly, the matter will be closed.
9. Internal affairs investigations are confidential and all disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.
10. You may call Captain Thomas Medel, ext 111, Sgt. Lisa Fay, ext 113, or Det. Thomas Daly, ext 104 at any additional information or any questions about the case.



**Beach Haven Police Department  
Internal Affairs Complaint Form**

<b>Department:</b>	<b>Case No:</b>	<b>IA Case No:</b>
--------------------	-----------------	--------------------

**\*\*Please fill in as much information as possible. Your information will be handled with the utmost confidentiality\*\***

**Person Making Report**

<b>Name</b>	<b>Alias</b>	<b>DOB</b>
<b>Address</b>	<b>State</b>	<b>Zip</b>
<b>City</b>	<b>Phone(H)</b>	<b>Phone(C)</b>
<b>SSN</b>	<b>Sex</b>	<b>Race</b>
<b>Employer/School</b>	<b>Address</b>	<b>Phone</b>

**Incident**

<b>Nature of Complaint</b>	
<b>Complaint Against (Name(s) and Badge #)</b>	
<b>Date and Time of Incident</b>	
<b>Incident Location</b>	
<b>Victim(s) Name, address, phone #, age</b>	
<b>Description of any injuries</b>	
<b>Place/Date of treatment</b>	
<b>Doctor's Name</b>	
<b>Signature of Complainant</b>	
<b>Date of Report</b>	

## Incident Description

Description of Incident: (continue on back if needed)

**Witnesses (List Name, Address, and Phone):**

1) Name:	_____	2.) Name:	_____
Address:	_____	Address:	_____
Phone:	_____	Phone:	_____

**\*\*Please keep in mind it is unlawful to provide false information. It is a fourth degree crime to make a false statement as per NJSA 2C:28-3\*\***

X\_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Complainant

X \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Officer Receiving Complaint

IA Officer		Signature	Date of Review:
IA Supervisor		Signature	Date of Review:



## **INTERNAL AFFAIRS**

### **Complaint Notification**

To:

Badge No.

You are hereby notified that an internal affairs complaint has been made against you. This complaint involves an allegation of (xxxxxx) which occurred on or about (xxxxxxx).

You will be contacted by the investigator if you will be needed for an interview or to render any other assistance to the investigation.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

**INTERNAL AFFAIRS**  
**NOTICE OF IMMEDIATE SUSPENSION**

To:

Date & Time:

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

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

The facts in support of the above reason are:

---

---

---

---

---

Supervisor making suspension:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

I hereby acknowledge receipt of this notice.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

## MIRANDA WARNING

1. You have the right to remain silent and refuse to answer any questions.  
Do you understand?        ☐ Yes        ☐ No
  
2. Anything you say may be used against you in a court of law.  
Do you understand?        ☐ Yes        ☐ No
  
3. You have the right to consult with an attorney at any time and have him/her present before and during questioning.  
Do you understand?        ☐ Yes        ☐ No
  
4. If you cannot afford an attorney, one will be provided if you so desire prior to any questioning.  
Do you understand?        ☐ Yes        ☐ No
  
5. A decision to speak to us is not final and you may stop talking to us at any time.  
Do you understand?        ☐ Yes        ☐ No

**If the member is aware of any criminal complaint that has been filed against the subject relating to the questions to be asked, the member must advise the subject of the charges.**

## WAIVER OF MIRANDA RIGHTS

I, \_\_\_\_\_, have been read the above statement of my rights aloud. I understand each of my rights and at this time I am willing to give up my right to remain silent and speak to you without a lawyer present. No promises or threats have been made to me.

Signed: \_\_\_\_\_ Witness: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Advising Officer: \_\_\_\_\_

## INTERNAL AFFAIRS

### Use Immunity Grant Advisement Form

#### "Garrity Warning"

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

Assistant Prosecutor or Deputy Attorney General authorizing: \_\_\_\_\_

Signature: \_\_\_\_\_

Print name: \_\_\_\_\_

Date: \_\_\_\_\_

Location: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

Print Name : \_\_\_\_\_

**INTERNAL AFFAIRS**  
**Witness Acknowledgment Form**

**Internal Affairs #** \_\_\_\_\_

1. I acknowledge that I have been informed that I am a witness in an internal investigation. This investigation concerns-----
2. I acknowledge my responsibility to answer truthfully all questions specifically related to the performance of my official duties.
3. I acknowledge that this investigation is confidential, and I am hereby ordered not to disclose any information discussed during this interview.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

Print Name: \_\_\_\_\_

## INTERNAL AFFAIRS

### Administrative Advisement Form

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

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

Print Name: \_\_\_\_\_