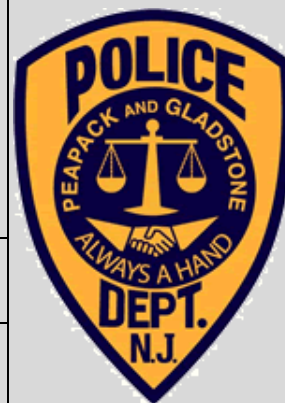


**PEAPACK and GLADSTONE
POLICE DEPARTMENT
GENERAL ORDERS**



VOLUME: 1	CHAPTER: 9	# OF PAGES: 58
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SUBJECT: INTERNAL AFFAIRS

EFFECTIVE DATE: 6/11/2021	ACCREDITATION STANDARDS:	REVISION DATE	PAGE #
BY THE ORDER OF: Chief S. Ferrante		5/15/2023	All
SUPERSEDES ORDER #:			

PURPOSE:

The Peapack and Gladstone Police Department (PGPD) is committed to providing law enforcement services that are fair, effective, and impartially applied. Toward that end, officers are held to the highest standards of professional and official conduct and are expected to respect the rights of all citizens. An officer’s adherence to these standards, motivated by a moral and professional obligation to perform their job to the best of their ability, is the ultimate objective of the PGPD. The department must be responsive to the community by providing formal procedures for the processing of complaints from the public regarding officer performance, both individually and collectively. The purpose of this General Order is to improve the quality of law enforcement services. Improving the relationship between the officers and the citizens they serve facilitates cooperation vital to the department’s ability to achieve its goals. An effective disciplinary framework also permits law enforcement officials to monitor officers’ compliance with department policies and procedures. Adherence to established policies and procedure assists officers in meeting department objectives while a monitoring system permits supervisors to identify problem areas requiring increased training or direction. Finally, this General Order will ensure fairness and due process protection to both citizens and officers alike in the handling of complaints against the PGPD and its officers. The internal affairs process shall also be used to identify and correct unclear or inappropriate PGPD procedures.

POLICY:

It is the policy of this department to accept and investigate all complaints of alleged officer misconduct or wrongdoing from any citizen, PGPD employee, or any other sources, including anonymous sources. Following a thorough and impartial examination of the available factual information, the officer shall either be exonerated or held responsible for the alleged misconduct. Discipline shall be administered according to the degree of misconduct. Officers and employees, regardless of rank, shall be subject to disciplinary action for violating their oath and trust. Committing an offense punishable under the laws of the United States, the State of New Jersey, or municipal ordinances constitutes a violation of that oath and trust. Officers are also subject to disciplinary action for failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment. In addition, officers may be disciplined for a violation of any rule and regulation of the department, or for failure to obey a lawful

instruction, order or command of a superior officer or supervisor. The public must have absolute confidence in the integrity of the internal affairs process since it represents the standard for addressing allegations of employee misconduct. To mislead or lie is to demonstrate a character flaw that is inconsistent with the law enforcement calling. Additionally, lying in an internal affairs investigation will frustrate the process and quickly erode the public trust and discipline within the department. The Peapack and Police Department is committed to taking the necessary steps of removing from our ranks, any employee who is untruthful in an internal affairs investigation . Accordingly, all employees must understand that lying in an internal affairs investigation is synonymous with forfeiting one's employment with the department. Prevention is the primary means of reducing and controlling misconduct. To that end, it is the policy of this agency to discover and correct organizational conditions, which permit the misconduct to occur and/or go undetected. Special emphasis is placed on recruitment, selection and training of officers and supervisors, community outreach, and the analysis of misconduct complaints and their outcome. As part of the prevention an early warning system has been implemented to identify repeat incidents of improper and non-procedural behavior as well as deviations from expected behavior.

I. Action

A. Internal Affairs Unit

1. The Chief of Police shall designate a supervisor for the Internal Affairs Unit. The goal of internal affairs is to ensure that the integrity of the department is maintained through a system of internal discipline where fairness and justice are assured by objective, impartial investigation, and review. Notwithstanding any other notification protocol herein included, the Chief of Police must be immediately advised of any allegation of wrongdoing on the part of an employee that would constitute a criminal offense or has the potential to have a significant negative impact on the operation or reputation of the department.

II. Introduction

- A. The purpose of Internal Affairs General Order is to assist the State's law enforcement agencies with investigating and resolving complaints of police misconduct that originate with members of the public or are generated by the supervisors, officers, or employees of PGPD. The goals of the policy are to enhance the integrity of the Peapack and Gladstone Police Department, improve the delivery of police services, and assure the people of New Jersey that complaints of police misconduct are properly addressed. This policy can also be more broadly applied to non-law enforcement employees.
- B. State and federal courts have emphasized the importance of the internal affairs function for protecting the constitutional rights and civil liberties of the State's residents. Case law generally requires that law enforcement agencies do three things under the internal affairs function. First, agencies must implement an internal affairs policy that provides for a meaningful and objective investigation of complaints and other evidence of police misconduct . Second, agencies must monitor and track the behavior of police officers for incidents of misconduct. Third, when officers are found to have engaged in misconduct, agencies must correct the behavior. The courts have with increasing frequency issued decisions that set minimum standards of performance for the internal affairs function.
- C. The New Jersey Legislature also recognized the importance of the internal affairs function in 1996 with the enactment of N.J.S.A. 40A:14-181. The statute provides that:

1. PGPD shall adopt and implement guidelines which shall be consistent with the guidelines governing the "Internal Affairs Policy and Procedures" of the Police Management Manual promulgated by the Police Bureau of the Division of Criminal Justice in the Department of Law and Public Safety, and shall be consistent with any tenure or civil service laws, and shall not supersede any existing contractual agreements.
2. County and municipal law enforcement agencies must also recognize that they conduct internal affairs investigations, particularly those that involve allegations of criminal conduct, under the direct supervision of the County Prosecutors. County and municipal law enforcement agencies must inform the appropriate County Prosecutor when allegations of police misconduct involve potential criminal conduct. In addition, county and municipal law enforcement agencies must confer with and follow the instructions given by the County Prosecutor at all critical points in the investigative process. This is particularly true when PGPD is in the process of gathering evidence, including the taking of statements, concerning allegations of criminal conduct. References to County Prosecutors throughout this document should also be understood to refer to the Office of the Attorney General wherever such an interpretation would be appropriate.

D. General Practices

1. PGPD shall establish by written policy an internal affairs function.
2. PGPD shall accept reports of officer misconduct from any person, including anonymous sources, at any time.
3. PGPD shall thoroughly, objectively, and promptly investigate all allegations against its officers.
4. PGPD shall notify its officers in writing of complaints made against them, unless this notification would interfere with any investigation resulting from these complaints.
5. PGPD shall notify its officers of the outcome of any Internal Affairs investigation involving them.
6. PGPD shall notify complainants of the outcome of their complaints.
7. If PGPD's internal affairs investigator is unable to complete an investigation within 45 days of receiving a complaint, they must notify the Chief of Police who may take steps to ensure prompt resolution of the matter.

E. Notifications to the County Prosecutor

1. Where a preliminary investigation indicates the possibility of a criminal act on the part of the subject officer, the Somerset County Prosecutor's Office Internal Affairs Unit must be notified immediately. No further action should be taken, including the interviewing of, or the filing of charges against the officer, until the Somerset County Prosecutor's Office so directs.
2. Pursuant to AG Directive 2019-4, PGPD must notify the County Prosecutor immediately of any use of deadly force, any use of force by an officer that results in death or serious bodily injury, or any death in custody that occurs within its jurisdiction.

3. In the rare cases where PGPD has not made a charging decision within 180 days of receiving a complaint, PGPD must notify the County Prosecutor, who may take whatever steps he or she deems appropriate, including supersession of the investigation, to ensure prompt resolution of the matter.

F. Recordkeeping and Data Reporting

1. Pursuant to AG Directive 2018-3, The Peapack and Gladstone Police Department shall establish an “early warning” protocol for monitoring and tracking the conduct of all officers.
2. The PGPD shall establish and maintain an internal affairs records system which, at a minimum, will consist of an internal affairs index system and a filing system for all documents and records.
3. On a quarterly basis, The PGPD shall submit to the Somerset County Prosecutor’s Office, a report summarizing the allegations received and the investigations concluded for that period. The Attorney General shall establish a schedule for the submission of the reports.
4. For the purposes of this document, “law enforcement executive” refers to a law enforcement agency’s highest ranking sworn law enforcement officer, typically the Chief of Police. In situations where the highest-ranking officer is recused from a matter, then “law enforcement executive” refers to the next highest-ranking officer without a conflict.
5. The Internal Affairs Officer shall prepare quarterly reports that summarize the nature and disposition of all misconduct complaints received by PGPD for submission to the Chief of Police.
6. The Internal Affairs Officer shall prepare an annual report that summarizes the nature and disposition of all misconduct complaints received the previous year by PGPD for submission to the Chief of Police.

G. Public Reports

1. On an annual basis, the Peapack and Gladstone Police Department shall provide to the County Prosecutor and publish on its public website a report summarizing the types of complaints received and the dispositions of those complaints. This report should be statistical in nature. The County Prosecutor shall submit a summary of the reports from all agencies in its jurisdiction to the Office of Public Integrity and Accountability. The annual Internal Affairs Summary attached to Appendix K shall be used to satisfy the requirements of this Section. This process shall be overseen and directed by the Attorney General’s Office of Public Integrity & Accountability and the Office of Justice Data.
2. On a periodic basis, and no later than January 31st of the following year, PGPD shall submit to the County Prosecutor and the Attorney General, and publish on the Borough of Peapack and Gladstone’s website, a brief synopsis of all misconduct or where an agency member:

- a) Was terminated;
- b) Was reduced in rank or grade;
- c) Was assessed a suspension of more than five days shall be broadly construed to include any disposition involving a suspension of more than 40 hours, regardless of whether any of the suspension time was suspended or held in abeyance. It shall include the loss of vacation, sick or leave time totaling more than 40 hours or the equivalent of five days/shifts. It shall also include any combination of suspension time assessed plus loss of vacation, sick or leave time that aggregates to more than 40 hours or the equivalent of five days/shifts. It shall also include any fine that exceeds the gross value of 40 hours, or the equivalent of five days/shifts of pay;
- d) Had a sustained finding of discrimination or bias against any person because of the individual's actual or perceived race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability, nationality, family status, or any other protected characteristic under N.J.S.A. 10:5-1 et seq. regardless of the type or severity of the discipline imposed;
- e) Had a sustained finding that the officer utilized excessive force in violation of departmental policy of the Attorney General's Use of Force Policy, regardless of the type or severity of the discipline imposed;
- f) Had a sustained finding that the officer was untruthful or has demonstrated a lack of candor, regardless of the type or severity of the discipline imposed;
- g) Had a sustained finding that the officer has filed a false report or submitted a false certification in any criminal, administrative, employment, financial, or insurance matter in their professional or personal life, regardless of the type or severity of the discipline imposed;
- h) Had a sustained finding that an officer intentionally conducted an improper search, seizure, or arrest, regardless of the type or severity of the discipline imposed;
- i) Has a sustained finding that an officer intentionally mishandled or destroyed evidence, regardless of the type or severity of the discipline imposed;
- j) Had a sustained finding of domestic violence, as defined in N.J.S.A. 2C:25-19, regardless of the type or severity of the discipline imposed;
- k) Resigned, retired, transferred, or separated from the agency, regardless of the reason while and internal affairs investigation or complaint was pending, and the misconduct ultimately sustained falls within categories (d) through (j) above or would have resulted in an action under categories (a) through (c) had the member not separated from the agency; or
- l) Was charged with any indictable crime in New Jersey or an equivalent offense under federal law or the law of another jurisdiction related to the complaint. Sustained finding" refers to any finding where a preponderance of the evidence shows an officer violated any law, regulation, directive, guideline policy or procedure issued by the Attorney General or County Prosecutor; agency protocol; standard operating procedure, rule or training, following the last supervisory review of the incident(s) during the internal affairs process where the deadline for appeal has passed or following a ruling by a hearing officer, arbitrator, Administrative Law Judge, Civil Service Commission, or the Superior Court where the deadline for any subsequent appeal has passed. Allegations that cannot be sustained, are not credible, or have resulted in the exoneration of an employee, including where the previous finding has either been vacated, or overturned on the merits in any subsequent action, generally are not considered to be sustained findings subject to the disclosure requirements of this Policy . On the other hand, if the officer negotiates a plea or there is an administrative or civil settlement with the employer whereby the charge is dismissed, the charge would still be considered sustained, if there was sufficient credible evidence to prove the allegation, and the officer does not challenge the finding and obtain a favorable

ruling by a hearing officer, arbitrator, Administrative Law Judge, Civil Service Commission, or the Superior Court.

- m) The reporting and public dissemination requirements of (a) through (j) above become applicable once an officer's discipline is sustained, as defined above. The reporting and public dissemination requirements of (k) and (l) above become applicable at the close of the reporting period during which they occur.
 - n) The synopsis of each case, required by this section, shall follow the format provided in Appendix L and shall include the identity of each officer subject to final discipline, a full explanation of the rule regulation, policy, directive, or law violated, a factual summary of their conduct, and a statement of the sanction imposed. The synopsis shall provide sufficient detail to enable a reader who is not familiar with the case to fully understand the factual scenario that resulted in the disciplinary action. This synopsis shall not contain the identities of the complainants or any victims. Where discipline relates to domestic violence, the synopsis shall not disclose the relationship between a victim and an officer. In rare circumstances, further redactions may be necessary to protect the identity of a victim. Whenever practicable, notice shall be given to victims of domestic or sexual violence in advance of PGPD's disclosure discipline related to the incident.
 - o) The required posting to the agency's public website shall remain in place and publicly accessible.
3. PGPD shall release quarterly reports where a fine or suspension of more than five days was assessed to a member of the PGPD. In addition, a report summarizing the types of complaints received and the dispositions of those complaints. This report should be statistical in nature. Agencies may not, as part of a plea or settlement agreement in an internal affairs investigation or otherwise, enter into any agreement concerning the content of a synopsis subject to public disclosure including any agreement regarding the identities of officers subject to final discipline, summaries of transgressions, or statements of the sanctions imposed.

H. Training

1. The Peapack and Gladstone Police Department shall ensure that officers assigned to the internal affairs function complete training as mandated by the Division of Criminal Justice.
2. Indifference to the internal affairs function will have a negative impact on the administration of criminal justice and the delivery of police services to New Jersey's residents. Agencies that fail to make the internal affairs function a priority can lose the respect and support of the community. The integrity of individual law enforcement agencies, and the reputation of the State's criminal justice system, can also suffer if agencies fail to identify and correct officer misconduct. In addition, law enforcement agencies that fail to implement a meaningful and objective internal affairs process may be found liable in civil lawsuits for their failure to effectively address officer misconduct. It is for these reasons that the Attorney General has issued this revised policy and directed that the State's law enforcement agencies implement the critical mandates set forth by the policy.

3. The internal affairs process represents PGPD's response to allegations and complaints that have been brought to PGPD's attention either by PGPD employees or members of the public. Law enforcement agencies must establish and implement a process of investigation and review that is both meaningful and objective. The process must be designed to ensure that individuals receive adequate redress for legitimate complaints of misconduct. It is not enough for law enforcement executives to adopt a policy governing the receipt, investigation, and resolution of complaints of officer misconduct; rather, the policy must be implemented and executed with a commitment to the integrity of PGPD and the constitutional rights of the public. Agencies with an objective and fair internal affairs process will limit their risk of civil liability.
4. The procedures set forth in this General order and the legal citations contained in the text are intended for implementation by all State, County and Municipal law enforcement agencies. As made clear in AG Directive 2019-5 (issued concurrently with the publication of this December 2019 version of this policy), all law enforcement and prosecuting agencies operating under the authority of the laws of the State of New Jersey are directed to implement and comply with this policy, and to take any additional measures necessary to update their guidelines consistent with this policy, as required by N.J.S.A 40A:14-181. Law enforcement agencies that fail to comply with the policies and procedures contained within this document may be subject to the same sanctions arising from any other violation of an AG Directive, including supersession of PGPD's functions by the Attorney General.

III. Fundamentals of the Disciplinary Process

- A. Achieving the desired level of discipline within the Peapack and Gladstone Police Department is among the most important responsibilities of the law enforcement executive. Yet, this is one of the most frequently neglected processes within many law enforcement agencies. While the word "discipline" was originally defined as instruction, teaching or training, its meaning has shifted toward a concept of control through punishment. This emphasis on control has resulted in discipline being viewed as a negative threat rather than a mechanism for remediation and improvement. Too frequently rules of conduct and disciplinary procedures are used as an end in themselves, and their purpose in reaching PGPD goals is forgotten. Focusing on the negative aspects of discipline diminishes officer morale and productivity.
- B. The first step toward positive discipline is to emphasize instruction and deemphasize control. This requires the law enforcement executive to focus on organizational practices. The executive must first define the goals and objectives of PGPD's units and then announce management's expectations to guide the units toward realizing those goals. The law enforcement executive must establish a means to monitor performance and to correct improper actions.
- C. This approach to management as it relates to discipline, ensures that all subordinates know and understand what must be done, why it must be done, how it must be done and when it must be done. Employees must be clearly told what constitutes satisfactory performance through performance evaluations and similar procedures. N.J.A.C. 4A:6-5.1. Supervisors and managers also must know when and how to take corrective action. To achieve this, management must establish workable procedures for documenting all expectations and advising individuals of their duties and responsibilities.

1. Policy Management System

- a) The Peapack and Gladstone Police Department's policy management system serves as the foundation for effective discipline. A clearly defined policy management system is designed to move the organization toward its stated goals and set the standard for acceptable performance. The system must incorporate a mechanism for distributing rules, regulations, policies and procedures, and provide for periodic review and revision as necessary. The system should include a classification and numbering mechanism that facilitates cross-referencing where necessary.
- b) Law enforcement agencies should have a policy management system that, at a minimum, includes:

- 1) Rules & Regulations: Principles of behavior that set forth acceptable and unacceptable conduct. In municipal police agencies, the rules and regulations must be issued by the appropriate authority as designated by ordinance.
- 2) Standard operating procedures (SOP's). Written statements providing specific direction for performing PGPD activities. Each SOP should also include PGPD's policy in that area, which is a statement of PGPD principles that provides the basis for the development of the procedures.
- 3) Directives or orders. Documents detailing the performance of a specific activity or method of operation.
- 4) The policy management system should clearly and explicitly state management's intentions. Employees must understand what management wants to accomplish and what behavior is expected. Each category of documents in the policy management system should be issued in a distinctive, readily identifiable format.

2. PGPD's Rules & Regulations should form a "code of conduct" for employees. It should contain the broadly stated "do's and don'ts," without delving into specific details. For instance, PGPD's rules and regulations should state that any use of force by an officer must comply with state and federal law, the Attorney General's, and the County Prosecutor's policies/General Orders, and PGPD's SOP's. The specific details of what is considered force, and what constitutes the acceptable use of force, should be found in PGPD's Use of Force General Order.

3. The Rules & Regulations should identify general categories of misconduct or inappropriate behavior that are subject to disciplinary action. An incident of misconduct or inappropriate behavior may fall into one or more of the following categories:

- a) Crime: Complaint regarding the commission of an illegal act that constitutes a violation of the criminal code including disorderly and petty disorderly persons offenses.
- b) Excessive force: Complaint regarding the use or threatened use of excessive force against a person.
- c) Improper arrest: Complaint that the restraint of a person's liberty was improper, unjust, or violated the person's civil rights.
- d) Improper entry: Complaint that entry into a building or onto property was improper or that excessive force was used against property to gain entry.
- e) Improper search: Complaint that the search of a person or property was improper, unjust, violated established PGPD procedures or violated the person's civil rights.
- f) Differential treatment: Complaint that the taking of police action, the failure to take police action or method of police action was predicated upon irrelevant factors such as race, appearance, age or sex.

- g) Demeanor: Complaint that an PGPD member's bearing, gestures, language or other actions were inappropriate.
 - h) Serious rule infractions: Complaint for conduct such as insubordination, drunkenness on duty, sleeping on duty, neglect of duty, false statements or malingering.
 - i) Minor rule infractions: Complaint for conduct such as untidiness, tardiness, faulty driving, or failure to follow procedures.
4. The Rules & Regulations shall provide for uniform classification of the resolution of complaints as follows:
- 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; PGPD protocol; standing operating procedure; rule; or training.
 - b) **Unfounded:** A preponderance of the evidence shows that the alleged conduct 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; PGPD protocol; standing operating procedure; rule; or training. (For example, at the conclusion of an investigation into an excessive force allegation, PGPD finds that the officer used force (alleged conduct) but that the force was not excessive (alleged violation).)
 - d) **Not Sustained:** The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

NOTE: If the officer charged enters a plea of guilty, the Chief of Police shall permit the officer to present factors in mitigation prior to assessing a penalty. Where a complaint is sustained and discipline imposed, the only items to be placed into the employee's personnel file are a copy of the administrative charging form and a copy of the disposition form . No part of the internal affairs investigative report shall be placed in the personnel file. PGPD keeps personnel and the IA files separate.

5. In addition, the rules and regulations should set forth a schedule of possible penalties an officer might receive when discipline is imposed. The rules and regulations may incorporate a system of progressive discipline. Progressive discipline serves an important role in the process by which PGPD deals with complaints of misconduct or inappropriate behavior. In lieu of discipline, counseling, re-training, enhanced supervision, oral reprimand, and performance notices can be used as instructional or remedial devices to address deficiencies or inadequate performance.
6. In providing a range of penalties, PGPD can use the disciplinary process to achieve the basic goals of instruction and address inappropriate behavior before minor problems escalate into major problems. At the same time, the subject officer should be made aware that repeated violations of PGPD's rules will result in progressive discipline. An internal affairs complaint that has a disposition of exonerated, unfounded, or not sustained should not be used to effect progressive discipline.

7. A system of progressive discipline can include the following elements:
 - a) Oral reprimand or performance notice;
 - b) Written reprimand;
 - c) Monetary fine;
 - d) Suspension without pay;
 - e) Loss of a promotional opportunity;
 - f) Demotion; and
 - g) Discharge from employment.

D. Responsibility for Discipline

1. The successful implementation of discipline requires the law enforcement executive to delegate responsibility for the disciplinary process to individual units and supervisors within PGPD, and perhaps to Human Resources. Although the levels of authority may vary within PGPD's chain of command, the failure to carry out disciplinary responsibilities at any level in that chain will contribute to the organization's ineffectiveness. The task of clearly delineating the authority and responsibility to initiate and impose discipline is essential to PGPD's administration.
2. Every supervisor must establish a familiarity with PGPD's disciplinary process and develop an understanding of how to implement specific disciplinary procedures when called upon to deal with inappropriate behavior or misconduct. If a supervisor fails to follow these procedures or avoids their responsibility, that supervisor is not conforming to expected behavior and must receive some sort of corrective action. Some supervisors occasionally need to be reminded that the fundamental responsibility for direction and control rests with the immediate supervisor at the operational level, not with the law enforcement executive.

E. Fitness for Duty

1. One of the areas that often involve internal affairs is an employee's fitness for duty. This is not exclusively an internal affairs issue; an officer's fitness may be impacted for reasons other than misconduct. For instance, an officer may become unfit for duty because of a medical problem unrelated to the job. There are occasions, however, when internal affairs may be called upon to assist in determining whether or not an officer is fit for duty. It is incumbent upon the Peapack and Gladstone Police Department to ensure that its members are fit to safely and effectively perform the duties of their profession. If, for whatever reason, an officer's fitness for duty is questioned, PGPD must have the officer evaluated by competent professionals to answer that question. If a law enforcement executive, commander, supervisor or internal affairs investigator has reasonable concerns about an officer's fitness for duty; they are obligated to begin the process necessary to obtain that evaluation. If the officer in question is obviously unfit for duty, the officer in authority may affect an immediate suspension pending the outcome of the evaluation and investigation. At the same time, law enforcement work places an extraordinary mental and emotional toll on officers, and all officers must be free to seek treatment and support that enables them to cope with those pressures. Accordingly, under no circumstances shall an officer face any sort of discrimination or adverse internal affairs consequences for the sole reason that the officer decided to seek medical or psychological treatment for a mental health concern, including depression, anxiety, post-traumatic stress disorder, or substance use disorder. All officers are encouraged to take advantage of the resources provided by the New Jersey Resiliency Program for Law Enforcement, as well as the other resources identified in AG Directive 2019-1, also known as the "Officer Resiliency Directive."

F. Prevention of Misconduct

1. Prevention is the primary means of reducing and controlling inappropriate behavior and misconduct. Although disciplinary actions are properly imposed on officers who engage in wrongdoing, they have limited utility if they shield or obscure organizational conditions that permit the abuses to occur. Inadequate training and a lack of appropriate guidance too often are factors that contribute to inappropriate behavior and misconduct. PGPD should make every effort to eliminate the organizational conditions that may foster, permit or encourage an employee's inappropriate behavior. In the furtherance of this objective, special emphasis should be placed on the following areas:
 - a) Recruitment and Selection:
 - 1) Selecting and appointing the highest quality individuals to serve as law enforcement officers must be a priority of the Peapack and Gladstone Police Department. During the selection process, written tests, psychological tests, background investigations and individual interviews should be completed by each candidate in an attempt to identify those who would be best suited for law enforcement employment. Background investigations must include a review of the prior internal affairs files of any candidate. New Jersey law enforcement agencies are required by this policy to disclose the entire internal affairs file of a candidate to prospective law enforcement employers. Candidates with out-of-state law enforcement experience must sign waivers of confidentiality regarding their internal affairs files so that they may be reviewed by the prospective employer, where legally permissible. These procedures may also be used for promotional testing, and assignment to especially sensitive responsibilities or those that pose the greatest opportunities for abuse or wrongdoing. PGPD has established policies and procedures for recruitment, oral and written examinations, selection and the promotional process.
 - b) Training
 - 1) Basic and in-service training for law enforcement officers should emphasize the sworn obligation of those officers to uphold the law and ensure public safety. Police ethics should be a major component in the training curricula. In addition, the rules, regulations, policies and procedures of PGPD, including the disciplinary process, should be stressed. There must also be a process to advise veteran officers of any new statutory requirements or significant procedural changes. PGPD's supervisory personnel should always consider the need for training when officers engage in inappropriate behavior or misconduct. The question should be, "Could training have prevented this behavior and can training prevent it from happening in the future?" Perhaps a particular officer or group of officers needs a refresher course in a certain subject. In addition, changes in the law, PGPD or even within the community may trigger the need for a type of training never before given to the officer or PGPD. Training in this sense can be anything from informal counseling of an officer about a particular policy or procedure to formal PGPD-wide training. PGPD may also take advantage of training offered by other agencies, including police academies, the County Prosecutors, the Division of Criminal Justice, other public or private entities or web-based programs.

c) Supervision

- 1) Proper supervision is critical to the discipline and management of the Peapack and Gladstone Police Department. To maximize their effectiveness, PGPD supervisors should receive appropriate supervisory training as close as possible to the time of their promotion. Emphasis should be placed on anticipating problems among officers before they result in improper performance or conduct. Supervisors are expected to recognize potentially troublesome officers, identify training needs of officers and provide professional support in a fair and consistent manner.

d) Early Warning Management

- 1) Although the internal affairs process is frequently triggered by the filing of a civilian complaint, PGPD must also proactively work to detect troubling patterns in police conduct before that conduct escalates into more serious internal affairs issues. PGPD has a duty to monitor their employees' behavior, and establish mechanisms that provide the internal affairs function and the law enforcement executive with the ability to track the complaint records of individual officers and identify those officers with a disproportionate number of complaints against them. Law enforcement agencies must utilize the information developed by these mechanisms to prevent individual officers from engaging in conduct or behavior that violates the constitutional liberties every member of the community enjoys. It also is expected that law enforcement agencies will utilize the information to prevent development of patterns, practices or trends of inappropriate behavior or conduct. Per AG Directive 2018-3 v2.0, also known as the "Early Warning Systems Directive," law enforcement agencies are required to implement a specific mechanism to track employee behavior, commonly known as an "early warning system." An early warning system should be designed to identify any pattern or practice by any member of PGPD that warrants intervention or remediation before it develops into a more serious problem.
- 2) Any mechanism or procedure the Peapack and Gladstone Police Department establishes to monitor and track the behavior and performance of individual police officers must have as two of its linchpin's quality supervision and an objective and impartial internal affairs process. Supervisors who have sufficient time and resources to properly perform their duties should be able to timely identify officers with performance and misconduct issues. Supervisors can react to problems they identify through direction, counseling, and effective performance evaluations. Proper training of PGPD supervisors is critical to the discipline and performance of law enforcement officers. Emphasis should be placed on anticipating problems among officers before they result in improper performance or misconduct. Supervisors are expected to recognize potentially troublesome officers, identify training needs of officers, and provide professional support in a consistent and fair manner.

- 3) Many different measures of officer performance can be regularly examined for any of these troubling patterns or practices. Law enforcement executives shall determine what performance measures are appropriate for the communities they serve, but at a minimum PGPD must track the following performance indicators:
 - i. Criminal investigations of or criminal complaints against the officer;
 - ii. Any use of force by the officer that is formally determined or adjudicated (for example, by internal affairs or a grand jury) to have been excessive, unjustified, or unreasonable;
 - iii. Domestic violence investigations in which the officer is an alleged subject;
 - iv. An arrest of the officer, including on a driving under the influence charge;
 - v. Sexual harassment claims against the officer;
 - vi. Vehicular collisions involving the officer that is formally determined to have been the fault of the officer;
 - vii. A positive drug test by the officer; Cases or arrests by the officer that are rejected or dismissed by a court;
 - viii. Cases in which evidence obtained by an officer is suppressed by a court;
 - ix. Insubordination by the officer;
 - x. Neglect of duty by the officer;
 - xi. Unexcused absences by the officer; Any other indicators, as determined by PGPD's chief executive.
- 4) This information should be maintained to facilitate analysis as to individual members, supervisors, squads, districts, and assignments, and PGPD as a whole. Depending on the size of PGPD and the complexity of this data, computerized software that utilizes mathematical algorithms may be best suited to assist in revealing the presence of particular patterns of incidents. However, not all law enforcement agencies have the computer capabilities for such an in-depth screening process.
- 5) Commanding officers should strive to remain informed about and sensitive to the community's needs and problems. Regularly scheduled meetings to discuss community concerns should be held with public advisory councils, religious groups, schools, businesses, and other community leaders. These meetings help commanding officers identify potential crisis situations and keep channels of communication open between PGPD and the community. The disciplinary process should be publicized and clearly explained in these forums.

IV. Internal Affairs Function

- A. The Peapack and Gladstone Police Department shall establish, by written policy, an Internal Affairs unit or function. Depending upon the need, the internal affairs function can be full- or part-time. In either case, this requires the establishment of a unit or the clear allocation of responsibility and resources for executing the internal affairs function. The unit will consist of PGPD personnel assigned to internal affairs by the law enforcement executive. Personnel assigned to the internal affairs function serve at the pleasure of and are directly responsible to the law enforcement executive or the designated internal affairs supervisor.

B. Duties and Responsibilities

1. The purpose of the internal affairs function is to establish a mechanism for the receipt, investigation, and resolution of officer misconduct complaints. The goal of internal affairs is to ensure that the integrity of PGPD is maintained through a system of internal discipline where an objective and impartial investigation and review assure fairness and justice. The internal affairs function or officer will investigate alleged misconduct by members of PGPD and review the adjudication of minor complaints handled by supervisors. In addition, internal affairs shall receive notice of:
 - a) Any firearm discharge by PGPD 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 PGPD-owned firearm by anyone other than PGPD personnel;
 - c) Any use of force by PGPD personnel that results in injury to any person,
 - d) Any vehicular pursuit involving PGPD personnel; and
 - e) Any collision involving PGPD-owned vehicles.
2. Internal affairs function also has an obligation to investigate or review any allegation of employee misconduct that is a potential violation of an AG Directive or Guideline, a Directive issued by a County Prosecutor in that jurisdiction, PGPD's rules and regulations, or any allegation that indicates the employee is unable, unwilling or unfit to perform their duties. The obligation to investigate includes not only acts of misconduct that are alleged to have occurred while the subject officer was on-duty, but also acts of misconduct that are alleged to have occurred outside PGPD's jurisdiction or while the subject officer was off-duty. An internal affairs function may conduct an internal investigation on its own initiative or upon notice to or at the direction of the law enforcement executive or the internal affairs supervisor. Internal affairs may refer investigations to the employee's supervisor for action as permitted by PGPD policy and procedures.
3. Internal affairs investigations must be considered as important to PGPD as any criminal investigation. Members of the internal affairs function therefore should have the authority to interview any member of PGPD and to review records and reports of PGPD relative to their assignment. In addition, PGPD's personnel should be instructed that the internal affairs function acts at the behest of the law enforcement executive in all internal affairs investigations. PGPD's personnel should be further instructed that during an internal affairs investigation, every member of PGPD, regardless of rank, shall treat an order or a request from a member of the internal affairs function as if the order or request came directly from the law enforcement executive. The internal affairs function shall maintain a comprehensive central file on all complaints received, whether investigated by internal affairs or assigned to the officer's supervisors for investigation and disposition. In addition, internal affairs should establish protocols for tracking all complaints received by PGPD and the conduct of all officers. The protocols must include criteria for evaluating the number of complaints received by PGPD and the number of complaints filed against individual officers.

4. Personnel assigned to conduct internal affairs investigations should be energetic, resourceful, and committed to PGPD's mission and the internal affairs function. They must display a high degree of perseverance and initiative. The internal affairs investigator must maintain an appropriate balance between professional commitment and personal and group loyalties. Internal affairs personnel must be of unquestioned integrity and possess the moral stamina to perform unpopular tasks. It is important that these investigators possess the ability to withstand the rigors and tensions associated with complex investigations, social pressures and long hours of work. The investigator must possess the ability to be tactful when dealing with members of PGPD and the community. It is recommended that personnel assigned to the internal affairs function provide PGPD with the opportunity to access all segments of the community. For example, if a particular community has a significant proportion of the population that speaks a foreign language, the law enforcement executive may wish to consider assigning an officer to the internal affairs function who speaks that language.
 - a) The internal affairs officer shall periodically reach out to the community leaders to include, but not limited to: clergy, school administrators, politicians and other leaders in the community.
5. Law enforcement executives should assign personnel to internal affairs that have sufficient experience and rank to effectively handle sensitive investigations that may include investigations of supervising officers.
 - a) The unit shall consist of the CID commander and any member of the Department assigned to the Internal Affairs Unit by the Chief of Police. Personnel assigned to the internal affairs unit shall serve at the pleasure of and be directly responsible to the Chief of Police or the designated internal affairs supervisor.
6. Investigations of officer misconduct may proceed in one of two ways. An investigation may be conducted for the purpose of imposing a disciplinary sanction or initiating a criminal prosecution. The distinction between the two is important because each type of investigation has differing legal requirements. Consequently, it is important that the internal affairs investigator be familiar with proper investigative techniques and legal standards for each type of proceeding. It is essential that experienced investigators be assigned to internal affairs investigations. Each investigator must be skilled in interviews and interrogation, observation, surveillance and report writing.
7. Internal affairs investigators should be trained not only in the elements of criminal law, court procedures, rules of evidence and use of technical equipment, but also in the disciplinary and administrative law process. Initially upon assignment, and on an ongoing basis, these investigators should receive training in internal affairs and disciplinary procedures, including training required by the Division of Criminal Justice.
8. Law enforcement executives shall not assign to the internal affairs function any person responsible for representing members of a collective bargaining unit. The conflict of interest arising from such an assignment would be detrimental to the internal affairs function, the subject officer, the person so assigned, the bargaining unit and PGPD as a whole. Also, a bargaining unit representative should not be permitted to represent more than one witness or subject in a single investigation, in part to avoid potential conflicts of interest. Although a witness/subject is entitled to a representative, he/she is not necessarily entitled to a particular representative.

9. Investigators must recuse from cases where they have a conflict of interest that may prevent them from being impartial in the investigation of a subject officer. One example is if the investigator and the officer are family members or close personal friends. Additionally, agencies should ensure, if feasible, that the initial investigator of a subject officer is not an officer who is a supervisor within the subject officer's chain of command. In rare cases, this requirement may prove difficult to fulfill if an agency is particularly small.
10. Under no circumstances may PGPD's internal affair's investigatory function be contracted or delegated to a private entity. Instead, when necessary, law enforcement agencies may request that an internal affairs complaint be investigated directly by the County Prosecutor, who shall determine whether to investigate the matter, refer the matter to the Internal Affairs function of another law enforcement entity, or return the matter to the originating law enforcement agency if the County Prosecutor determines that the original agency can appropriately investigate the matter. Where appropriate, an agency may enter into an agreement with another law enforcement agency to conduct an Internal Affairs investigation, and smaller law enforcement agencies that consistently have difficulty carrying out the internal affairs function are encouraged to explore regional internal affairs arrangements in concert with other law enforcement agencies. Nothing in this policy shall prevent the Peapack and Gladstone Police Department from retaining a qualified private individual to serve as a hearing officer or an expert witness. The PGPD shall ensure that officers assigned to the internal affairs function complete training as mandated by the Division of Criminal Justice.

V. Accepting Report of Officer Misconduct

- A. The Peapack and Gladstone Police Department shall establish a policy providing that any complaint from a member of the public is readily accepted and fully and promptly investigated. Allegations of officer misconduct or complaints of inappropriate behavior can alert the law enforcement executive to problems that require disciplinary action or identify the need for remedial training. In addition, executives must also recognize that complaints from the public provide them with an invaluable source of feedback. Such complaints, whether substantiated or not, increase the executive's awareness of both actual or potential problems and the community's perceptions and attitudes about police practices and procedures. The executive should use complaints from the public as one means of determining whether PGPD is falling short of its intended goals.
 1. PGPD has fillable complaint forms posted on the police department website, and forms are also available at the police department 24 hours a day.
 2. Any member of the public may make a complaint by either phone or in person 24 hours a day.
- B. All complaints of officer misconduct shall be accepted from all persons who wish to file a complaint, regardless of the hour or day of the week. This includes reports from anonymous sources, juveniles, undocumented immigrants, and persons under arrest or in custody.
- C. Internal affairs personnel, if available, should accept complaints. If internal affairs personnel are not available, supervisory personnel should accept reports of officer misconduct, and if no supervisory personnel are available, complaints should be accepted by any law enforcement officer. At no time should a complainant be told to return at a later time to file their report.

- D. Members of the public should be encouraged to submit their complaints as soon after the incident as possible. If the complainant cannot personally appear at the Peapack and Gladstone Police Department to file the complaint, a member of our agency, preferably a member of the internal affairs function, should visit the complainant at their home, place of business or other location if necessary to complete the report. The Peapack and Gladstone Police Department offers a system to enable complaints to be accepted by telephone or by email if a complainant does not wish to be interviewed in person or wishes to remain anonymous. Under no circumstances shall it be necessary for a complainant to make a sworn statement to initiate the internal affairs process. PGPD shall accept and investigate anonymous complaints.
- E. The internal affairs investigator, supervisor or other officer receiving the complaint will explain the Peapack and Gladstone Police Department's disciplinary procedures to the person making the complaint. 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. To best accomplish this, PGPD will provide a fact sheet or brochure that includes information on the Peapack and Gladstone Police Department's internal affairs process and what role the complainant can expect to play. The fact sheet should be provided to the complainant at the time the complaint is made. The supervisor or other officer receiving the complaint shall complete the appropriate internal affairs report form. The report form should have adequate instructions for proper completion. The PGPD shall make available to complainants, versions of the standardized form in all of those languages in their offices and online.
- F. Upon receipt of an internal affairs complaint, the internal affairs investigator can advise the complainant of the importance of providing accurate and truthful information. However, when providing such advice, internal affairs investigators must remember that it is important to balance the need for receiving complaints of officer misconduct against the danger of discouraging members of the public from coming forward with their complaints. Therefore, any language that would serve to dissuade or intimidate a member of the public from coming forward should be avoided. Accordingly, at no point during the initial intake of a complaint should any officer affirmatively warn a complainant that consequences could potentially result from making misrepresentations or a false report. This does not preclude officers from explaining the potential consequences of false reports to complainants if the officer is specifically asked about this.
- G. Anonymous reports of improper conduct by an officer shall be accepted. All efforts will be made to encourage full cooperation by the complainant. The investigation of anonymous complaints can be troublesome. However, accurate information about officer wrongdoing may be provided by someone who, for any number of reasons, does not want to be identified. Therefore, an anonymous report must be accepted and investigated as fully as possible. In the event PGPD receives an anonymous complaint, the officer accepting it should complete as much of the internal affairs report form as he or she can given the information received.
1. This includes complaints of police department civilian or officer off duty misconduct. We are mandated to investigate and discipline as appropriate per the Attorney General's policy.
 2. Domestic Violence incidents will be investigated as per the Domestic Violence for Law Enforcement Officers in our policy.
 3. Anytime an officer of this department is arrested or charged with an offense or receives a motor vehicle summons or ordinance violation they must report it to the IA officer in writing within 24 hours.

- H. Complaints against a law enforcement executive, or a member of the executive's senior management team, may originate from a member of the public or from an employee of the Peapack and Gladstone Police Department. All such complaints shall be documented and referred to the Somerset County Prosecutor's Office for review. If the subject of the Internal Affairs investigation is the Police Chief, Police Director, Sheriff or Head of Internal Affairs, the County Prosecutor or the Attorney General's Office shall handle the investigation. The investigation may involve any type of alleged employee misconduct. In such matters the County Prosecutor or the Attorney General's Office shall exercise the authority of the law enforcement executive.
- I. Investigation of Internal Complaints. At the conclusion of the investigation, the internal affairs investigator and/or the investigating agency shall make factual findings, summarize the matter, and indicate the appropriate disposition (Sustained, Unfounded, Exonerated, or Not Sustained) as to each allegation of misconduct. In cases involving Police Chiefs, factual findings and preliminary notices of discipline shall be forwarded to the appropriate authority. While the appropriate authority must make the final decision regarding discipline, the County Prosecutor or the Attorney General may make a non-binding recommendation regarding the discipline to be imposed by the appropriate authority. The County Prosecutor or the Attorney General's Office also may determine that it is appropriate to handle other internal affairs investigations at their discretion. In those cases of supersession, the County Prosecutor or the Attorney General may exercise any or all of the authority of the law enforcement executive. Nothing in this subsection shall be construed to limit the authority of the Attorney General or the County Prosecutor to supersede in any other investigation, criminal action or proceeding.
- J. Complaints may also be received from other law enforcement agencies, such as neighboring municipal police agencies, the County Prosecutors, the Division of Criminal Justice or federal law enforcement agencies. Those complaints should be forwarded to internal affairs for immediate investigation. In some jurisdictions, law enforcement agencies may be subject to the oversight of a civilian review board authorized to accept complaints directly from members of the public. If a civilian review board refers a complaint to PGPD, then those complaints should be forwarded to internal affairs for immediate investigation.
- K. If a person comes to PGPD to make a complaint about a member of another law enforcement agency, he or she should be referred to that agency. The complainant should also be advised that if they have fear or concerns about making the complaint directly to PGPD, they may instead file a complaint with the County Prosecutor or the Attorney General's Office.
- L. All complaints should be investigated if the complaint contains sufficient factual information to warrant an investigation. In cases where the officer's identity is unknown, the internal affairs investigator should use all available means to determine proper identification. Where civil litigation has been filed and the complainant is a party to 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.
- M. In some cases, a complaint is based on a misunderstanding of accepted law enforcement practices or the officer's duties. Supervisors should be authorized to informally resolve minor complaints, whenever possible, at the time the report is made. If the complainant is not satisfied with such a resolution, the complaint should be forwarded to internal affairs for further action as warranted. The process of informally resolving internal affairs complaints requires the exercise of discretion by supervisors. The proper exercise of discretion in such matters cannot be codified.

- N. Even if the complainant is satisfied with the informal resolution, the process shall be recorded on an internal affairs report form. Regardless of the means of resolution, the integrity of the internal affairs process, particularly the receipt of complaints, demands that complaints and inquiries from any member of the public be uniformly documented for future reference and tracking. The form should indicate that the matter was resolved to the satisfaction of the complainant and sent to internal affairs for review and filing. The internal affairs supervisor should periodically audit those reports indicating that the complaint was informally resolved to ensure that PGPD's supervisors are properly implementing their authority to resolve complaints from members of the public.
- O. Once a complaint has been received, the subject officer shall be notified in writing that a report has been made and that 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.
1. Immediate Suspension Pending Investigation and Disposition: In certain serious cases of officer misconduct, PGPD may need to suspend the subject officer pending the outcome of the investigation and subsequent administrative or criminal charges. To effect an immediate suspension pending the investigation, at least one of the following conditions must be met:
 - a) The employee is unfit for duty;
 - b) The employee is a hazard to any person if permitted to remain on the job;
 - c) An immediate suspension is necessary to maintain safety, health, order, or effective direction of public services;
 - 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 committed while on duty, or the act touches upon their employment.
 2. Before the immediate suspension of an officer, the law enforcement executive or authorized person should determine which of those criteria apply. The decision whether or not to continue to pay an officer who has been suspended pending the outcome of the investigation rests with the law enforcement executive and appropriate authority, who should carefully consider all ramifications of these choices.
 3. It should be clear that the suspension of an officer before completing an investigation or disposing of a case is a serious matter. Such suspensions may be immediately necessary, as in the case of an officer reporting for work under the influence of alcohol. In other cases, however, a suspension need not be immediate but rather would follow a preliminary investigation into the matter that indicates that one of the above criteria has been met. In any case, suspension prior to disposing of the case must be clearly documented and justified. At the time of the suspension, the individual shall be provided with a written statement of the reasons the action has been taken.
 4. In the event of a refusal by the individual to accept that written statement, a copy shall be provided to the individual's collective bargaining representative as soon as possible. If a supervisor or commander authorized to do so imposes an immediate suspension, the law enforcement executive must be advised without delay. He or she will then determine the status of the suspension given the facts of the case in light of the above criteria. In no case shall an immediate suspension be used as a punitive measure.

5. 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 Peapack and Gladstone Police Department.
- 6.
7. It is vitally important that agencies complete internal affairs investigations in a prompt manner. Long, unnecessary delays do not simply create additional uncertainty for the subject officer; they can also threaten the integrity of an investigation and the trust of the community. Most internal affairs complaints are straightforward, and most of these routine complaints can be investigated and resolved quickly. In many cases, an internal affairs investigation will take no more than 45 days from the receipt of the complaint to the filing of disciplinary charges. The simpler the case, the quicker the inquiry should be completed. In more complex matters, however, investigators sometimes need additional time to collect evidence, interview witnesses, or take other necessary investigative steps. In addition, when an officer's alleged conduct gives rise to a criminal investigation, ordinarily, internal affairs investigators should stay their own inquiry pending the resolution of the criminal matter.
8. If investigators are unable to complete an internal affairs investigation within 45 days of receiving a complaint, they must notify the Peapack and Gladstone Police Department's law enforcement executive on or about the 45th day. In such situations, the law enforcement executive should seek to identify the reasons for the extended investigation and whether the internal affairs function requires additional resources or oversight to complete the inquiry in a prompt manner. In addition, the law enforcement executive should ensure compliance with the "45-day rule" established by N.J.S.A. 40A:14-147, which requires that certain disciplinary charges be filed within 45 days of the date the person filing the charge obtained "sufficient information" to do so. Investigators are required to provide further notice to the law enforcement executive every additional 45 days that the internal affairs investigation remains open (i.e., on or about the 90th, 135th, and 180th days from the receipt of the complaint), and the law enforcement executive should exercise increasing scrutiny of the investigators' work the longer the case remains open.
9. In the rare cases where the PGPD has not filed disciplinary charges (or decided not to do so) within 180 days of receipt of the complaint, The Peapack and Gladstone Police Department must notify the Somerset County Prosecutor's Office. The County Prosecutor, or their designee, shall investigate the reasons for the extended investigation and shall also examine whether the PGPD's internal affairs function faces any systemic issues that require additional resources or oversight. The County Prosecutor may take any steps necessary to ensure prompt resolution of the pending matter, including supersession of the Peapack and Gladstone Police Department's investigation. PGPD shall provide further notice to the County Prosecutor every additional 90 days that the investigation remains open (i.e., on or about the 270th and 360th days from the receipt of the complaint). The chart in Figure 1 provides an overview of that information. The law enforcement executive should consult with counsel about compliance with the 45- day rule, which includes several exceptions and tolling provisions. For example, the "45-day rule" does not apply to internal affairs investigations alleging incapacity. In addition, members of the public are not required to make their complaint within 45 days of the incident. But once the Peapack and Gladstone Police Department has received the individual's complaint, the 45-day rule applies.

10. Commencing a criminal investigation into the subject matter of an internal affairs complaint will suspend the 45-day rule pending the disposition of that investigation; such suspension remains until the disposition of the criminal investigation. Upon disposition of the criminal investigation, agencies will once again be bound by the 45-day rule, with the 45-day period starting anew upon termination of the criminal investigation. Therefore, in the event a County Prosecutor has initiated a criminal investigation of an internal affairs matter, the internal affairs function must remain in contact with the County Prosecutor on a regular basis to determine the investigation's progress. Where a County Prosecutor has decided to terminate a criminal investigation and return the matter to the Peapack and Gladstone Police Department for appropriate disciplinary action, the internal affairs investigator and County Prosecutor must be able to document the date on which the County Prosecutor disposed of the criminal investigation. When PGPD can conduct an internal affairs investigation and file disciplinary charges within 45 days of the receipt of a complaint, the 45-day rule does not become an issue. In many instances this will be possible. However, if PGPD cannot do so, the burden is on the investigator and ultimately PGPD to identify the point at which "sufficient information" was developed to initiate disciplinary action. Therefore, it is important that a detailed chronology be maintained of each investigation so that critical actions and decisions are documented.
11. Along these same lines, it is important that there is no unreasonable delay between the conclusion of the investigation by the assigned investigator and the decision to file charges by the person who has that responsibility. Although the 45-day clock begins at the time the person who has the responsibility to file charges has sufficient information, PGPD would have a difficult time justifying an extensive bureaucratic delay once any member of our agency has established sufficient information. The need to eliminate bureaucratic delay is one of the reasons that the internal affairs function should be closely aligned with the office of the law enforcement executive in the Peapack and Gladstone Police Department's organizational structure.
12. The investigator should interview the complainant, all witnesses and the subject officer, and review relevant reports and documents, gather evidence and conduct any other investigation as appropriate. The investigator should then submit a report to the law enforcement executive or appropriate supervisor summarizing the matter and indicating the appropriate disposition. Possible dispositions include:
 - 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; PGPD protocol; standard operating procedure; rule; or training.
 - b) Unfounded: A preponderance of the evidence shows that the alleged conduct 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; PGPD protocol; standard operating procedure; rule; or training. (For example, at the conclusion of an investigation into an excessive force allegation, PGPD finds that the officer used force (alleged conduct) but that the force was not excessive (alleged violation).)
 - d) Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

13. Dispatchers/Civilian employees receiving a call of a complaint will transfer the call to the shift commander. If there is not an officer in police headquarters, the dispatcher will offer the caller a choice of holding or leaving a callback phone number. Should the caller state any type of employee misconduct and hang up, the dispatcher shall advise the shift commander of the complaint information in writing. The report will include the time of phone call. This information will be forwarded to the IA officer. The IA officer will investigate the incident to the best of their ability.
14. When dispatchers/civilian employees receiving a face to face or a walk-in complaint, they will ask the person to wait for the shift commander. Should the person utter any type of employee misconduct and leave before the shift commander speaks with them, the dispatcher will advise the shift commander of the complaint information in writing. This information will be forwarded to the IA officer. The IA officer will investigate the incident to the best of their ability.
15. The officer receiving the complaint will:
 - a) Provide the person making the complaint with the Citizen Complaint 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. If the case is not sustained the letter shall contain a brief explanation as to why. If the case is sustained and discipline is imposed, the letter will just indicate that the officer was disciplined in accordance with dept. policy.
 - c) Complete the Internal Affairs Report Form, according to the instructions provided.
 - d) Have the complainant sign the completed form. If the complainant will not sign the form, the officer 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.
16. All Department personnel are directed to accept reports of officer misconduct from anonymous sources. If the anonymous complainant is talking to an officer, the officer should encourage him to submit his complaint in person. In any case, the complaint will be accepted. In the case of an anonymous complaint, the officer accepting the complaint shall complete as much of the Internal Affairs Report Form as he/she can with the information provided. The Administrative Evaluation Review Board shall investigate use of force reports, pursuit driving and vehicle accidents. They will forward to IA, incidents where misconduct may have occurred.
17. 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) Complaints of demeanor and minor rule infractions shall then be forwarded to the sergeant as it is often difficult for an immediate supervisor to objectively investigate a subordinate. In addition, that arrangement might obscure the possibility that part of the inappropriate conduct was the result of poor supervision by the immediate supervisor.

18. The Internal Affairs officer will screen cases that may have a criminal element with the Somerset County Prosecutors Office. A disposition that does not involve a finding of guilt by the courts or where a complaint is dismissed by a county or municipal prosecutor means that proof beyond a reasonable doubt has not been found. However, it does not mean that an administrative investigation cannot be pursued or should be closed. The absence of proof beyond a reasonable doubt does not foreclose the possibility that an investigation may reveal evidence that meets the burden of proof in administrative matters. Thus, the internal affairs investigator must continue the administrative investigation to determine whether evidence exists or can be developed that meets the “preponderance of the evidence” burden of proof for administrative proceedings. Under no circumstances shall an internal affairs administrative investigation be closed merely because a criminal investigation was declined or terminated. In all cases where an investigation is returned to Internal Affairs because the prosecutor declined or terminated the criminal investigation, Internal Affairs shall inform the County Prosecutor as to the disposition of the complaint, including any discipline imposed, once the administrative investigation is completed. They will also check for any court action or other reason to delay the departmental investigation until the criminal element is disposed of.
19. As with any crime or investigation the person investigating the misconduct shall preserve any evidence such as fingerprints, clothing, hair, fabric fibers, bodily fluids, stains and weapons as per our normal investigation policy. Officers can be court ordered to produce evidence as required.
20. The IA officer may refer cases to the division commander with the Chief’s permission.
21. Upon receipt of an internal affairs complaint, the Internal Affairs investigator can advise the complainant of the importance of providing accurate and truthful information. However, when providing such advice, Internal Affairs investigators must remember that it is important to balance the need for receiving complaints of officer misconduct against the danger of discouraging members of the public from coming forward with their complaints. Therefore, any language that would serve to dissuade or intimidate a member of the public from coming forward should be avoided.
22. Although there are complaints against officers that are legitimate and based upon facts, others are contrived and maliciously pursued, often with the intent to mitigate or neutralize the officer’s legal action taken against the complainant. PGPD must fully and impartially investigate the former, while taking a strong stand to minimize the latter. The Peapack and Gladstone Police Department should notify the County Prosecutor in any case where a complainant has fabricated or intentionally misrepresented material facts to initiate a complaint of officer misconduct.
23. If an officer subject to an administrative investigation has a good-faith basis to question the impartiality or independence of the investigation, then they may report their concerns to the County Prosecutor. Law enforcement officers employed by a County Prosecutor’s Office or the Division of Criminal Justice may report concerns to the Office of Public Integrity & Accountability (OPIA). The County Prosecutor may, within their discretion, conduct their own review of the internal affairs investigation and determine whether any further action is warranted, including potential reassignment of the investigation to a different entity.

P. Suspension / Immediate:

1. A Supervisor, Division Commander, Captain, or the Chief of Police may immediately suspend an officer from duty if he or she determines 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 while on-duty, or the criminal act related to his or her employment.
2. The supervisor imposing the immediate suspension must:
 - a) Provide the employee with sufficient opportunity to review the charges and the evidence and to respond either orally or in writing.
 - b) Advise the employee in writing of why an immediate suspension is sought and the charges and general evidence in support of the charges.
 - c) If the employee refuses to accept the written notification of immediate suspension, it shall be given to an officer of the employee's local bargaining unit.
 - d) Advise his 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 or return the employee to work.
4. The investigating officer shall interview the complainant, all witnesses and the subject officer, as well as review relevant reports, activity sheets, recordings, or dispatcher forms. The investigating officer shall audio and may video record the interviews. The subject officer may also record the interview providing he or she provides the department with a copy of the recording upon completion of the interview. The subject officer shall advise the IA investigator that they are recording the interview prior to the start of the interview. Officers / employees are prohibited from surreptitiously recording any departmental interview. The investigating officer shall then prepare a report summarizing the matter, indicating the appropriate disposition along with the IA Disposition Form, Possible dispositions include the following:
 - a) If the investigator determines that the complaint is unfounded, exonerated or not sustained, the investigative report is to be forwarded to internal affairs for review and entry in the index file and filing. The subject officer shall be notified in writing of the investigation's outcome. If the complaint is sustained, the superior officer so authorized should determine the appropriate disciplinary action. Typical disciplinary actions for minor infractions include performance notices, oral reprimands, or written reprimands. The superior officer shall complete the appropriate disciplinary document and provide a copy of that document to the officer being disciplined. A copy of the disciplinary document shall be forwarded to the law enforcement executive or appropriate supervisor for review, placed in the officer's personnel file and sent to internal affairs for entry into the index file and filing. PGPD has its own protocol for reviewing and purging performance notices and oral reprimands from an employee's personnel file. Written reprimands should remain permanently in the employee's personnel file. A letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian complainant. If the allegation was not

sustained, the letter shall provide the complainant with a brief explanation why the complaint was not sustained (e.g., insufficient proof, lack of witnesses, etc.). If the allegation was sustained and discipline was imposed, the letter shall state that the allegation was sustained and that the officer has been disciplined according to PGPD procedures.

- b) If the charges were sustained, Internal Affairs will cause the penalty to be carried out. The administrative charging form and a copy of the disposition form shall be permanently placed in the officer's or employee's personnel file. PGPD keeps the personnel and IA files separate. People or agencies that want to learn of the discipline of an officer needs to view the IA file and will be told the same.

Q. Suspended Member/Process

1. Any member suspended from duty with or without pay, or when police powers have been suspended shall surrender the following:
 - a) Issued firearms, magazines and ammunition;
 - b) Badge-breast;
 - c) Departmental issued identification, badge / Building access card;
 - d) Police radio.
2. Suspended police officers who have turned in their ID shall not identify themselves as a police officer during the suspension period. The individual will not be allowed to wear the Department uniform while suspended from duty. If the individual is stopped or comes in contact with law enforcement, they may only identify themselves as a suspended police officer. Officers who identify as a police officer, show police ID or badge to other officers or civilians may be charged with impersonating a police officer.
3. They have no police authority to make arrests or perform any duties requiring the exercise of police powers. Suspended officers shall not have the authority to carry a weapon off duty or engage in secondary law enforcement employment.
4. The suspended officer is reminded that, during the suspension period, he or she remains bound by all Department Rules and Regulations and is required to obey all orders. Failure to do so may result in further disciplinary action.
5. The Internal Affairs Officer or their designee shall be responsible for collecting the above listed property from the suspended member. The suspended officer will notify the Internal Affairs Officer with work related questions / issues.

R. Investigation and Adjudication of Serious Complaints

1. All serious complaints shall be forwarded to the internal affairs function. This includes complaints of criminal activity, excessive force, improper or unjust arrest, improper entry, improper or unjustified search, differential treatment, serious rule infractions and repeated minor rule infractions. Unless otherwise directed to do so by the County Prosecutor, the prosecutor's office must be immediately notified of all allegations of criminal conduct. The internal affairs investigator shall refrain from taking any further investigative action until directed to do so by the Somerset County Prosecutor's Office unless an imminent threat exists to the safety or welfare of an individual. Once a complaint has been forwarded to the prosecutor's office that office shall endeavor to review the allegation within 30 days and advise the Peapack and Gladstone Police Department whether a criminal investigation will be conducted. In the event the prosecutor's office cannot reach a decision within the initial 30-day period, the deadline may be extended in 30-day increments at the discretion of the

County Prosecutor. The Peapack and Gladstone Police Department shall be advised of any extensions of the deadline. If a criminal investigation is initiated, the PGPD shall receive periodic and timely updates concerning the course of the investigation. While a criminal investigation is pending, complainants and witnesses may be referred by the PGPD to the county victim witness office for information concerning the criminal investigation. Once the criminal investigation is complete and a disposition of the allegation has been made, the prosecutor's office shall provide the Peapack and Gladstone Police Department with its investigative file for use in the internal affairs investigation subject to applicable state statutes, court rules and case law. If the prosecutor's office declines to initiate a criminal investigation or the investigation is administratively closed, it shall notify the PGPD of the outcome in writing. As for administrative complaints, the internal affairs supervisor or law enforcement executive will direct that an internal affairs investigator conduct an appropriate investigation. Investigators must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer.

2. Internal affairs investigators, and anyone who may be called upon to do an internal investigation, must be thoroughly familiar with PGPD's entire internal affairs policy, including the protection of the subject officer's rights and the procedures for properly investigating internal complaints. Internal affairs shall notify the suspect officer in writing that an internal investigation has been started, unless the nature of the investigation requires secrecy. The internal affairs investigator should interview the complainant, all witnesses, and the subject officer, review relevant reports and documents, and obtain necessary information and materials. If an officer subject to an administrative investigation has a good-faith basis to question the impartiality or independence of the investigation, then they may report their concerns to the County Prosecutor. Law enforcement officers employed by a County Prosecutor's Office or the Division of Criminal Justice may report concerns to the Office of Public Integrity & Accountability (OPIA). The County Prosecutor may, within their discretion, conduct their own review of the internal affairs investigation and determine whether any further action is warranted, including potential reassignment of the investigation to a different entity.
3. An administrative investigation may commence with the disposition of a complaint against the subject officer by the Superior Court or a municipal court. In the alternative, an administrative investigation may commence with a county or municipal prosecutor's decision to dismiss a complaint against a subject officer. A finding of guilt by the Superior Court or a municipal court may assist in resolving an administrative investigation because such a finding requires proof beyond a reasonable doubt, which is more than is required to meet the burden of proof in administrative matters. A disposition that does not involve a finding of guilt by the courts or where a complaint is dismissed by a county or municipal prosecutor means that proof beyond a reasonable doubt has not been found. However, it does not mean that an administrative investigation cannot be pursued or should be closed. The absence of proof beyond a reasonable doubt does not foreclose the possibility that an investigation may reveal evidence that meets the burden of proof in administrative matters. Thus, the internal affairs investigator must continue the administrative investigation to determine whether evidence exists or can be developed that meets the "preponderance of the evidence" burden of proof for administrative proceedings. Under no circumstances shall an internal affairs administrative investigation be closed merely because a criminal investigation was declined or terminated. In all cases where an investigation is returned to internal affairs because the prosecutor declined or terminated the criminal investigation, internal affairs shall inform the County Prosecutor as to the disposition of the complaint, including any discipline imposed, once the administrative investigation is completed. Upon completing the

investigation, the internal affairs investigator will recommend dispositions for each allegation through the chain of command to the law enforcement executive. As previously described, these dispositions may include exonerated, sustained, not sustained or unfounded. Each level of review may provide written recommendations and include comment for consideration by the law enforcement executive. The law enforcement executive, upon reviewing the report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action be deemed appropriate. If the complaint is unfounded or not sustained or the subject officer is exonerated, the disposition shall be entered in the index file and the report filed. The determination must remain within the discretion of the law enforcement executive.

4. If the complaint is sustained and it is determined that formal charges should be made, the law enforcement executive will direct either internal affairs or the appropriate commanding officer to prepare, sign and serve charges upon the subject officer or employee. The individual assigned shall prepare the formal notice of charges and hearing on the charging form. This form will also be served upon the officer charged in accordance with N.J.S.A. 40A:14-147. The notice of charges and hearing shall direct that the subject officer may:
 - a) enter a plea of guilty to the charges;
 - b) enter a plea of not guilty to the charges; or
 - c) waive their right to a hearing.

If the officer enters a plea of guilty or waives their right to a hearing, he or she is permitted to present mitigating factors prior to being assessed a penalty. Conclusions of fact and the penalty imposed will be noted in the officer's personnel file after he or she has been given an opportunity to read and sign it. Internal affairs will cause the penalty to be carried out and complete all required forms. If the subject officer enters a plea of not guilty and requests a hearing, the law enforcement executive will set the date for the hearing as provided by statute and arrange for the hearing of the charges. Internal affairs may assist the assigned supervisor or prosecutor in preparing the Peapack and Gladstone Police 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. The hearing shall be held before the designated hearing officer. The hearing officer shall recommend a disposition of the charges, including modifying the charges in any manner deemed appropriate. The decision of the hearing officer must be in writing and should be accompanied by findings of fact for each issue in the case. If the hearing officer finds that the complaint against the officer is sustained by a preponderance of the evidence, he or she should recommend any of the penalties which he or she deems appropriate under the circumstances and within the limitations of state statutes and the Peapack and Gladstone Police Department's disciplinary system.

5. A copy of the decision and accompanying findings and conclusions shall be delivered to the officer or employee who was the subject of the hearing and to the law enforcement executive (if he or she was not the hearing officer) for the imposition of discipline. Upon completion of the hearing, internal affairs will complete all required forms including the entry of the disposition in the index file. If the charges were sustained, internal affairs will cause the penalty to be carried out. Documentation of the charge and the discipline shall be permanently placed in the officer's or employee's personnel file. Upon final disposition of the complaint, in cases where the officer was not notified of the outcome through some written form of discipline, the officer shall be notified of the outcome of the case through a written internal PGPD communication. In all cases, a letter shall be sent to the complainant explaining the outcome of the investigation. If the allegation was unfounded or the officer was exonerated, this conclusion shall be stated and defined for the civilian

complainant. If the allegation was not sustained, the letter shall provide the complainant with a brief explanation why the complaint was not sustained (e.g., insufficient proof, lack of witnesses, etc.). If the allegation was sustained and discipline was imposed, the letter shall state that the allegation was sustained and that the officer has been disciplined according to PGPD procedures.

- a) Upon final disposition of the complaint, a letter shall be sent to the complainant by Internal Affairs 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 in cases of minor discipline. In cases of major discipline, that is termination, reduction in rank or grade, and/or suspension of more than five days, a brief synopsis will be provided.

6. Domestic Violence Incidents Involving PGPD Personnel:

- a) PGPD personnel may become involved in domestic violence incidents. It is important to the integrity of the Peapack and Gladstone Police Department, the safety of the victim and the career of the officer that such matters are handled appropriately. Thus, it is imperative that every law enforcement agency establish a policy for investigating and resolving domestic violence complaints involving its employees. PGPD fully investigates and tracks all domestic complaints involving its members.
- b) Whenever an officer is involved in a domestic violence incident, either as an alleged perpetrator or as a victim, internal affairs must be promptly notified. Where the officer was the alleged perpetrator, investigating officers must seize their service weapon or any other weapon possessed, as mandated by AG Directives 2000-3 and 2000-4. PGPD by policy requires any officer or employee to notify our agency if he or she has been charged with an offense, received a motor vehicle summons or been involved in a domestic violence incident. In cases of domestic violence, the investigating agency should also notify the employing agency's internal affairs investigators as soon as possible. The primary responsibility for investigating the domestic violence incident itself, along with any related offenses, belongs to the agency with jurisdiction over the incident. The processing of domestic violence complaints, restraining orders, criminal complaints, etc., will remain with that agency. In many cases, this will not be the officer's employing agency. If a criminal charge has been filed, internal affairs must notify the County Prosecutor immediately even if the incident took place in another county. As the chief law enforcement officer of the county, it is critical that a prosecutor be made aware of any outstanding criminal charges against any law enforcement officer in their county. Internal affairs is responsible for reviewing the incident's investigation and conducting whatever further investigation is necessary to determine if the officer violated PGPD rules and regulations or if the officer's fitness for duty is in question. In addition, internal affairs will track the proceedings of any criminal charges or civil matters that may arise out of the incident. Internal affairs will also work with the Division of Criminal Justice or the County Prosecutor to determine if and when an officer may have their weapon(s) returned.

7. Initiation of action for minor complaints and formal progressive discipline begins with a written reprimand which remains in an officer's personnel file. Oral reprimands are considered training aids as they are removed after six (6) months provided no other breach of discipline has occurred.
 - a) The supervisor giving the performance notice, oral reprimand or written reprimand shall complete the appropriate documents.
 - b) The officer or employee shall be advised of the discipline and shown the disciplinary document.
 - c) The supervisor will forward the disciplinary document to the Chief of Police for review. It will then go to the Internal Affairs Unit for filing.
 - d) For oral reprimands:
 - 1) Six months after the date on the reprimand the disciplinary report shall be destroyed, provided no other breach of discipline has occurred. Should the officer have another infraction the oral will become a written reprimand and the new infraction will begin progressive discipline.
 - 2) The subject officer shall be notified in writing that the oral reprimand or performance notice has been purged.
 - e) Performance notices are used for both positive and minor infractions. They are kept with the Division Commander and used by the supervisor who performs the yearly evaluation each year and are attached to the evaluation form.
 - 1) For written reprimands, the written reprimand will remain permanently in the officer's or employee's personnel file.

S. Hearing

1. Upon written notice of a request for a hearing from the subject officer, the Chief of Police will set the date for the hearing within a reasonable time and arrange for the hearing of the charges. Internal affairs shall be responsible for any assistance to the assigned supervisor or prosecutor in the preparation of the Department's prosecution of the charges. This includes proper notification to all witnesses and the preparing of all documentary and physical evidence for presentation at the hearing. In the event of a hearing, Internal Affairs will be responsible for preparing a discovery package from the Internal Affairs file, and providing it to the subject officer or his or her representative.
2. The hearing shall be held and the Chief of Police may prosecute the complaint himself or request the Borough Attorney/ Director of law or his designee to prosecute the complaint. In addition to the prosecutor, there shall be a Hearing Officer who shall hear the complaint and render a decision. The Hearing Officer may be the Chief of Police, Borough Attorney/ Director of law or a designee of the Borough Attorney/ Director of Law.
3. All disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.
4. 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 in the case.

5. The hearing authority will fix any of the following punishments which it deems appropriate under the circumstances.
 - a) Counseling/Training/Retraining;
 - b) Oral reprimand or performance notice;
 - c) Written reprimand;
 - d) Monetary fine;
 - e) Transfer/reassignment;
 - f) Suspension without pay;
 - g) Loss of promotion opportunity;
 - h) Demotion;
 - i) Discharge from employment.
6. A copy of the decision or order and accompanying findings and conclusions shall be delivered to the officer or employee who was the subject of the hearing and to the Chief of Police if he was not the hearing authority.
7. Upon completion of the hearing, Internal Affairs will complete all required forms including the entry of the disposition in the index file. The decision of the hearing officer shall be in writing.

VI. Internal Affairs Investigation Procedures

- A. Only after a thorough and impartial investigation can an informed decision be made as to a complaint's proper disposition. Decisions based upon such an investigation will support the credibility of PGPD both among its ranks and the public at large.
- B. Complaints must be professionally, objectively, and expeditiously investigated in order to gather all information necessary to arrive at a proper disposition. It is important to document complainants' concerns, even those that appear to be unfounded or frivolous. If such complaints are not documented or handled appropriately, public dissatisfaction will grow, fostering a general impression of PGPD insensitivity to community concerns. The internal affairs investigator may use any lawful investigative techniques including inspecting public records, questioning witnesses, interviewing the subject officer, questioning PGPD employees and surveillance. The investigator therefore must understand the use and limitations of such techniques. It is generally recommended that the complainant and other lay witnesses be interviewed prior to interviewing sworn members of PGPD. This will often eliminate the need to do repeated interviews with PGPD members. However, this procedure does not have to be strictly adhered to if circumstances and the nature of the investigation dictate otherwise.
- C. The Internal Affairs Unit shall maintain a central file on all complaints received by this Department. Being that we are a small agency, the internal affairs officer keeps all data in an excel spread sheet providing an index/ tracking system to alert possible patterns or officer misconduct. The spreadsheet will show patterns of individual officer complaints and or misconduct. In addition, it will allow sorting by index, case number, officer name. The system will also allow the removal of a case if ordered by the court.
 1. All Internal Affairs files shall be locked in the IA officer's cabinets reserved for such purposes.
 2. The Internal Affairs documents and index are maintained on a secure / limited access password protected server.

D. Interviewing the Complainant and Civilian Witness

1. If the investigation involves a criminal charge against the complainant, an initial interview should be conducted with the complainant. However, the investigator must realize that the complainant is simultaneously a criminal defendant arising out of the same incident and must be accorded all of the appropriate protections. Thus, all further contact with the complainant should be arranged with and coordinated through the Somerset County Prosecutor's Office and the complainant's defense attorney. The complainant should be personally interviewed if circumstances permit. If the complainant cannot travel to the investigator's office, the investigator should conduct the interview at the complainant's home or place of employment if feasible. If not, a telephonic interview may be conducted. All relevant identifying information concerning the complainant should be recorded, e.g., name (unless the complainant wishes to remain anonymous), complete address, telephone numbers and area codes, race or ethnic identity, sex, date of birth, place of employment, social security number if necessary and place of employment (name and address). The investigator should grant reasonable requests for accommodations to protect the complainant's identity, such as meeting the complainant at a place other than the investigator's office if the complainant's identity cannot be kept confidential at that location.
2. When taking a formal statement from a civilian, the investigator shall video- or audio- record the statement according to the same protocols that would apply if the civilian were being interviewed in connection with a criminal investigation. If a witness objects to the recording of the interview, the investigator may proceed with the interview without recording, but must document in writing the reasons for doing so. When taking a formal statement from an officer, the investigator shall video or audio- record the statement, except that in cases that did not arise from a civilian complaint, the investigator need not record the statement unless the officer being interviewed requests such.
3. All relevant reports should be obtained and preserved as expeditiously as possible. Internal agency reports relating to a subject officer's duties should be examined. Examples of such reports include arrest and investigative reports, and radio, patrol, vehicle and evidence logs pertaining to or completed by the officer. The investigator should also examine and retrieve all electronic, computer, digital and video records. These may include analog and digital records created by radio and telephone recorders, computer aided dispatch systems, mobile data terminals, in-car video systems, video surveillance systems and other forms of audio and video recording. In these cases, the relevant data should be copied to an appropriate medium as soon as possible and retained by internal affairs. Records and documents of any other individual or entity that could prove helpful in the investigation should be examined. These may include reports from other law enforcement agencies, hospital records, doctors' reports, jail records, court transcripts, F.B.I. or S.B.I. records, motor vehicle abstracts and telephone and cellular phone records. In some instances, a search or communications data warrant or a subpoena may be necessary to obtain the information.
4. Investigators should obtain all relevant physical evidence. All evidence, such as fingerprints, clothing, hair or fabric fibers, bodily fluids, stains, and weapons should be handled according to established evidence procedures. 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 tapes or transmissions should be reviewed to reveal the totality of the circumstances. Photographs and video recording tapes can be useful tools if relevant to the investigation. If a complaint involves excessive use of force, photographs of the complainant and the officer should be taken as close as possible to the time of the incident. Photographs also can be used to create a record

of any other matter the investigator believes is necessary. Whenever possible, digital color photography should be used. The Peapack and Gladstone Police Department should maintain a recent photograph of each officer. These can be used if a photo array is needed for identification purposes. If a photo array is used, it must be properly retained for possible evidentiary purposes.

5. Police officers who are the subjects of internal investigations may be compelled to submit to various physical tests or procedures to gather evidence. N.J.R.E. 503(a) states that "no person has the privilege to refuse to submit to examination for the purpose of discovering or recording his corporal features and other identifying characteristics or his physical or mental condition." Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:
 - a) Breath sample;
 - b) Blood sample;
 - c) Buccal swab;
 - d) Requiring suspect to speak;
 - e) Voice recordings;
 - f) Participation in a lineup;
 - g) Handwriting samples;
 - h) Hair and saliva samples;
 - i) Urine specimens;
 - j) Video recording; and
 - k) Field sobriety tests.
6. For internal affairs investigations that may result in a criminal prosecution, physical tests should be conducted pursuant to a court order or an investigative detention under Rule 3:5A. Officers that refuse to perform or participate in a court-ordered physical test may be subject to a contempt of court sanction and PGPD discipline for failing to comply with the order. For internal affairs investigations that may result in an administrative disciplinary proceeding, the internal affairs investigator or the appropriate supervisor may order subject officers to perform or participate in a physical test. The order must be reasonable and relevant to the investigation at hand. Officers that refuse to perform or participate in a lawfully ordered physical test can be disciplined for their refusal.
7. The testing of law enforcement officers in New Jersey for the illegal use of drugs is strictly regulated by the Attorney General's Law Enforcement Drug Testing Policy. This policy permits the testing of applicants and trainees for law enforcement positions. It further specifies that veteran law enforcement officers may be tested for drugs if reasonable suspicion exists that they are using drugs or if they have been chosen as part of a random drug testing program. In any case, drug testing is done through an analysis of urine samples by the State Toxicology Laboratory within the Department of Health.
8. The Attorney General's Law Enforcement Drug Testing Policy identifies specific responsibilities that may be assigned to internal affairs. These include the collection of specimens, the establishment of a chain of custody and the maintenance of drug testing records. Every officer assigned to internal affairs should be familiar with the Attorney General's Law Enforcement Drug Testing Policy.

9. N.J.S.A. 2C:40A-1 states that an employer shall not influence, request or require an employee to take or submit to a lie detector test as a condition of employment or continued employment. To do so constitutes a disorderly person's offense. Therefore, a law enforcement officer should never be asked to take a polygraph examination as part of an internal affairs investigation. The investigator should not even suggest to the officer that a polygraph examination would be appropriate or that it "might clear this whole thing up." However, the subject officer may voluntarily request to take a polygraph examination. Polygraph tests of civilian complainants and witnesses should only be used when a reasonable suspicion exists that their statements are false. Polygraph examinations should not be used routinely in internal affairs investigations. Under no circumstances should polygraph examinations be used to discourage or dissuade complainants. In addition, a victim of sexual assault cannot be asked or required to submit to a polygraph examination.
10. All people, including police officers, have a Fourth Amendment right to be free from unreasonable searches and seizures. In an internal affairs investigation, the Fourth Amendment applies to any search PGPD undertakes. The internal affairs investigator must be cognizant of the various principles governing search and seizure, particularly where the investigator will conduct a search as part of a criminal investigation or will search personal property belonging to the subject officer. Criminal investigations generally require the investigator to obtain a search warrant to conduct a search. Search warrants require probable cause to believe that the search will reveal evidence of a crime. In internal affairs investigations, a search warrant should be obtained before a search is conducted of a subject officer's personal property, including any home, personal car, bank accounts, safety deposit boxes, briefcases, etc. A warrant also may be necessary where a search of the subject officer's workplace is conducted and it is determined that the officer has a high expectation of privacy in the place to be searched. The internal affairs investigator should consult with the Somerset County Prosecutor's Office before undertaking the search of any workplace area in a criminal investigation. The law is somewhat less restrictive as to searches conducted during an administrative investigation. While it appears that an employing agency does not need a warrant to conduct a search during an administrative investigation, the investigator should exercise great care when searching property or items in which the subject officer has a high expectation of privacy. Internal affairs investigators should document their reasons for conducting the search and limit its intrusiveness. If any doubts or concerns exist about the propriety or legality of a search, the investigator should seek advice from legal counsel before proceeding with the search.
11. During either administrative or criminal investigations, generally workplace areas may be searched without a warrant. The critical question is whether the public employee has a reasonable expectation of privacy in the area or property the investigator wants to search. The determination of this expectation must be decided on a case-by-case basis. There are some areas in a person's workplace where this privacy expectation can exist just as there are some where it does not. Areas that several employees share or where numerous employees go to utilize files or equipment would present no expectation, or a diminished expectation, of privacy. Included here would be squad rooms, lobby areas, dispatch areas, patrol cars, general filing cabinets, etc. However, employees may have a greater expectation of privacy in their own lockers, assigned desks or possibly in a vehicle assigned to them solely for their use. If an agency intends to retain the right to search property it assigns to officers for their use, including lockers and desks, it should put officers on notice of that fact. This notification will help defeat an assertion of an expectation of privacy in the assigned property. The agency should issue a directive regarding this matter and provide notice of the policy in any employee handbook or personnel manual (including the rules and regulations) the agency provides. Notice should also be

posted in the locker area and on any bulletin boards. The following is a sample of what such a notice should contain:

- a) The agency may assign to its members and employees' agency-owned vehicles, lockers, desks, cabinets, etc., for the mutual convenience of PGPD and its personnel. Such equipment is and remains the property of the PGPD. Personnel are reminded that storage of personal items in this property is at the employee's own risk. This property is subject to entry and inspection without notice.
 - b) PGPD reserves the right to search at any time or make a periodic inspection with the approval of the Chief of Police; lockers, desks, department vehicles, computers other things provided by the department for the employee to use. The IA Officer will conduct inspections of the work areas, to include locker, desk, vehicle and computers used for the officers chosen for drug testing each year or whenever an officer is suspected of misconduct and a search may aid the investigation.
12. In addition, if the agency permits officers to use personally owned locks on assigned lockers and other property, it should be conditioned on the officer providing the agency with a duplicate key or the lock combination. With the introduction of new technologies in law enforcement, it may become necessary to search computers and cell phones or other digital devices, (hereafter "devices"), and seize their contents. The critical question remains whether the public employee has a reasonable expectation of privacy in information stored in a device. While the determination of a reasonable expectation of privacy must be decided on a case-by-case basis, the Peapack and Gladstone Police Department has taken steps to actively and affirmatively diminish this expectation through policy.
13. The courts routinely examine agency practice in evaluating the expectation of privacy. Written notification thus would quickly be nullified if representatives of the agency never entered or inspected any of these areas. In addition to notifying employees of the agency's right to search and inspect, the agency should also, with some regularity, inspect these areas to establish the practice coinciding with the policy. Any search of agency or personal property should be conducted in the presence of the subject officer and a property control officer. A voluntary consent to a search may preclude some Fourth Amendment problems. A consent search eliminates the need to determine what threshold standard must be met before conducting the search or seizure, either for an administrative or criminal investigation. For consent to be legally valid in New Jersey, a person must be informed that he or she has the right to refuse to permit a search. If a consent search is undertaken, the internal affairs investigator shall follow standard law enforcement procedures and have the subject officer sign a consent form after being advised of the right to refuse such a search.
14. 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. 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. Pursuant to N.J.S.A. 2A:156A4b, 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 PGPD policy dictates procedures

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

15. 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. The monitoring of 9-1-1 telephone lines is required by law. Nothing prohibits the monitoring of other telephones used exclusively for PGPD 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. The New Jersey Wiretap Act applies only to oral, wire and electronic communications. While not specifically covered by this law, reasonable limitations should exist on video surveillance. The primary issue is one of privacy. Video surveillance, especially covert surveillance, should not be used in areas where employees have a high expectation of privacy, such as locker rooms and bathrooms. In public areas, video surveillance may be used. In many law enforcement agencies, certain areas such as lobbies, cell blocks and sally ports have video surveillance for security reasons. Video obtained from these sources is applicable to internal investigations. Questions about the specific application of video surveillance, especially covert surveillance, should be addressed to the Somerset County Prosecutor's Office. It must be emphasized that this refers to video surveillance with no sound recording component. 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. 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 their whereabouts when performing police duties.
16. A law enforcement officer may be ordered to stand in a lineup to be viewed by witnesses or complainants. Probable cause need not exist, and the officer may be disciplined for refusal. The lineup must be constructed so as not to be unfairly suggestive. The same rule applies to photo arrays. See Attorney General Guidelines for Preparing and Conducting Photo and Live Lineup Identification Procedures; October 4, 2012, Memorandum and Revised Model Eyewitness Identification Procedure Worksheets.

E. Incidents Which Involve Notification to the Internal Affairs Unit

1. Any firearm discharge by PGPD personnel, whether on-duty or off-duty, unless the discharge occurred during the course of:
 - a) a law enforcement training exercise;
 - b) routine target practice at a firing range;
 - c) a lawful animal hunt; or
 - d) the humane killing of an injured animal
2. Any discharge of an PGPD-owned firearm by anyone other than agency personnel.
3. Any public statements by the Peapack and Gladstone Police Department about the conduct of law enforcement officers involved in a firearm discharge require approval by the County Prosecutor or the Attorney General's Office, depending upon which entity is supervising the investigation. Agency law enforcement officers including internal affairs personnel will participate in the initial investigation only if directed

to do so by the County Prosecutor, OPIA, or another designee of the Attorney General. In the general course, employees of the same agency as the subject officer shall not participate in the investigation or attend any investigative activities. This does not, however, preclude any officer from acting as a first responder to the scene of a use-of-force incident, helping to secure the scene or participating in a be-on-the-lookout search or pursuit related to the incident. All officers are also obligated to comply with any orders of recusal that may be issued pursuant to the investigation.

4. No law enforcement officer shall share, either directly or indirectly (i.e., through another person), any information learned in the course of the use of-force investigation with any witness without authorization. Nor shall any law enforcement officer who was a witness to the use-of-force incident receive any such information from any sworn or civilian employee of the Peapack and Gladstone Police Department without first obtaining authorization from the authority in charge of the investigation or their designee. If any law enforcement officer learns of such an unauthorized dissemination or receipt of information, then they must immediately report that to the authority in charge of the investigation or their designee. Officers who are directed to assist with an initial firearm discharge investigation may be required to operate independently of their ordinary chain of command and report directly to the authority in charge of the investigation or their designee. In all such circumstances, officers shall comply with that requirement. In cases where discharge of a firearm does not result in criminal charges, the prosecutor, OPIA, or other designee of the Attorney General will refer the incident back to the agency for an internal affairs administrative review. Officers conducting administrative investigations of firearm discharges must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer. All supervisors and any other officer who may be called upon to participate in a firearm discharge investigation therefore must be thoroughly familiar with PGPD's entire internal affairs policy, including protection of the subject officer's rights and the procedures for properly investigating firearm discharges. Investigators should review all administrative reports PGPD requires. These reports should include a description of the incident, the date, time and location of the incident, the type of firearm used, the type of ammunition used and number of rounds fired, the identity of the officer, and any other information a superior officer requests. The involved officer's supervisor must assist the internal affairs investigator as needed.
5. The investigator must consider relevant law, any Attorney General or Somerset County Prosecutor's Office policies and guidelines, and PGPD rules, regulations, and policy. In addition to determining if the officer's actions were consistent with PGPD regulations and policy, the internal affairs investigator should also examine the relevance and sufficiency of these policies. The investigator should also consider any relevant aggravating or mitigating circumstances. The investigation of a shooting by an officer should include photographs, ballistics tests, and interviews with all witnesses, complainants and the officer involved. All firearms should be treated as evidence according to PGPD procedures. A complete description of the weapon, its make, model, caliber and serial number must be obtained and, if appropriate, N.C.I.C. and S.C.I.C. record checks should be made. In a firearm discharge investigation, the investigator must determine if the weapon was an approved weapon for that officer and if the officer was authorized to possess and carry it at the time of the discharge. The investigator must also determine if the weapon was loaded with authorized ammunition. The weapon must be examined for its general operating condition and to identify any unauthorized alterations made to it.

6. The work of an internal affairs function should not be limited to resolving complaints by narrowly focusing on whether the subject officer engaged in misconduct. In many cases, the examination of collateral issues presented by the complaint can be as important as the resolution of the allegation itself. For example, while investigating an allegation of excessive force during an arrest, the officer's actions in making the arrest may be improper. In such cases, even though the investigation may exonerate the officer of the excessive force allegation, internal affairs must still examine whether the officer should have been affecting the arrest at all.
7. Examining collateral issues can provide the Peapack and Gladstone Police Department and its executive officers with information concerning:
 - a) The utility and effectiveness of PGPD's policies and procedures.
 - b) The competency and skills of individual law enforcement officers.
 - c) Appropriate topics for in-service training programs.
 - d) The allocation of resources by the Peapack and Gladstone Police Department and other municipal agencies.
8. The identification and examination of collateral issues is critically important to the internal affairs process. Internal affairs investigators are in the unique position of examining law enforcement operations from the inside. Their insight, if properly used, can be extremely helpful to management. In contrast, the failure to use this resource can deprive the Peapack and Gladstone Police Department of the ability to identify and correct problems with personnel and procedures through self-critical analysis. It can also lead to an erosion of community support for PGPD. An internal affairs process that is objective and complete is critical to the credibility and reputation of the Peapack and Gladstone within the community.
9. The interview of a police officers as either the subject of an internal affairs investigation or as a witness to an incident that is the subject of such an investigation represents a critical stage in the investigative process. The information gained during such an interview often will go a long way toward resolving the matter, regardless of the outcome. The difficulty in conducting officer interviews, particularly subject officer interviews, is the differing legal principles that apply depending on the nature of the interview and the type of investigation being conducted. For example, a subject officer suspected of criminal conduct will be interviewed in a manner far different than an officer suspected of committing just a disciplinary infraction. A further distinction may be made when the officer to be interviewed is believed to be a witness to either criminal conduct or an administrative infraction. While a police officer has the same constitutional rights as any other person during a criminal investigation, their status as a police officer may create special concerns. For the most part, the internal affairs investigator should utilize the same procedures and apply the same legal principles to the subject officer as he or she would to any other target or suspect in a criminal investigation. However, the internal affairs investigator should recognize that the interview process of a police officer is somewhat different than that of civilians.
10. A police officer has the same duty and obligation to their employer as any other employee. Thus, where an internal affairs investigation is being conducted solely to initiate disciplinary action, the officer has a duty to cooperate during an administrative interview. The officer also must truthfully answer all questions put to him or her during the course of the investigation. Failure to fully cooperate with an administrative investigation and/or to be completely truthful during an administrative interview can form the basis for disciplinary action separate and apart from the allegations under investigation. This duty to fully cooperate in an investigation applies to every employee of the agency, whether law enforcement or civilian. For the internal affairs investigator, it is critical to distinguish between those

investigations involving potential criminal conduct and those limited to administrative disciplinary infractions. The investigator also must be able to identify and apply the appropriate procedures to be utilized during the interview process in either a criminal or an administrative investigation. Failure to identify and apply the appropriate procedures can compromise and render inadmissible evidence gathered during the interview process in a criminal investigation or needlessly complicate the interview process during an administrative investigation.

11. The vast majority of internal affairs investigations will be limited to alleged disciplinary infractions and the vast majority of law enforcement officer interviews conducted during an internal affairs investigation will be limited to gathering evidence of disciplinary infractions. But in cases of a potential criminal violation, it is absolutely necessary that the internal affairs investigator coordinate officer interviews with the Somerset County Prosecutor's Office. Because the County Prosecutor is ultimately responsible for prosecuting criminal cases, the internal affairs investigator shall defer to the prosecutor's supervision and direction in conducting officer interviews. The investigator shall consult with the County Prosecutor prior to initiating an officer interview in matters that could involve criminal conduct, and shall pay particular attention to the County Prosecutor's instructions concerning the types of interviews to be conducted and procedures to be utilized (e.g., Miranda warning, Garrity warning, etc.). Police officer interviews during an internal affairs investigation are rendered difficult by the conflict that exists between the officer's right against self-incrimination in criminal interviews and the obligation to answer questions truthfully during an administrative investigation. So, while PGPD may compel an officer to answer questions posed during the course of an administrative investigation, an officer cannot be forced to give answers that could be used against him or her in a criminal prosecution. Officers who have been compelled by order to produce incriminating information, with the belief that a failure to do so will result in termination or other serious disciplinary action, cannot have that evidence used against them in a criminal prosecution. However, an officer can be compelled to provide answers during an internal affairs investigation if those answers are to be used as evidence only in a disciplinary proceeding.

12. A subject officer who reasonably believes that what he or she might say during an internal affairs interview could be used against him or her in a criminal case cannot ordinarily be disciplined for exercising their Miranda rights. However, an officer can be disciplined for refusing to answer questions during an internal affairs interview if he or she has been told that whatever he or she says during the interview will not be used in a criminal case. Informing an officer that their statement will not be used against him or her in a criminal case is called a Garrity warning. This warning informs the officer being interviewed that he or she must cooperate with the investigation and can be disciplined for failing to do so because the County Prosecutor has decided to provide the officer with "use immunity." It is for this reason that the internal affairs investigator must continually reassess the nature of an internal affairs investigation as evidence is being gathered. Having initially determined that a particular allegation is criminal or administrative in nature, it is important for the internal affairs investigator to revisit that decision during the course of an investigation to determine whether any of the evidence gathered following the initial determination changes the investigation's nature and scope. If the nature and scope of an investigation change, the investigator must be prepared to change the methods and procedures he or she utilizes to reflect the new focus. For example, if an investigator initially determines that an allegation appears to be a disciplinary matter but later evidence leads the investigator to conclude that criminal conduct may have occurred, he or she must cease using the methods and procedures appropriate for an administrative investigation and notify the County Prosecutor immediately before proceeding further.

13. Serious allegations of officer misconduct may implicate both a violation of a criminal statute and of PGPD's rules and regulations. As a result, a criminal investigation and an administrative disciplinary investigation may be needed to properly resolve a misconduct complaint. In general, criminal investigations and administrative investigations should be kept separate to the extent possible, with criminal investigations led by the County Prosecutor's Office preceding internal affairs disciplinary investigations. However, in some cases where both a criminal and an administrative disciplinary investigation are needed, the internal affairs investigator from the subject officer's agency may be expected to help conduct both. Under these circumstances, the methods employed in the criminal investigation conflict with those used in the administrative investigation. Typically, this conflict will become most apparent during subject officer interviews. As already explained, a subject officer has the right to remain silent during a criminal investigative interview. But the same officer must cooperate and answer questions posed by their employer during an administrative disciplinary interview. So, while the internal affairs investigator cannot require a subject officer to answer questions during a criminal interview, he or she can require that officer to answer questions during an administrative disciplinary interview. The confusion caused by these issues can be alleviated several ways. One way is to separate the investigations by time—the criminal investigation is completed first and then the administrative investigation may follow. Another way is to conduct bifurcated investigations. In a bifurcated investigation, the responsibility for a criminal investigation is separated from that for an administrative investigation. Thus, one investigator (typically from the prosecutor's office) is assigned the responsibility of gathering evidence of criminal wrongdoing while a second (typically the internal affairs investigator from the subject officer's agency) is assigned the responsibility of gathering evidence of a disciplinary infraction.
14. With a bifurcated investigation, the internal affairs investigator will not be forced to juggle the roles of criminal and administrative investigator during an internal affairs investigation. This is particularly important during the subject officer interview for three reasons. First, the internal affairs investigator will not be forced to decide whether and when to issue a Miranda or a Garrity warning during the interview. In a bifurcated investigation, the criminal investigator will be limited to issuing a Miranda warning while the administrative investigator will be limited to issuing a Garrity warning. Second, by assigning distinct roles to each investigator, there will be no confusion on the part of the subject officer as to the particular interview's purpose. Third, because a bifurcated investigation permits both the criminal and administrative investigations to take place simultaneously, the administrative investigator can be confident that, once the criminal investigation has been completed, the administrative investigation will also be substantially complete. As a result, the subject officer's agency will have no difficulty complying with the 45-day rule under N.J.S.A. 40A:14-147.
15. In all cases where a subject officer is interviewed pursuant to an administrative or criminal investigation, the interview must be audio recorded by the investigator, and should be video recorded, if practical.
16. Criminal interviews should be conducted only with the prior approval, or at the direction, of the County Prosecutor. Once an investigation becomes criminal in nature, the subject officer shall be advised that he or she is not required to answer questions as a condition of employment. Of course, an officer who is the subject of a criminal investigation may elect to voluntarily answer questions with or without an attorney so that the facts known to him and his perspective are available to the investigators. Miranda warnings generally are triggered whenever an individual's questioning is custodial in nature. For custodial interviews, the question is whether a reasonable person would believe that he or she is free to leave. So, a subject officer

who is not free to leave a criminal interview should be provided a Miranda warning. However, the internal affairs investigator should be aware that other factors may also serve to affect a subject officer's decision to answer questions during a criminal interview. For example, directing an officer to appear at a particular time and place may generate confusion on the officer's part as to whether he or she is being required to participate in the interview. When these circumstances or any other questions as to the need to provide a warning in criminal interviews are present, the internal affairs investigator should always consult with the County Prosecutor regarding whether the subject officer should be advised of their right against self-incrimination.

17. If the subject officer agrees to voluntarily provide a statement or waives his rights, the interview may then continue. Unless the officer specifically waives their Fifth Amendment rights, any incriminating statements obtained under direct order will not be admissible in a criminal prosecution but will be admissible in an administrative hearing. The subject officer should be afforded the opportunity to consult with an attorney prior to a compelled interview.
18. If the officer has invoked their Miranda rights but PGPD deems that it must have the answers to specific questions to properly conduct its investigation, the PGPD must contact the County Prosecutor to request use immunity for the interview to continue. This contact should be made timely so that the County Prosecutor can review all relevant reports and have a full briefing prior to determining whether to grant use immunity. Use immunity provides that anything the officer says under the grant of immunity, and any evidence derived from their statements, cannot be used against him or her in a criminal proceeding (except for perjury or false swearing if the information is not truthful). But use immunity does not eliminate the possibility that the subject officer will be prosecuted. A criminal prosecution may proceed even though the target or defendant has received use immunity.
19. If the County Prosecutor grants use immunity, PGPD shall advise the subject officer in writing that he or she has been granted such immunity in the event their answers implicate him or her in a criminal offense. The officer must not then answer the questions specifically and narrowly related to the performance of their official duties, but no answer given nor may any evidence derived from the answer be used against this officer in a criminal proceeding. At this point, any officer refusing to answer is subject to disciplinary charges and possible dismissal from employment. A grant of use immunity shall be recorded on a form the subject officer signs and whose signature is witnessed. The completed form must be made a part of the investigative file. In all cases, approval from the authorizing assistant prosecutor or deputy attorney general must be obtained before giving the Garrity warning.

F. Interviewing the Subject Officer

1. The internal affairs investigator shall schedule an interview with the officer.
2. One person of the officer's choosing may attend the interview.
3. In investigations of criminal allegations, it is not appropriate for a union representative to be present. However, the officer shall be given the opportunity to consult with a union representative.
4. Non-criminal investigations: the suspected officer may bring an attorney to observe. The Internal Affairs officer shall provide three dates for the interview to take place. The officer must find an attorney that can attend one of the dates. The attorney may not disrupt the proceedings.

5. Before questioning begins, inform the subject officer of:
 - a) The nature of the complaint;
 - b) The name of the person in charge of the interview, and the names of all persons who will be present during the interview;
 - c) If the subject officer states that he refuses to answer any questions on the grounds that he may incriminate himself in a criminal matter, even though the investigators do not perceive a criminal violation, the department should discontinue the interview and contact the Somerset County Prosecutor's Office. If the department wants to continue its administrative interview, and the county prosecutor agrees to grant use immunity, the department shall advise the subject officer, in writing, that he or she has been granted use immunity in the event his or her answers implicate him or her in a criminal offense. The officer must then answer the questions specifically related to the performance of his or her official duties, but no answer given by him or her, nor evidence derived from the answer, may be used against the officer in a criminal proceeding. At this point, if the officer refuses to answer, he or she is subject to disciplinary charges for that refusal which can result in dismissal from PGPD. This information shall be contained in a form which the subject officer signs and which is witnessed. The completed form must be made a part of the case file;
 - d) If the matter under investigation involves an administrative allegation, the officer will be advised of his or her duties and obligations to answer using the Administrative Advisement Form. If the matter under investigation involves a possible criminal violation, the internal affairs investigator shall consult with the county prosecutor regarding the advisability of giving a Miranda warning to the subject officer;
 - e) When taking a formal statement from an officer, the investigator shall audio-record the statement and may video record it if chosen.
 - f) When taking a formal statement from a civilian, the investigator shall video- or audio-record the statement according to the same protocols that would apply if the civilian were being interviewed in connection with a criminal investigation. If a witness objects to the recording of the interview, the investigator may proceed with the interview without recording, but must document in writing the reasons for doing so.
 - g) If at any time during the questioning session the officer becomes a suspect in a criminal act, the officer shall be so informed and the questioning shall end. Promptly refer the case to the county prosecutor. Officers that are interviewed as witnesses will read and sign the I.A. Witness Acknowledgment Form.
6. Upon completion of all possible avenues of inquiry, the internal affairs investigator shall complete the following reports:
 - a) Investigation report: This is the objective report of all of the investigative activity, including all of the information obtained during the course of the investigation.
 - b) Summary report: This report, in memorandum format, will summarize the matter, and will provide recommended dispositions for each allegation. Included will be the I.A. Disposition Recommendation form, and the SCPO quarterly incident report. Possible dispositions, as defined in this policy, include the following:
 - 1) Exonerated;
 - 2) Sustained;
 - 3) Not sustained;
 - 4) Unfounded

7. Forward the completed reports through the Internal Affairs supervisor to the Chief of Police. The Chief of Police, upon completion of the review of the report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action is deemed appropriate.
8. Upon completion of its investigation with a finding of exonerated, not sustained, or unfounded, Internal Affairs shall notify the subject officer in writing of the disposition.
9. If the complaint is sustained and it is determined that formal charges should be preferred, the Chief of Police shall direct Internal Affairs, or the investigating officer to prepare, sign, and serve charges upon the subject officer or employee. The Department must file charges within 45 days. The clock begins after the County Prosecutor's review if warranted. The IA officer must document the date that the Prosecutor turned the case back to the department for investigation. As soon as probable cause for the charge is established, the 45 days begins. It does not begin the moment the complaint is received. This does not hold true for misconduct or incapacity. If investigators are unable to complete an internal affairs investigation within 45 days of receiving a complaint, they must notify PGPD's law enforcement executive on or about the 45th day. In such situations, the law enforcement executive should seek to identify the reasons for the extended investigation and whether the internal affairs function requires additional resources or oversight to complete the inquiry in a prompt manner. Investigators are required to provide further notice to the law enforcement executive every additional 45 days that the internal affairs investigation remains open (i.e., on or about the 90th, 135th, and 180th days from the receipt of the complaint), and the law enforcement executive should exercise increasing scrutiny of the investigator's work the longer the case remains open. In the rare case, where PGPD has not filed disciplinary charges (or decided not to do so) within 180 days of receipt of the complaint, PGPD must notify the Somerset County Prosecutor. The County Prosecutor, or their designee, shall investigate the reasons for the extended investigation and shall also examine whether the PGPD's internal affairs function faces any systemic issues that require additional resources or oversight. The Somerset County Prosecutor's Office may take any steps necessary to ensure prompt resolution of the pending matter, including supersession of the PGPD's investigation. The PGPD shall provide further notice to the County Prosecutor every additional 90 days that the investigation remains open.
10. The Division Commander, Supervisor or Internal Affairs, as directed, shall prepare the formal notice of charges and hearing on the Charging Form.
11. The notice of charges and hearing shall direct that the officer charged must enter a plea of guilty or not guilty, in writing, on or before the date set forth in the notice for entry of plea. Such date for entry of plea shall be set within a reasonable time, at least five days after the date of service of the charges.

G. Criminal Offense, Officer is Witness

1. When interviewing a law enforcement officer as a witness, he or she must be made aware of the differences between being a witness in a criminal investigation and being the subject of a criminal investigation. The officer also shall be advised that he or she is not the subject of the investigation at this time. If at any time the officer becomes a subject of the investigation, he or she shall be advised of that fact and the appropriate procedures must be followed.
2. Officers who are witnesses must cooperate. They must truthfully answer all questions narrowly and directly related to performing their duty. "Performance of duty" includes an officer's actions, observations, knowledge and any other factual

information of which they may be aware, whether it concerns their own performance of duty or that of other officers. If the officer feels their answer would incriminate him or her in a criminal matter, the officer must assert their Miranda rights.

H. Administrative Investigation, Officer is Subject

1. A public employee must answer questions specifically, directly and narrowly related to the performance of their official duties, on pain of dismissal. This obligation exists even though the answers to the questions may implicate them in a violation of PGPD rules, regulations and procedures that may ultimately result in some form of discipline up to and including dismissal. In short, no “right to remain silent” exists in administrative investigations. Prior to the start of any questioning, the officer shall be advised that he or she is being questioned as the subject of an investigation into potential violations of PGPD rules and regulations, or fitness for duty. He or she should be advised of the subject matter under investigation, and that he or she will be asked questions specifically related to performing their official duties.
2. This information shall be recorded on a form which the subject officer signs and whose signature is witnessed. The completed form must be made a part of the investigative file.
3. If the subject officer refuses to answer questions during this interview, the interviewer should inquire about the reason for that refusal. If the officer states that he refuses to answer any questions on the grounds that he may incriminate himself in a criminal matter, even though the investigators do not perceive a criminal violation, the PGPD should discontinue the interview and contact the County Prosecutor. If the PGPD wants to continue its administrative interview and the County Prosecutor agrees to grant use immunity, the PGPD shall advise the subject officer in writing that he or she has been granted use immunity if their answers implicate him or her in a criminal offense. The officer must then answer the questions specifically related to performing their official duties, but no answer given, nor evidence derived therefrom, may be used against the officer in a criminal proceeding. If the officer still refuses to answer, he or she is subject to disciplinary charges for that refusal, including dismissal. This information shall be contained in a form that the subject officer signs and whose signature is witnessed. The completed form must be made a part of the investigative file.
4. If the subject officer refuses to answer on any other grounds, he or she should be advised that such refusal will subject him or her to disciplinary action, including dismissal, in addition to discipline for the matter that triggered the interview in the first place. If the officer still refuses, the interview should be terminated and appropriate disciplinary action initiated.
5. The courts have decided that a public employer must permit an employee to have a representative present at an investigative interview if the employee requests representation and reasonably believes the interview may result in disciplinary action. However, a representative shall be permitted to be present at the interview of a subject officer whenever he or she requests a representative. While the Sixth Amendment right to counsel does not extend to administrative investigations, an officer shall be permitted to choose an attorney as their representative if he or she so desires. In order to maintain the integrity and confidentiality of investigations, any witness and representative present at an interview shall be required to sign and adhere to a non-disclosure agreement. Witnesses shall be required to sign the form attached as Appendix I. Representatives shall be required to sign the form attached as Appendix N.

6. If it appears that the presence of counsel or another representative the subject requests will not disrupt or delay the interview, no reason exists to prevent their presence as an observer. But the representative or attorney cannot cause undue delay in scheduling interviews or interfere in the interview process. If the representative or attorney is disruptive or interferes, the investigator can discontinue the interview and should document the reasons for doing so. The investigator must control the interview and cannot allow the representative or subject to take control.

I. Administrative Investigation, Officer is Witness

1. When interviewing a law enforcement officer as a witness, he or she must be made aware of the differences between being a witness in an administrative investigation and being the subject of an administrative investigation. The officer also should be advised that he or she is not the subject of the investigation at this time if at any time the officer becomes a subject of the investigation, he or she should be advised of that fact and the appropriate procedures followed.
2. Officers who are witnesses must cooperate and truthfully answer all questions narrowly and directly related to performing their duty. "Performance of duty" includes an officer's actions, observations, knowledge, and any other factual information of which they may be aware, whether it concerns their own performance of duty or that of other officers. If the officer feels their answer would incriminate him or her in a criminal matter, the officer must assert their Miranda rights.

J. Interviewing Procedures

1. Interviews should take place at the internal affairs office or a reasonable and appropriate location the investigator designates. The subject officer's supervisor should be made aware of the time and place of the interview so the officer's whereabouts are known. Interviews shall be conducted at a reasonable hour when the officer is on duty, unless the seriousness of the matter requires otherwise. The employee shall be informed of the name and rank of the interviewing investigator and all others present during the interview. The questioning session must be of reasonable duration, considering the subject matter's complexity and gravity. The officer must be allowed time for meal breaks and to attend to personal physical necessities.
2. In cases of potential criminal conduct, interviews of subject officers should be recorded consistent with AG Directives 2006-2 and 2006-4. As to serious disciplinary infractions, the PGPD should audio or video record the interview. A transcript or copy of the recording shall be made available to the officer, if applicable, at the appropriate stage of a criminal or disciplinary proceeding. If the subject officer wishes to record the interview, he or she may do so, and a copy of the recording shall be made available to the PGPD upon request, at PGPD's expense.
3. Any questions asked of officers during an internal investigation must be "narrowly and directly" related to performance of their duties and the ongoing investigation. Officers must answer questions directly and narrowly related to that performance. All answers must be complete and truthful, but officers cannot be compelled to answer questions having nothing to do with their performance as law enforcement officers, that do not implicate a rule or regulation violation, or that are unrelated to the investigation. At the interview's conclusion, the investigator should review with the subject officer all the information obtained during the interview to alleviate any misunderstandings and to prevent any controversies during a later proceeding.

VII. Internal Affairs Records

A. Internal Affairs Report

1. The Peapack and Gladstone Police Department shall maintain a system for documenting the work of its internal affairs function and preserving records of this work.
2. At the conclusion of the internal affairs investigation, the investigator shall submit two (2) separate and distinct reports.
 - a) Investigative Report: this report will be an objective recounting of all the relevant information the investigation disclosed, including statements, documents, and other evidence. Such report is similar in all respects to a standard law enforcement investigative report, and should contain a complete account of the investigation.
 - b) Summary and Conclusions Report: This report shall summarize the case and provide conclusions of fact for each allegation. The report should be organized as follows:
 - 1) A summary of the Allegations against the officer, including a recitation of the alleged facts;
 - 2) A summary of the Factual Findings in which the investigator outlines the facts proven or supported by the evidence reviewed during the investigation, and applies those facts to each allegation. This shall include a conclusive finding on whether each allegation is to be recorded as exonerated, sustained, not sustained or unfounded. For sustained findings that qualify for disclosure under Section 9.11.2, the summary of factual findings, along with the discipline imposed, should be the basis for the brief synopsis required under Section 9.11.2;
 - 3) A Discipline Imposed section in which the final discipline imposed on the officer will be recorded. This section should be completed once the discipline imposed becomes final.
 - i. If the conduct of an officer was found to be improper, the Summary and Conclusions report must cite the PGPD rule, regulation, general order, or SOP violated. Any aggravating or mitigating circumstances surrounding the situation, such as unclear or poorly drafted agency policy, inadequate training, or lack of proper supervision, shall also be noted. In the Summary and Conclusions Report, if the investigation reveals evidence of misconduct not based on the original complaint this too must be reported and memorialized in both the Investigative Report and the Summary and Conclusions Report. An investigation concerning this secondary misconduct shall be conducted.

B. Internal Affairs Index File

1. The purpose of the internal affairs index file is to serve as a record control device to maintain an inventory of internal affairs case files and to summarize each case's status for authorized personnel. The instrument used for such an index file will vary by agency and could include a log book, index cards or a computerized data base.
2. All internal affairs complaints shall be recorded in the index file. Entries should record each case's basic information, including the subject officer, allegations, complainant, date received, investigator assigned, disposition and disposition date for each complaint . A unique case number assigned to each internal affairs complaint will point to the complete investigation file's location and will simplify case tracking.

C. Investigation Files

1. An internal affairs investigation file is needed for all internal affairs reports. Given the wide range of internal affairs allegations The Peapack and Gladstone Police Department receives, these investigation files might consist of only the initial report form and the appropriate disposition document. On the other hand, investigation files might include extensive documentation of an investigation. The internal affairs investigation file should contain the investigation's entire work product, regardless of the author. This includes investigators' reports, transcripts of statements, and copies of all relevant documents. The file should also include all related material from other agency incidents that may be applicable. For instance, if an allegation is made of excessive force during an arrest, the internal affairs investigation file should contain copies of the reports from that arrest.
2. Where an internal affairs investigation results in the filing of criminal charges, the file shall be made available to the prosecuting agency. It is the responsibility of that agency to decide which items are discoverable and which are likely admissible. In these cases, PGPD must follow the prosecuting agency's instructions. The prosecuting agency must have a procedure in place to ensure, in the rare case where a compelled statement has been taken from a subject officer and a criminal case results, that any compelled statements from a subject officer are not impermissibly used in the criminal case.

D. Retention Schedule

1. Investigative records created during an internal affairs investigation are included in the "Records Retention and Disposition Schedule for Local Police Departments" issued by the New Jersey Division of Archives and Records Management. Under the schedule, files concerning a criminal homicide must be permanently maintained. The schedule also requires that any other file involving a criminal matter resulting in the subject officer's arrest must be maintained for 75 years. While the schedule further suggests that all other criminal or administrative internal affairs investigative records be maintained for at least 5 years, agencies should maintain these files as they relate to a particular officer for that officer's career plus 5 years.
2. Agencies are not required to purge their records at the intervals outlined above, and may adopt longer retention schedules if such schedules benefit the PGPD. In the case of internal affairs investigative records, longer retention times will provide agencies with the resources and evidence necessary to assist with defending civil lawsuits.
3. While the internal affairs records of other types of law enforcement agencies are not yet specified by the Division of Archives and Records Management, it would be appropriate for all law enforcement agencies to follow essentially the same retention schedule.

E. Security of Internal Affairs Records

1. Internal affairs personnel shall maintain a filing system accessible only to unit personnel and the law enforcement executive. Other personnel may be given access based on a specific need, such as a Captain in the law enforcement executive's absence. Access to these records must be specifically addressed with PGPD policy and procedures. The list of those authorized to access these files must be kept to a minimum.

2. Physical security measures also should be taken, such as using securely locked filing cabinets in secured offices. PGPD uses computers to maintain internal affairs records and special security measures are taken to ensure security. A stand-alone personal computer is the most secure system to limit unauthorized access to internal affairs records. If a standalone computer is not feasible, reasonable measures, including the use of fire walls and/or password protected software, should be utilized to control access to investigative files and related materials.

F. Confidentiality

1. The nature and source of internal allegations, the progress of internal affairs investigations, and the resulting materials are confidential information and remain exempt from access under the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1.1 to -13. The contents of an internal investigation case file, including the original complaint, shall be retained in the internal affairs function and clearly marked as confidential. The information and records of an internal investigation shall only be released or shared under the following limited circumstances:
 - a) If administrative charges have been brought against an officer and a hearing will be held, a copy of all discoverable materials shall be provided to the officer and the hearing officer before the hearing;
 - b) If the subject officer, PGPD or governing jurisdiction has been named as a defendant in a lawsuit arising out of the specific incident covered by an internal investigation, a copy of the internal investigative reports may be released to the attorney representing the subject officer, PGPD or jurisdiction;
 - c) Upon the request or at the direction of the Somerset County Prosecutor Office or Attorney General;
 - d) Upon a court order; or
 - e) Upon a request from the Division of Pensions, following an officer's application for a retirement allowance.

G. The Summary and Conclusions Report shall be released in response to a request made under the common law right of access by any member of the public or press where it satisfies any of the following conditions:

- a) The Summary and Conclusions Report led to a result on or after January 1, 2023, that requires disclosure pursuant to section 9.11.2;
- b) The agency otherwise concludes that the Summary and Conclusions Report is subject to release pursuant to applicable law or court order; or
- c) Upon the request or at the direction of the County Prosecutor or Attorney General at any time.
- d) When an agency concludes that a report is subject to disclosure under Section 9.6.2(a), it shall redact the following before disclosure:
 - 1) The names of complainants, witnesses, informants, victims and cooperators, in addition to information that could reasonably lead to discovery of their identities; In instances of domestic violence, in addition to redaction of the victim's name, all reference to specific nature of the qualifying relationship should also be redacted to protect the identity of the victim.
 - 2) Non-public, personal identifying information about any individual named in the report, such as their home addresses, phone numbers, dates of birth, social security numbers, familial relationships, etc.;
 - 3) Medical information or history, including but not limited to, mental health or substance abuse services and drug or alcohol evaluation, counseling or treatment;
 - 4) Information regarding any criminal investigation or prosecution that is not already contained in a public filing, or any information that would impede or interfere with a pending criminal or disciplinary proceeding;
 - 4) Any records or material prohibited from disclosure by law;
 - 5) Juvenile records;

- 6) Any information which is the subject of a judicial order compelling confidentiality;
 - 7) Any other information that would violate a person's reasonable expectation of privacy; and
 - 8) Any information regarding law enforcement personnel, procedures, or resources that could create a risk to the safety of any person, including but not limited to law enforcement personnel.
2. In addition to the situations described in Sections F-1 and 9.6.2 the law enforcement executive may authorize access to a particular file or record for good cause. The request and the authorization shall be in writing, and the written authorization shall specify who is being granted access, to which records access is being granted and for what time period access is permitted. The authorization shall also specify any conditions (i.e., the files may be reviewed only at the internal affairs office and may not be removed). In addition, the law enforcement executive may order any redactions consistent with Section 9.6.2(b). The law enforcement executive should grant such access sparingly, given the purpose of the internal affairs process and the nature of many of the allegations against officers.
 3. As a general matter, a request for internal investigation case files may satisfy the good cause requirement: a. If a Civilian Review Board that meets certain minimum requirements requests access to a completed or closed investigation file, subject to the conditions described in this herein; or b. If PGPD requests the files because it is considering hiring an officer who was formerly employed at the PGPD with the internal investigation files.
 4. Agencies may receive law enforcement or judicially sanctioned subpoenas directing the production of internal affairs investigative records. Before responding to the subpoena, the law enforcement executive or internal affairs investigator should consult with PGPD's legal counsel to determine whether the subpoena is valid and reasonable. Courts may modify or quash invalid or unreasonable subpoenas, but will require the agency seeking to so modify or quash to file an appropriate motion. Similar considerations may provide grounds for opposing a records request from a Civilian Review Board that otherwise satisfies the minimum requirements described below. For that reason, the appropriate PGPD personnel should consult with legal counsel to determine under what circumstances it would be appropriate to provide notice to any individual who is referenced in records requested by a Civilian Review Board.
 5. If the release of internal affairs documents is appropriate, the PGPD should inventory the reports released and obtain a signed receipt.
 6. Law enforcement agencies may not waive, restrict, or otherwise limit the power of the Somerset County Prosecutor's Office or Attorney General to direct that the information or records of an internal investigation be released or shared. Only the Chief of Police or his designee is empowered to release publicly the details of an internal investigation or disciplinary action.
 7. New Jersey law enforcement agencies are required by this policy to disclose the entire internal affairs file of a candidate to prospective law enforcement employers. Candidates with out-of-state law enforcement experience must sign waivers of confidentiality regarding their internal affairs files so that they may be reviewed by the prospective employer, where legally permissible. These procedures may also be used for promotional testing, and assignment to especially sensitive responsibilities or those that pose the greatest opportunities for abuse or wrongdoing. Each agency should establish policies and procedures for recruitment, oral and written examinations, selection and the promotional process. Accordingly, in any case where

The Peapack and Gladstone Police Department has reason to believe that a candidate for employment was previously a sworn officer of another law enforcement agency, the hiring agency has an affirmative obligation to identify all such former employers. The hiring agency shall then request all internal affairs files for cases where the candidate was the subject officer, regardless of the ultimate disposition or status of the complaint. If requested, the hiring agency shall provide a written acknowledgement to the releasing agency that it will maintain the confidentiality of said files in accordance with this policy. If the PGPD receives such a request regarding a former employee, then it shall immediately share copies of all internal investigative information related to that candidate with the hiring agency, in accordance with N.J.S.A. 52:17B-247. Confidential internal affairs files shall not be disclosed to any other party. Furthermore, law enforcement agencies cannot waive, restrict, or otherwise limit the power of the Somerset County Prosecutor's Office or the Attorney General to subsequently request or direct the disclosure of internal affairs related information. Law enforcement agencies may not enter into agreements limiting the authority of the County Prosecutor or Attorney General to direct disclosure at a later date, even where that information is not currently subject to publication.

8. Were the rule otherwise, a law enforcement agency would be able to shield disciplinary records from disclosure simply by stipulating to do so in a settlement agreement, in turn subverting the important ends the Major Discipline Directive seeks to achieve. 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.
9. If the subject officer, PGPD or governing jurisdiction has been named as a defendant in a lawsuit arising out of the specific incident covered by an internal investigation, a copy of the internal investigative reports may be released to the attorney representing the subject officer, PGPD or jurisdiction.
10. Each employee is required to have a recent (within 5 years) photo on file. The photo is confidential and will only be used for official purposes. The captain will ensure compliance. Employees (past or present) shall not be permitted to view internal affairs case files, documents and or work product without the written permission of the Chief of Police. The only exception would be in very limited circumstances related to this policy. They may view the final disposition forms and the conclusion.

H. Coordination with Civilian Review Boards

1. The Peapack and Gladstone Police Department does not have a civilian review board. Below is from the attorney Generals directive for those agencies that have a civilian review board.
2. Internal investigation case files generally are not releasable to Civilian Review Boards, but the "good cause" standard may be satisfied when a Civilian Review Board requests records from a completed or closed investigation file and the Civilian Review Board has in place certain minimum procedural safeguards to preserve the confidentiality of the requested records and the integrity of the internal affairs function, in addition to complying with all other applicable legal requirements. A violation of any of these requirements may result in the revocation of a Civilian Review Board's access to confidential law enforcement information, including internal affairs records, and potentially may result in other adverse or remedial actions under federal, state, or local law.

3. The Civilian Review Board must establish policies to avoid interference with ongoing investigations or proceedings, similar to the policies that an internal affairs function must adopt to avoid interference with ongoing criminal investigations or proceedings. Specifically, the policy must make clear that the Board may not commence an investigation of a particular civilian complaint or incident until after any criminal and/or internal affairs investigations have concluded and any resulting discipline has been imposed. This requirement applies regardless of whether the Civilian Review Board is granted authority to recommend discipline, or request reconsideration of any findings or disciplinary decisions, or is limited in its authority to auditing completed investigations. This requirement also applies regardless of whether, as a general matter, the Civilian Review Board is granted access to redacted or unreacted internal affairs records.

I. 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:
 - a) Closed sessions for reviews or investigations: The Board must be in a closed session whenever the content of internal affairs records is discussed or testimony or other evidence regarding a specific incident is presented.
 - b) Protection of internal affairs information: No part of any internal affairs file may be disclosed by the Civilian Review Board under any circumstances to any person who is not a Board member or employee, the law enforcement executive, or a member of the Peapack and Gladstone Police Department's internal affairs function, except in a final public report appropriately redacted in accordance with instructions from the law enforcement executive. This prohibition on disclosure includes any statement made by police officers to law enforcement investigators under the provisions of *Garrity v. New Jersey*, 385 U.S. 493 (1967).
 - c) Personal identifiers: Even in the Civilian Review Board's final public report, the Board may not disclose the personal identity of subject officers, complainants, or witnesses.
 - d) Dedicated location for reviewing internal affairs records: Whenever Civilian Review Board members and staff are granted access to internal affairs records, that review shall take place only in a secure location designated by the law enforcement executive and no internal affairs records may be copied or removed from the designated location.
 - e) Training: All Civilian Review Board members and staff shall undergo training approved by the County Prosecutor's Office on the confidentiality of internal affairs records and other investigative material prior to being granted access to such information.
 - f) Attestation: All Civilian Review Board members and staff shall receive a copy of the Board's written confidentiality policies and sign a sworn statement that they will comply those policies prior to being granted access to internal affairs records.

2. The law enforcement executive may condition the Civilian Review Board's access to internal affairs records on the Board's agreement to other protections that the law enforcement executive reasonably considers necessary to safeguard their confidentiality.

J. Conflicts of Interest

1. The Civilian Review Board must adopt a written conflicts-of-interest policy that addresses both inherent conflicts—which preclude a person's service entirely as a Board member or staffer—and incident-specific conflicts—which require a Board member or staffer's recusal from particular matters. Prior to commencing their service, Board members and staff must sign a sworn statement that they will comply with the Civilian Review Board's written conflicts-of-interest policy.
2. The Civilian Review Board's conflicts-of-interest policy must include, at a minimum, the following stipulations:
 - a) Incident-specific conflicts. Any Board member or staffer with an incident-specific conflict must immediately recuse from all proceedings related to that matter.
 - b) Inherent conflicts. At least the following categories of persons are considered inherently conflicted and may not serve as a Board member or staffer:
 - 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 at N.J.S.A. 52:13D-21.2(2)(d);
 - 5) A current candidate for public office; or f. With respect to Board membership, a current officer or employee of the municipality.

I. Coordination With Other Law Enforcement Agencies

1. In some instances, an officer who was formerly an employee of one law enforcement agency may apply to join a different law enforcement agency. It is imperative that the law enforcement agency that may hire the officer has access to all internal investigative files related to that officer's previous employment. Without such information, a law enforcement agency is unable to make a fully informed hiring decision.
2. Accordingly, in any case where PGPD has reason to believe that a candidate for employment was previously a sworn officer of another law enforcement agency, the hiring agency has an affirmative obligation to identify all such former employers. The hiring agency shall then request all internal affairs files for cases where the candidate was the subject officer, regardless of the ultimate disposition or status of the complaint. If requested, the hiring agency shall provide a written acknowledgement to the releasing agency that it will maintain the confidentiality of said files in accordance with this policy.

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

VIII. Reporting to Law Enforcement Executive

- A. The internal affairs function should prepare periodic reports for the law enforcement executive that summarize the nature and disposition of all misconduct complaints PGPD received. This report should be prepared at least quarterly, but may be prepared more often as directed by the executive. The report should include the principal officer; the allegation; the complainant; the age, sex, race and other complainant characteristics that might signal systematic misconduct by any member of the PGPD; and the investigation's status. Concluded complaints should be recorded and the reasons for termination explained.
 1. This report shall be considered a confidential, internal work product. Dissemination of the report should be limited to command personnel, the Somerset County Prosecutor's Office, the appropriate authority, or a civilian review board that meets the minimum requirements for access to internal affairs information, if mandated by the governing body.

IX. Reporting to County Prosecutor

- A. On a quarterly basis, the Peapack and Gladstone Police Department shall report internal affairs activity to the County Prosecutor on an internal affairs summary report form.
 1. The summary report forms must contain sufficient information to enable the Somerset County Prosecutor's Office to identify warning signs of potential deficiencies in the internal affairs process. At a minimum, each report must include a brief summary of each internal affairs complaint that was pending before PGPD at any point during the reporting period. The summary shall at least include the nature of the complaint, the date the complaint was received, the current status of the complaint, and, if the case is closed, the final disposition of the complaint with any discipline imposed.
 2. Honesty is an essential job function for every New Jersey law enforcement officer. Officers who are not committed to the truth, who cannot convey facts and observations in an accurate and impartial manner and whose credibility can be impeached in court cannot advance the State's interests in criminal matters. In addition, defendants in criminal matters may be entitled to certain evidence the

prosecutor has concerning the credibility of prosecution witnesses, including police officers. Prosecutors are considered to possess such evidence even when law enforcement agencies create and maintain information concerning the honesty of individual officers. Furthermore, prosecutors may be required to provide such evidence to the court. It is therefore imperative that the internal affairs investigator assist prosecutors with their legal duty to review and, if necessary, disclose evidence that may impact the credibility of police officers. (See Attorney General Law Enforcement Directive No. 2019-6). Thus, the following matters shall be reported to the County Prosecutor so that he or she may evaluate the material's 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 is known to the officer's employing agency that concludes that a police officer intentionally did not tell the truth in a matter;
- e) A sustained finding that police officer intentionally mishandled or destroyed evidence; and
- f) A sustained finding that a police officer is biased against a particular gender or ethnic group.

NOTE: The fact that law enforcement agencies report the above-listed incidents to the prosecutor's office does not constitute a mandate or requirement that the information be disclosed to the court. Prosecutors should conduct an independent review of the information provided to determine whether the information needs to be disclosed to the court, and whether the officer can participate in the prosecution of criminal cases. Once a decision is reached with respect to a particular case or defendant, the prosecutor shall discuss his or her decision with the Internal Affairs investigator and the law enforcement executive if necessary. If it is determined that an officer cannot participate in a criminal prosecution, the prosecutor must advise the PGPD whether the officer's disability is limited to a particular case, a particular category of cases or all criminal matters.

B. Personnel Records

1. Personnel records are separate and distinct from internal affairs investigation records, and internal affairs investigative reports shall never be placed in personnel records, nor shall personnel records be co-mingled with internal affairs files. 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. Where a complaint is sustained and discipline imposed, the only items to be placed into the employee's personnel file are a copy of the administrative charging form and a copy of the disposition form.

C. Responsibilities of the County Prosecutor

1. County Prosecutors are responsible for conducting substantive oversight to ensure that the internal affairs functions of all law enforcement agencies within their jurisdiction are operating professionally and effectively. As specialists with deep experience in the criminal justice system and working in the community, prosecutors are well situated for identifying procedural deficiencies before serious issues emerge with an agency's internal affairs function. As such, County Prosecutors must review the information they receive from law enforcement and the public regarding internal affairs, and swiftly follow up if there are any signs of trouble.

X. Giglio Material

- A. Complying with AG Directive 2019-6, Policies to Comply with Brady v. Maryland and Giglio v. United States. The Peapack and Gladstone Police Department hereby adopts and complies with the contents of NJAG Directive 2019-6 including potential impeachment information of state's witnesses, including police officer witnesses. The Somerset County Prosecutor's Office must be made aware of any information contained in the Peapack and Gladstone Police Department's files concerning all officers involved in a given case, including their Internal Affairs files, as soon as possible after a defendant has been criminally charged. The Somerset County Prosecutor's Office, upon review of said material will then decide whether to disclose potentially exculpatory evidence.

1. The Internal Affairs supervisor shall be responsible to gather and disclose relevant Brady and Giglio material when requested by the County Prosecutor. He/she shall review the PGPD's Internal Affairs files and databases for any issues contained in the Attorney General Law Enforcement Directive No. 2019-6 relating to any potential witness employed by the Peapack and Gladstone Police Department, including misconduct, past or pending criminal charges or findings of discipline related to any of the employees involved in a given case. Once the PGPD's review is completed, the Somerset County Prosecutor's Office must be informed if any such information exists or does not exist as to each employee.
2. Prior to any plea offer being extended to a defendant, any testimonial hearing or trial, the assigned Assistant Prosecutor shall request in writing from the involved agency of any potential state's witness, that said agency searched its files, including its Internal Affairs files, for any potential impeachment information concerning the potential witness. This requirement does not preclude the Assistant Prosecutor from also informally having a candid conversation with the agency's employee, verbally or electronically requesting said information. Requested information shall be sent by the Peapack and Gladstone Police Department to the Somerset County Prosecutor's Office Internal Affairs Unit. The Internal Affairs Unit will review the material and forward the pertinent material to the assigned Assistant Prosecutor.

B. Review of Material

1. Upon receipt of potential impeachment information from PGPD by the assigned Assistant Prosecutor, said information shall be reviewed initially by the assigned Assistant Prosecutor. Once that review is complete, and before a pre-indictment plea offer is extended or any testimonial hearing or trial is held, the assigned Assistant Prosecutor shall review the matter with and make a recommendation to a Giglio liaison who will determine whether the material should not be disclosed, should be disclosed to the court for an ex-parte in camera review or disclosed to the defense.

2. If a determination is made to disclose the information either to the court or to the defense, the assigned Assistant Prosecutor shall notify in writing the affected law enforcement employee and the Chief of Police of that employee's agency prior to the disclosure and include a copy of the material to be disclosed. Additionally, if the information is provided to the court as described above, once a decision concerning disclosure to the defense is made by the court, the assigned Assistant Prosecutor shall notify the affected law enforcement employee and the Chief of police of that employee's agency.
3. If a prosecutorial decision is made not to use a law enforcement employee due to Brady or Giglio concerns, or if that information affected the prosecution, the assigned Assistant Prosecutor and the Giglio liaison shall meet with and discuss the matter with the affected law enforcement employee and the Chief of that employee's agency.

C. Giglio List

1. "Evidence impeaching the testimony of a government witness falls within the Brady rule when the reliability of a witness may be determinative of a criminal defendant's guilt or innocence". The New Jersey Supreme Court held that "the states obligation to disclose is not limited to evidence that affirmatively tends to establish a defendant's innocence but would include any information material and favorable to a defendant's cause even where the evidence concerns only the credibility of a state's witness. This includes Giglio material on civilian and investigative (i.e., law enforcement officers) state witnesses.
2. The following non-exhaustive list of potential Giglio material as it relates to investigative states witnesses (law enforcement officers). Again, this does not necessarily mean the information will be disclosed.
 - a) A sustained finding that an investigative employee 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 sustained finding that an investigative employee was untruthful or has demonstrated a lack of candor;
 - c) A pending criminal charge or conviction of any crime, disorderly persons, petty disorderly persons, or driving while intoxicated matter, noting that any such charges or convictions will be reviewed for disclosure under N.J.R.E. 609;
 - d) A sustained finding that undermines or contradicts an investigative employee's educational achievements or qualifications as an expert witness;
 - e) A finding of fact by a judicial authority or administrative tribunal that is known to the employee's agency, which includes a finding that the investigative employee was intentionally untruthful in a matter, either verbally or in writing;
 - f) A sustained finding, or judicial finding, that an investigative employee intentionally mishandled or destroyed evidence. Generally, law enforcement agencies and investigative employees should disclose findings or allegations that relate to substantive violations concerning:
 - 1) the intentional failure to follow legal or departmental requirements for the collection and handling of evidence, obtaining statements, recording communications, and obtaining consents to search or to record communications;
 - i. the intentional failure to comply with PGPD procedures for supervising the activities of a cooperating person; and (3) the intentional failure to follow mandatory protocols regarding the forensic analysis of evidence;

- g) Any allegation of misconduct bearing upon truthfulness, bias, or integrity that is the subject of a pending investigation;
 - h) Information that may be used to suggest that the investigative employee is biased for or against a defendant. See *United States v. Abel*, 469 U.S. 45, 52. (1984). The Supreme Court has stated, “bias is a term used in the ‘common law of evidence’ to describe the relationship between a party and a witness which might lead the witness to slant, unconsciously or otherwise, his testimony in favor of or against a party. Bias may be induced by a witness’ like, dislike, or fear of a party, or by the witness’ self-interest.”); and
 - i) A sustained finding, or judicial finding, that an investigative employee is biased against a particular class of people, for example, based on a person’s gender, gender identity, race, or ethnic group.
3. Confidentiality obtaining and disclosing potential Brady and Giglio material is a confidential process. As such, all documents requested and obtained shall be kept confidential and secured in a manner to be determined by the County Prosecutor’s Office and should not be shared with any person who does not have a need to know. Personnel and internal affairs files are confidential materials and will not be released except as pursuant to Somerset County / PGPD policy.

XI. Info-Share Internal Affairs Module

- A. Effective immediately, the Peapack and Gladstone Police Department shall utilize the SCPO’s Internal Affairs Module.
- 1. The module serves as an Internal Affairs case index, case management database, Early Warning System indicator tracking mechanism as well as a Brady-Giglio notification system. PGPD shall utilize this database to input all Internal Affairs complaint information received, all internal affair investigative reports and all respective dispositions. Additionally, all administrative internal affairs complaints received by the Somerset County Prosecutor’s Office will be forwarded and assigned to the appropriate agency through the database. PGPD will not be precluded from using any internal affairs software that may already be in place; however, each agency in Somerset County must use the SCPO Internal Affairs Module. The Somerset County Prosecutor’s Office will use the Info-share case number to document and track each case.
 - 2. PGPD will enter all Internal Affairs investigations and Early Warning System indicators into the module retroactively from January 1, 2020 to present. All potential Brady-Giglio materials already submitted to SCPO have been uploaded into the module.
 - 3. All new Brady-Giglio entries for any officer that has previously been provided must be entered into the Infoshare IA Module by the IA officer. Additionally, all potential Brady-Giglio materials for the remaining officers that have not been previously provided must also be entered into that module.

XII. Risk Management/Early Warning System

- A. In order to enhance our integrity, provide an optimal level of service to the community and reduce its exposure to civil liability, PGPD has established procedures for dealing with problem employees. Recent court decisions, particularly those involving federal civil rights lawsuits which allege a deliberate indifference on the part of the PGPD towards citizen complaints, have made it clear that law enforcement agencies have a duty to monitor the behavior of their employees. Furthermore, these same court decisions expect law enforcement agencies to establish mechanisms that provide the internal affairs unit and the police executive with the ability to track the complaint records of individual officers and identify those officers with a disproportionate number of complaints against them. The courts also expect law enforcement agencies to utilize the information developed by these mechanisms to prevent individual officers from engaging in conduct or behavior that violates the constitutional liberties enjoyed by every member of the community. In addition, it is expected that law enforcement agencies will utilize the information to prevent patterns, practices and/or trends of inappropriate behavior or conduct from developing.
1. The internal affairs process represents the PGPD's response to allegations and complaints that have been brought to the PGPD's attention either by PGPD employees or members of the public. Law enforcement agencies must establish and implement a process of investigation and review that is both meaningful and objective. The process must be "real". It must provide the citizen with "at least a rudimentary chance of redress when an injustice is done." It is not enough for police executives to adopt a policy governing the receipt, investigation, and resolution of complaints of officer misconduct. The policy must be implemented and executed with a commitment to the integrity of the PGPD and the constitutional rights of the citizenry. Agencies with an objective and fair internal affairs process will limit their risk of civil liability. Agencies with a superficial or shallow internal affairs process run the risk of significant civil liability."

Appendices (see attached)

Appendix A	Sample Civilian Complaint Information Sheet
Appendix B	Internal Affairs Report Form
Appendix C	Internal Affairs Complaint Notification
Appendix D	Sample Immediate Suspension Notice
Appendix E	Sample Response Letter
Appendix F	Preliminary Notice of Disciplinary Action
Appendix G	Miranda Warning
Appendix H	Sample Use Immunity Grant
Appendix I	Witness Acknowledgement Form
Appendix J	Administrative Advisement Form
Appendix K	Internal Affairs Policy Reporting Form
Appendix L	Annual Major Discipline Reporting Form
Appendix M	Final Notice of Disciplinary Action
Appendix N	Representative Confidentiality Form
Appendix O	Sample Summary and Conclusions Report