



POLICE DIVISION GENERAL ORDER NEWARK



SUBJECT: Complaint Intake & Investigation Process	GENERAL ORDER NO. <i>New</i>
SUPERSEDES: General Order 05-04 Dated February 16, 2016	DATED: July 9, 2018
SECTION CODE:	

RELATED POLICIES & GENERAL ORDERS:
NJ Attorney General Guidelines- N.J.S.A. 40A:14-181; Adoption of Guidelines for Internal Affairs by a Law Enforcement Agency;
NJ Attorney General Guidelines Internal Affairs Policy & Procedures
Disciplinary Process & Matrix General Order
IAPro & BlueTeam General Order 2005-02
Early Warning System & Performance Monitoring General Order 10-02
Property & Evidence Management

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I. PURPOSE

The purpose of this policy is to improve the quality of law enforcement services to the community. The complaint process is designed to deal with each case factually and fairly. Citizens who file complaints will be treated respectfully and accusations against Police Division members will be taken seriously. All complaints will be investigated fairly and thoroughly, and all findings will be based on impartial information and evidence collected during the investigation.

Public confidence in the integrity of the Newark Police Division increases through establishing meaningful and effective complaint and investigation procedures. This confidence engenders community support for the law enforcement agency. Improving the relationship between officers and the public they serve facilitates cooperation vital to the Police Division's ability to achieve its goals. An effective complaint intake and investigative process will assist in monitoring each Division member's compliance with all applicable policies, procedures rules, regulations and state laws. Adherence to established policies and procedures assists members in meeting Division objectives while a monitoring system permits managers to identify problem areas requiring increased training and direction. Finally, this policy will ensure fairness and due process protection to the public and Division members alike.

The Complaint Intake and Investigation process shall ensure that employee misconduct is identified, documented and thoroughly investigated. The disciplinary investigative process also should help identify and correct unclear or deficient agency policy and procedures. Additionally, the procedures set forth in this the policy will identify organizational conditions that may contribute to misconduct, such as poor recruitment and selection procedures or inadequate training and supervision of Division members.

II. POLICY

Members employed by the Police Division, regardless of rank, shall be subject to disciplinary action for any act of misconduct or any failure to report misconduct.

It is the policy of the Newark Police Division to accept and investigate all complaints of alleged Division employee misconduct from any individual or organization. Complaints of alleged Division employee misconduct may be submitted to any member of the Police Division at any time. Police Division members are required to accept complaints that are presented to them and forward the information to the appropriate authority. With the assistance of the community, the Newark Police Division will focus on modernization and efficiency in an effort to prevent misconduct in the Newark Police Division.

The Office of Professional Standards is the designated unit under the Newark Police Division responsible for investigating, reviewing, tracking, and monitoring all allegations of Division employee misconduct. The Office of Professional Standards is also responsible for assigning Minor Offense complaints to outside Precincts and Commands for completed investigation.

Division members assigned to investigate allegations of misconduct must strive to conduct a thorough and objective investigation without violating the rights of Division members, while displaying proper respect to all members of the public. Accordingly, all personnel assigned to do an internal investigation must be thoroughly familiar with the Division's Complaint Intake and Investigation Process Policy along with New Jersey's Attorney General Guidelines, N.J.S.A 40A:14-181: Adoption of Guidelines for Internal Affairs by a Law Enforcement Agency.



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Adherence to this policy will engender community support for the Police Division and improve relationships between its members and the public they serve.

III RESPONSIBILITY FOR COMPLIANCE

All Division members shall be responsible for complying with this policy. Command and Supervisory Officers will review, understand and comply with this policy and shall also ensure that all subordinate personnel read and acknowledge understanding of this directive.

IV. DEFINITIONS

- A. **BLUE TEAM** - Computer program used to enter information into IAPRO. BlueTeam shall also be the computer program designated for all complaint intake. *Refer to IAPRO & BlueTeam General Order 2005-02 for details.*
- B. **COMMAND RANK OFFICER** - A person with the rank of Captain or above.
- C. **COMPLAINT AGAINST PERSONNEL (C.A.P.)** - Formal Division charges made against an employee that have been investigated and sustained and that result in the filing of a complaint against personnel report.
- D. **COMPLAINT OF EMPLOYEE MISCONDUCT FORM** - Form utilized by members of the public to report Police Division employee misconduct.
- E. **DISCIPLINARY MATRIX** - A uniform guide to impose discipline in a progressive manner for all violations of Division policy. The disciplinary matrix is a guide for fairness and consistency. It accounts for seriousness of the infraction, prior disciplinary history of the personnel involved, and aggravating and mitigating circumstances.
- F. **DIVISION POLICY** - The protocol designed to implement the Division's goals and objectives, to ensure all members of the police act and deal with people in a just and transparent manner.
- G. **EXTERNAL COMPLAINT** - Complaints against Division members that are generated by persons who are not members of the Newark Police Division.
- H. **EVENT NUMBER** - Records Management System (RMS) number that shall be obtained for ALL internal or external complaints. This number shall be provided to ALL civilian complainants at the time of complaint initiation. Event numbers shall correspond to Office of Professional Standards Investigation of Personnel numbers for tracking purposes.
- I. **IAPRO** - Case management computer program used in tracking and analyzing information such as complaints, charges, hearings, discipline, grievances, firearms discharges, police pursuits, police-involved accidents, use of force, awards, commendations, training, and various monitoring levels of individual employees.



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- J. **INTEGRITY CONTROL OFFICER** - A superior officer assigned to a specific Precinct/Command, who is responsible to the Office of Professional Standards to ensure assigned Commands are complying with the tenets of all Division orders.
- K. **INTERNAL COMPLAINT** - Complaints that are initiated from within the Division that involve violations of Division rules, regulations, policies, procedures or performance deficiencies.
- L. **INVESTIGATION OF PERSONNEL (I.O.P.)** - An objective inquiry into alleged violations of Division rules, regulations, policies or procedures which may lead to formal Division charges.
- M. **INVESTIGATION OF PERSONNEL NUMBER** - Internal tracking number assigned to all internal and external complaints received at the Office of Professional Standards. The IOP number shall correspond to the complaint initiation Event number.
- N. **MAJOR OFFENSE** – Serious violation/s of Division rules, regulations, policies or procedures which shall include any criminal violation of Federal or State Laws. Serious violations of City Ordinances or Motor Vehicle violations shall also be considered major offenses. Major offenses shall be the subject of a Trial Board. Multiple minor offenses, or a pattern of committing similar minor offenses, can be used to upgrade a minor offense to a major offense. This process shall be properly documented. A penalty for a Major Offense violation is more than five (5) working days at any one time.
- O. **MINOR OFFENSE** – Lower level violations of Division rules, regulations, policies or procedures. Examples of Minor Offenses include demeanor, untidiness, tardiness and other low-level rule violations. Minor offenses shall be the subject of a Disciplinary Conference, and a penalty may include a maximum of five (5) working days' suspension.
- P. **MISCONDUCT** - Defined as a commission of a crime, offense or violation of Division Rules Regulations, Policies, Procedures or conduct that adversely reflects upon the Division.
- Q. **PRELIMINARY INVESTIGATION** - Initial Professional Standards response to matters involving Major Offenses or an investigation to determine if the Division member may have violated a law or Division policy, procedure, rule or regulation during the alleged incident. A preliminary investigation shall include a compilation of facts and evidence to either support or dispel the possible criminal nature and/or policy violation of an incident.
- R. **PREPONDERANCE OF EVIDENCE** - The standard used in determining guilt or innocence at a Disciplinary Conference or Trial Board: a rational reference or belief based on objective facts and/or circumstances found to exist upon inquiry, which would induce a reasonably intelligent and prudent person to believe that a certain act occurred. The standard is met if the proposition is more likely to be true than not be true.
- S. **UNAUTHORIZED DISCHARGE OF FIREARMS** - Any deviation in the use of firearms from the standards and policies established under the following: Newark Police Division Rules and Regulations or written policy, the Attorney General's Guidelines in the Use of Force, and the Use of Deadly Force by Law Enforcement Personnel as defined under New Jersey Criminal Statutes.



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- T. **45-DAY RULE** - Disciplinary charges alleging a violation of Division rules, regulations, policies or procedures must be filed within 45 days of the date the person filing the charge/s (Public Safety Director) obtained sufficient information to do so.

V. PREVENTION OF MISCONDUCT

The vast majority of Division members undertake their work applying the highest ethical and professional conduct, but the fact remains that misconduct continues to be a recurring problem in law enforcement. The Division will seek the best practices in recruiting ethical applicants. It also will implement strategies to deal with misconduct of existing personnel while ensuring that risk-reduction strategies and early warning and intervention systems are in place for internal accountability. The Division will undergo a cultural change by implementing components such as a system of accountability, effective leadership, enhanced supervision and sharing our vision with the community.

VI. COMMUNITY OUTREACH

Commanding officers, supervisors, and police officers should remain dedicated to building community partnerships with residents, business owners, and those that visit the City of Newark. By listening carefully to people about their concerns and responding to those concerns, the Division can build community trust and increase peoples' confidence in the police.

The disciplinary process will be publicized and clearly explained in regularly scheduled meetings with the community.

VII. ALLEGATIONS OF MISCONDUCT

- A. Misconduct is defined as any alleged commission of a crime or offense, violations of Division Rules, Regulations, Policies, Procedures or conduct that adversely reflects upon the Division. Allegations of misconduct include all internal or external complaints.
- B. The Police Division requires all members to report allegations of criminal behavior or administrative misconduct by another Division member to a supervisor or directly to the Office of Professional Standards for review and investigation. When a supervisor receives such allegations, the supervisor will promptly document and report this information to the Office of Professional Standards. Failure to report or document such allegations will be grounds for discipline, up to and including termination of employment. The presumptive discipline for any member, supervisor, or commander for a failure to report an allegation of criminal behavior or administrative misconduct will be commensurate with the presumptive discipline for the underlying misconduct.
- C. All Division members shall immediately notify their respective Command desk supervisor any time they are arrested or detained for any crime or offense, (on or off duty), including Disorderly Persons or Petty Disorderly Persons offenses (In-State or Out-of-State). Desk supervisors shall immediately notify their respective Commanding Officer via telephone and work e mail, who in turn shall notify the Public Safety Director. Where Division members do not have an available on-duty desk supervisor or squad supervisor, the notification shall be made directly to a supervisor at the Central Communications Division, (CCD) who in turn will make immediate notification to the Public Safety Director and OPS.



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- D. All allegations of misconduct shall be carefully and thoroughly reviewed by the Public Safety Director and Professional Standards Commander to determine the manner of response that best serves the public and members of the Police Division.

VIII. OFFICE OF PROFESSIONAL STANDARDS (OPS)

- A. The Office of Professional Standards shall consist of those members of the Division assigned by the Public Safety Director.
- B. The goal of the Office of Professional Standards is to ensure that the integrity of the Police Division is maintained through a system of internal accountability where fairness and justice are ensured by objective, thorough, and impartial investigations and reviews.
- C. The Office of Professional Standards is responsible for investigating and reviewing all allegations of misconduct by members of the Division. The OPS shall also assign investigations of a minor nature to outside Precincts/Commands for investigation completion. In addition, the Office of Professional Standards shall be responsible for coordinating investigations involving the discharge of firearms by Division personnel with the Essex County Prosecutor's Office, Professional Standards Bureau (ECPO/PSB).
- D. Professional Standards personnel may conduct an investigation on their own initiative or at the direction of the Chief of Police, the Public Safety Director, or the Professional Standards Commanding Officer.
- E. Professional Standards personnel shall have the authority to interview any member of the Public Safety Division and to review any record or report relative to their assignment.
- F. The Office of Professional Standards shall investigate as a misconduct complaint any information or testimony arising in criminal prosecutions or civil lawsuits that indicates potential employee misconduct not previously investigated by the Newark Police Division.
- G. The Office of Professional Standards and, specifically, the person assigned to investigate the allegations of misconduct, shall keep the complainant, or the complainant's parent or guardian (if complainant is a minor) informed of the status of the investigation and its ultimate disposition (*See Section IX, sub section L*).
- H. The Office of Professional Standards, through a database-type police management tool, Early Warning System (EWS), shall identify Division members, who demonstrate any at-risk behavior, training deficiencies or indicators of stress by means of an examination of various risk factors, such as rate of citizen complaints, use of force incidents and other performance indicators. Although not a substitution for the disciplinary system, the EWS's principal aim is to identify and remedy problems before negative conduct escalates. Through early intervention, the Police Division can prevent future community/police divisiveness.
- I. Personnel assigned to the Office of Professional Standards should be energetic, resourceful and committed to the agency's mission and the complaint intake and investigation function. They



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must be knowledgeable in the elements of criminal law, court procedures, rules of evidence, use of technical equipment and the disciplinary and administrative law processes.

- J. Division members with a sustained complaint of, or who have been disciplined for, excessive use of force, false arrest, unlawful search and seizure, sexual harassment, discrimination, or dishonesty will be ineligible for assignment to the Office of Professional Standards.
- K. The Office of Professional Standards shall maintain a comprehensive central file on all complaints received by the Division, whether investigated by Professional Standards or assigned to outside Commands for investigation and disposition.
- L. The Office of Professional Standards shall be responsible for assigning and maintaining investigation of personnel numbers on all received complaints for investigative tracking purposes. *Note: Any internal or external complaint taken or accepted throughout the Division must also have an Event number generated at the time of complaint initiation.
- M. The Office of Professional Standards shall prepare monthly reports addressed to the Chief of Police and Public Safety Director, summarizing the nature and disposition of all misconduct complaints received by the Division. Additional reports may be required at the discretion of the Public Safety Director.
- This report shall include the name of the target officer(s), the allegation, and the name of the complainant and complaint characteristics that may signal systematic misconduct by any member of the Division. This report shall be considered confidential work product and dissemination is limited to only Division Command staff and Essex County Prosecutor's Office.
- N. The Office of Professional Standards shall prepare quarterly reports that summarize the nature and disposition of all misconduct complaints received by the Division. The report shall be sent to the Public Safety Director's Office and the Essex County Prosecutor's Office.
- O. The Office of Professional Standards shall also submit monthly reports to the Newark Police Division website summarizing sustained investigation dispositions with discipline of 5 days' suspensions or more. There will be no direct information in these monthly reports identifying the names of Division members or complainants.
- P. An annual report summarizing the types of complaints received and the dispositions of the complaints shall be made available to members of the public via Police Division website.
- Q. The Commander of Professional Standards shall contact monthly the appropriate ECPO supervisor to obtain monthly written updates from the ECPO/PSB regarding criminal investigations. This update will ensure that the Office of Professional Standards is notified of any case in which the ECPO/PSB declines to pursue a criminal investigation against the member of the Police Division. Cases that are no longer



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under ECPO review/investigation shall immediately be assigned to an OPS investigator/ICO for an administrative investigation. A 30-day due date shall be assigned to the returned investigation.

- R. The OPS shall be responsible for planning and executing regular, targeted and random internal reviews and integrity audits to ensure compliance with NPD policies and constitutional policing.
- S. OPS shall also be required to notify the ECPO/PSB of the following matters concerning Division members:
1. Any finding that a police officer or supervisor has filed a false report, submitted a false certification, or given false testimony in any criminal, administrative, employment, financial or insurance matter in his/her professional or personal life.
 2. A pending court complaint or conviction for any criminal, disorderly persons, petty disorderly persons, municipal ordinance or driving while intoxicated matter.
 3. A finding that undermines or contradicts a police officer's educational achievements or qualifications as an expert witness.
 4. A finding of fact by a judicial authority or administrative tribunal which concludes that a police officer/ supervisor intentionally did not tell the truth in a matter.
 5. A sustained finding that a police officer intentionally mishandled or destroyed evidence.
 6. A sustained finding that a police officer is biased against a particular gender or ethnic group.

IX. COMPLAINT INTAKE PROCESS

The Newark Police Division shall accept ALL complaints whether made orally, in writing, in person or by mail, telephone (or TDD), facsimile, electronic mail, website or any other means. At no time shall any person be forced or compelled to provide information or provide a statement to initiate a complaint.

All Division members, regardless of rank, are directed to accept complaints. Supervisors shall be the preferred method of complaint intake; however, all Division members have the responsibility of accepting complaints in the absence of an available supervisor.

All complaints made against Division personnel shall be accepted regardless of where or when they occurred or where they are being filed within the Division. At no time shall a complainant be turned away or instructed to respond to another Precinct/Command unless directed to do so by a member of OPS. Persons shall never be dissuaded or discouraged from filing a complaint.

Retaliation by Division members in any manner against a person for filing a complaint or for participation in a complaint or investigative process will not be tolerated. Retaliation can take many forms, including but not limited to the malicious filing of a criminal or civil action, threats or harassment in any form, undertaking any adverse action against any person involved in a complaint, or decisions affecting an employee's hiring, promotion or assignment. Such retaliation may result in criminal action against an offending Division member and/or constitute separate grounds for disciplinary action.

An employee of the Police Division who interferes with, delays or conceals the reporting or investigation of such complaints shall be subject to disciplinary action up to and including termination.



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All internal or external complaints, no matter the manner in which they are received, shall be entered into BlueTeam and forwarded through the Chain of Command to OPS (in the absence of BlueTeam, complaints shall be filed on an Investigation of Personnel report). Sworn Division members (police officers/supervisors) shall be directed to make internal and external complaint BlueTeam entries.

All internal or external complaints shall have an Event Number assigned at the time of complaint initiation. Division personnel accepting an external complaint or making an internal Division complaint shall obtain an Event Number from the CC Division. CCD personnel shall be provided a brief explanation of facts for assignment commenting purposes. The Event Number shall be provided to all person/s making an external complaint at the time of complaint initiation. Complainants shall be advised that as soon as the complaint is accepted, the investigation process is initiated.

The Event Number will correspond to the IOP number drawn at OPS after the complaint is forwarded through channels via BlueTeam.

All Division members and employees are required to adhere to the following:

- A. Personnel shall obtain information to determine if the offense alleged to have occurred is a Major or Minor Offense. *For Major Offense complaints, refer to Section X of this Order.
- B. If a Division member believes a situation warrants a complaint to be made against another member of the Division of equal rank or higher, they shall submit an Administrative Report (DP1:1001) to their Commanding Officer. This report shall detail the circumstances of the incident. The Commanding Officer once in receipt of a report detailing a complaint against a Division member of equal or higher rank, shall immediately notify the Commander of the Office of Professional Standards. The Commander of Professional Standards shall be responsible for making an immediate notification to the Public Safety Director and Chief of Police. The matter shall be assigned to an OPS investigator for proper and complete investigation.
- C. The following are multiple avenues for complaint intake:
 1. **In Person:** Persons may file a complaint in-person at any police facility. If a supervisor is not available to accept the complaint, then any Division member shall accept the complaint. In addition, persons may drop off a complaint of employee misconduct form to any police facility. The forms shall be accepted by all personnel, and the persons submitting the complaint form shall not be forced or compelled to provide any additional information unless they are willing to do so. The complaint forms will be available at all police facilities, City Hall/Council Offices, public libraries and community centers.
 2. **By Telephone:** All complaints against Division personnel shall be accepted over the telephone at any police facility.
 3. **At Home or the location where the incident occurred:** Complainants may also request that a supervisor respond to their location to take a complaint by calling any police facility. Division personnel fielding a telephone call for a home response shall ensure that CCD is notified and an Event Number generated for a proper response.



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4. **Online:** The complaint intake process is accessible through the Newark Police Complaint Against Personnel Website. Complaint forms submitted through the website are electronically sent to OPS.
5. **By Mail:** Complaints will be accepted by U.S. mail. Complainants can utilize either the complaint of employee misconduct form or mail a handwritten or typed letter. Mail to the address provided below. Complaints shall also be accepted by facsimile, number below.
 - a. Mailing address: Office of Professional Standards, 494 Broad St., 1st floor, Newark, New Jersey, 07102;
 - b. Facsimile: 973.353.8469.

6. **Complaint Drop Box:** In addition to the filing of a complaint of employee misconduct form as noted in Subsection 1 above, persons wishing to file complaints against Division employees may submit the form to designated complaint drop boxes. The drop boxes shall be designated solely and be clearly identifiable as *Newark Police Division; Office of Professional Standards* complaint drop box. They shall be located for complainant submissions at all Division Precincts, Special Operations Division, the Office of Professional Standards and City Hall/Council Offices.

Complaint drop boxes shall be monitored and complaints processed on a daily basis for all affected Commands as noted above. In addition, OPS shall be responsible for any offsite (non-Division facility) complaint drop box locations. Offsite locations shall be checked at least twice per week. OPS shall be responsible for processing any complaints submitted at offsite locations. Commanders shall be held accountable for failure to process complaint drop boxes.

It shall be the responsibility of all affected Commands to draw Event Numbers for each submitted complaint of employee misconduct form (or other written/typed complaint submission). This is completed in instances when a civilian drops the form off in the complaint drop box without requesting further police assistance.

- D. All Division members accepting, receiving or made aware of a complaint shall obtain all relevant information from whatever source the complaint is received, or from a willing complainant. All internal or external complaints shall be forwarded through the Chain of Command via BlueTeam. Commanders shall forward complaints via BlueTeam to OPS for review, processing and assignment.
- E. In the event of an unwilling or apprehensive complainant, obtain any information the complainant is willing to provide. No person/s shall be forced or compelled to provide information. The following minimum standards shall be adhered to for proper complaint intake.
 1. Division members accepting external complaints should obtain all necessary complainant contact information including name, address and telephone number/s. If the complainant prefers e-mail or social media contact, obtain this information as well;
 2. Obtain location of incident with date and time of occurrence;
 3. Obtain details surrounding the complaint and document same;



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4. Obtain any witness information (civilian/Division/outside agency, etc.) including names, addresses and telephone numbers;
 5. Enter the Event Number associated with the complaint and any corresponding Event, Central Complaint, Central Arrest numbers or additional corresponding report/tracking numbers;
 6. Upon completion of above actions, enter the complaint into BlueTeam and forward same through the Chain of Command.;
 7. Provide the complainant with an Internal Affairs pamphlet describing the Internal Affairs process. Same will be available in English, Spanish and Portuguese. Persons should be encouraged to familiarize themselves with the information as it will assist in explaining the complaint intake/investigation process;
 8. Internal complaints shall be documented in the same manner with the exception of obtaining civilian complainant information.
- F. Division members accepting complaints shall ask complainants or witnesses if they have any supporting documentation, photographs/videos or evidence to submit. Any reports, documentation, photographs/videos shall be documented in BlueTeam. The items shall be submitted with the complaint and forwarded to the Office of Professional Standards accordingly. Other physical items of an evidentiary nature shall be recorded in BlueTeam and preserved in accordance with established Division policies; *Refer to the Property & Evidence Management General Order*, unless otherwise directed by OPS.
- G. Police Aides and other civilian members of the Division are directed to accept complaints in the absence of a police supervisor or police officer. Civilian members of the Division are required to adhere to all tenets of this Order. However, after accepting a complaint, the information, documents, and evidence shall be provided to the on-duty police supervisor, or in his/her absence to an on-duty police officer for submission into BlueTeam.
- H. In the case of an anonymous complaint, the Division member accepting the complaint shall gather as much information as is provided for complaint intake. Anonymous complaints shall be accepted, and anonymous complainants shall not be required to reveal their identity. In addition, persons wishing to remain anonymous shall be permitted to drop off a complaint of employee misconduct form to any police facility. The complaint shall be processed via BlueTeam and forwarded to the Office of Professional Standards accordingly.
- Event Numbers shall be obtained for any anonymous complaint, and the number shall be provided to a willing complainant. Anonymous complainants shall not be compelled to standby for an event number.
- I. The Newark Police Division shall also accept third-party complaints and complaints from unaccompanied juveniles.
- J. If the complainant does not speak English, the Division member accepting the complaint shall attempt to have an on duty officer fluent in the complainant's native language respond. If an officer/interpreter is



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not available to meet the complainant within a reasonable amount of time, the Division member shall contact the Language Line at 1-800-664-1171 for interpretation services. *Personnel are directed to contact the CCD for the specific Newark Police Division password.

- K. The complainant shall be advised that their complaint will be forwarded to the Office of Professional Standards for processing, review and assignment. The complainant shall be further advised that within a few days they will receive a Contact Letter providing the investigator's name, telephone number and IOP number. OPS contact information shall be provided, 973.733.6171. The complainant shall also be advised that he or she will be contacted by an investigator once the complaint is processed and assigned.
- L. Division members accepting complaints shall also explain the Division's disciplinary process and shall advise the complainant that he/she will be kept informed of the status of the investigation and its ultimate disposition.
- M. Division members accepting a complaint shall not ask or otherwise inquire about a complainant's immigration status.
- N. If a complainant expresses fear or concerns about making a complaint about a member of the Newark Police Division directly to the Newark Police Division, he or she should be referred to the Essex County Prosecutor's Office, Professional Standards Bureau. Complaint referral policy shall be adhered to as per Section O below.
- O. Misconduct complaints not involving City of Newark Police Division employees or complaints against Division employees where the complainant expresses fear or concerns can be referred as follows:
 - 1. When a person makes a complaint about a member of another law enforcement agency, he or she should be referred to that officer's agency. Persons who wish to file a complaint against Division personnel, but are reluctant to do so within the Division, shall be directed to the ECPO/PSB.
 - 2. Complainants shall receive an Event Number when they receive a referral to another municipality or agency including the ECPO/PSB. The Event Number shall also contain in the narrative portion of the comments which municipality or agency the complainant was referred to.
 - 3. When a referral is made, the Division member making the referral shall record the complainant's basic information, complaint alleged and the method of referral; the information shall be documented on an Administrative Report (DP1:1001) and forwarded to their Commanding Officer. If the person making the complaint does not wish to provide personal information or remain anonymous, this shall be documented. The Commanding Officer shall forward a copy of the report to the Office of Professional Standards for review and filing.
 - 4. The Office of Professional Standards will determine if the information in the referral will be forwarded to the appropriate municipality or agency.

X. MAJOR OFFENSE COMPLAINTS

- A. Major Offense complaints are those complaints which consist of a serious or egregious nature. The level of seriousness of an alleged policy violation is dependent upon the specific facts of an incident. Employees shall consider the totality of the circumstances and apply common sense when determining if



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an alleged incident is a Major or Minor Offense. In the field, the highest ranking on duty supervisor shall determine the level of seriousness and make notifications to OPS, (via CCD) when and where appropriate. Refer to sub section B below for specific Major Offense incidents.

The Office of Professional Standards Commander/designee and the ECPO/PSB shall be immediately notified when the following complaints are alleged to have occurred involving Division personnel:

1. When preliminary investigative data indicates the possibility of a criminal act on the part of the Division member. The ECPO/PSB shall also be immediately notified. No further action shall be taken by Division personnel until directed to do so by the ECPO/PSB.
2. When a preliminary investigation indicates an actual or alleged use of force or vehicular pursuit by the Division member resulting in serious bodily injury or death. This shall include serious bodily injury or death in any manner to any in-custody persons.

Use of Force resulting in serious bodily injury or death, including serious bodily injury or death to any in custody persons shall also require an immediate notification to the ECPO/PSB. It shall be the ECPO/PSB's responsibility to investigate any use of force incident involving death or serious bodily injury to a person, or where deadly force is employed with no injury, or where any injury to a person results from the use of a firearm by a member of the Newark Police Division or any other agency within the City. This refers to all incidents occurring while a Division member is acting in the performance of official duties/off-duty or exhibiting evidence of his/her authority. ECPO shall investigate use of force incidents without involvement from the Newark Police Division unless otherwise requested by the Prosecutor's Office through the Chief of Police or the Public Safety Director.

3. At any time during the course of any investigation an investigator believes that criminal conduct occurred, the investigator shall immediately notify the Commander/designee of the Office of Professional Standards. The Commander/designee of Professional Standards shall notify the Public Safety Director and the Chief of Police accordingly. The investigation shall be referred to the ECPO/PSB, the Department of Justice or other law enforcement agency as appropriate. The investigation shall be halted until the appropriate agency releases the investigation or a court decision is rendered.
 4. Office of Professional Standards investigators shall make monthly updates to complainants regarding statuses of criminal complaints under ECPO/PSB purview. These contacts shall be documented in the investigation.
- B. During the complaint intake process, Division members below the rank of Sergeant will contact their immediate supervisor to determine and confirm if a complaint is a Major Offense. If a complaint alleged is determined to be a Major Offense, the Office of Professional Standards shall be immediately notified via CC Division. OPS personnel shall advise on scene officers if they are responding.

After normal business hours (0800 to 2400 hours, Monday through Friday), and on weekends, the OPS Commander/designee shall be notified via CC Division supervisor. The OPS Commander/designee will



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determine if an on call OPS investigator will respond to the scene. If approved for response, the CC Division supervisor shall notify the on call investigator who shall promptly respond to the scene to conduct a preliminary investigation.

Examples of Major Offenses shall include, but not be limited to allegations of:

1. Arrest of Division member or criminal allegation against a Division member;
 2. Unreasonable, unnecessary Force/Use of force with civilian/suspect serious bodily injury/death;
 3. Vehicular Pursuit with serious bodily injury or death;
 4. Improper/Unlawful Arrest;
 5. Improper Entry/Improper Search;
 6. In-Custody Death;
 7. Allegations of theft of property or evidence;
 8. Domestic Violence;
 9. Aggravated Insubordination;
 10. Allegations of sexual harassment;
 11. Allegations of sexual assault
 12. Allegations of bias, intimidation, or differential treatment;
 13. Intoxication on duty;
 14. Sleeping on duty;
 15. False statements/dishonesty
 16. Serious or egregious matters involving neglect of duty or failure to act;
 17. Any other complaint designated by the Chief of Police or Public Safety Director.
- C. Persons involved in a Major Offense incident shall be provided immediate necessary assistance, including medical care, social or family services, etc. In addition, complainants involved in a Major Offense incident shall be afforded all necessary and reasonable accommodations throughout the investigative process.
- D. On a Major Offense scene the Division member/s shall properly secure the scene ensuring that all potential evidence is maintained until ECPO/ Division OPS responds. Notifications shall be made to Crime Scene Unit as necessary and at the direction of Division OPS. No scenes shall be processed by any personnel until ECPO or Division OPS responds. All witnesses shall also be maintained at the scene when feasible.
- E. OPS investigators shall assume responsibility for any preliminary investigative work upon their response. All other Division members will defer work responsibilities accordingly. All on-scene or involved Division members shall fully cooperate and follow guidance and directives from ECPO or Division OPS personnel as though the directive came directly from the Public Safety Director.



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- F. If there is no ECPO or Division OPS response, all documentation and evidence shall be gathered and submitted at the direction of OPS. All pertinent information shall be entered into BlueTeam as outlined in Section IX above and submitted accordingly.
- G. Complainants will not be subjected to a lengthy wait time for Professional Standards personnel to assist in the complaint process. Complainants shall be promptly advised accordingly in on-call response situations.
- H. Any acts of criminal conduct alleged to have been committed by a member of the Newark Police Division, firearms discharges, use of force by the officer, or vehicular pursuits which result in serious bodily injury or death shall require immediate notification to the Essex County Prosecutor's Office.

XI. COMPLAINT CLASSIFICATION AND ASSIGNMENT

- A. The Commander/designee of the Office of Professional Standards shall make all final determinations on whether complaints against Division personnel are classified as **Major or Minor Offenses**.
- B. The Commander of Professional Standards or designee shall be responsible for assigning complaints to the appropriate OPS investigators. The Police Director or Chief of Police will not be authorized to personally conduct an investigation of officer misconduct or violation of policy, or to prevent such an investigation. When assigning OPS-level investigations, the OPS Commander or designee shall be mindful of investigator workload and seriousness of complaints in determining a fair and equitable distribution of investigations.
- C. Complaints of minor rule infractions may be investigated at the Precinct/Command level unless the Office of Professional Standards Commander deems otherwise. Complaints shall not be assigned to the target officer's immediate supervisor, nor shall any investigation be conducted by a supervisor or officer who authorized, engaged in conduct that led to, or otherwise participated in the incident complained of; who was on the scene at the time of the incident; or who has a conflict of interest as defined by NPD policy.
- D. The Professional Standards Commander shall also determine which complaints will be handled by the Command Integrity Control Officer/s.
- E. All anonymous complaints received at the Office of Professional Standards shall be reviewed by the Commander/designee and assigned to the proper investigator. Once assigned, the investigator shall make every effort to fully investigate the matter including contacting the complainant to obtain further information.
- F. Complaints received from online sources or the Newark Police Complaint Against Personnel Web Site (<https://npd.newarkpublicsafety.org/professionalstandards/capform>) are privately linked/emailed to the Office of Professional Standards. The Commander of the Office of Professional Standards will determine whether the complaint should be handled at an outside Precinct/Command or at the Office of Professional Standards. Every effort shall be made to contact the complainant for an interview for additional facts surrounding the complaint.

XII. COMPLAINT INVESTIGATION



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- A. Investigations will be assigned by the OPS. Investigations will be assigned and forwarded via BlueTeam including to outside Commands where affected Commanders shall promptly acknowledge receipt. Investigations will then promptly be assigned to Command supervisors, and upon completion investigating supervisors shall upload and link their investigations and investigative documentation and photographs via BlueTeam and forward via the Chain of Command. Upon approval, Commanders shall forward the completed investigation to OPS via BlueTeam. Hard copies of investigations with associated documents and materials shall be forwarded via the Chain of Command to the OPS using established Division guidelines.
- B. All internal or external allegations of misconduct shall be thoroughly investigated to their logical conclusion. During the investigative process, Division members assigned to investigate these complaints will be mindful of the following investigative responsibilities:
1. All investigations shall be completed by the required due date provided by the Office of Professional Standards Commander. Due dates are 30 days from receipt for OPS investigators and 45 days from receipt for outside Command investigations. Investigations of a criminal nature returned from the ECPO/PSB shall have an assigned 30-day due date. Investigators shall submit an Administrative Report at least 5 days prior to due date requesting extensions. The report shall explain the reason for an extension request.
 2. Upon receipt of investigation, contact letters shall be sent to the complainant. Letters shall contain investigator name, rank, identification number and return contact information. The letter shall also include the investigation of personnel number (assigned by OPS). In addition, complainants and target officers shall be notified if there are potential criminal allegations surrounding the complaint.
 3. Major Offense Complaints (OPS) will be completed on a DP1:1001, Administrative Format. Standard OPS format shall be utilized.
 4. Minor Offense Complaints will be completed on a DP1:1005, Administrative Investigation Format, unless handled by the Office of Professional Standards.
 5. Investigators shall make all reasonable attempts (telephone calls/home visits/e- mail, etc.) to contact complainants within (2) days of receiving the investigation for additional information and a follow-up recorded interview. All interviews and interactions with complainants and witnesses shall be documented in the investigation in chronological order. This will include all attempts to contact the complainant including telephone calls, home visits, e mails, etc.
 6. All investigations assigned to the OPS shall have audio or video-recorded interviews/statements with Division members, complainants and witnesses. All investigations assigned to the Precinct/Command level should have their respective interviews/statements audio or video recorded whenever feasible. When available, body-worn cameras shall be utilized to perform this task.

Non-members who refuse to submit to a recorded interview shall be afforded the opportunity to review the investigator's summary of their statement for purposes of accuracy and completeness.



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7. Gather all evidentiary items relative to the investigation, including, but not limited to all operational reports, ledgers, records, audio/video surveillance (Division, outside agency, or private sources), photographs, physical evidence and any other information necessary to complete the investigation.

All information, documentation and evidence obtained during the investigation shall include a summarized explanation (synopsis of report/evidence, how/why obtained, investigative relevance or significance, etc.) and inputted into the investigation in a chronological order with date and time of discovery. Physical evidence shall be submitted in accordance with Division policy and at the direction of OPS. Reports, documents, written records, photographs and copies of same shall be submitted with the investigation (DP1:1001/DP1:1005).

8. There shall be no criminal history checks of a complainant or witness unless such information would be relevant to the allegations under investigation. When criminal history checks are conducted, Division investigators shall document the justification in the investigation. In addition, Division investigators will not give Miranda Warnings to complainants or witnesses prior to or during non-custodial interviews. If a complainant's allegation arises from a criminal arrest, investigators shall communicate with the complainant's criminal defense attorney. If a complainant pleads guilty or is found guilty of an offense, investigators will not consider the fact of conviction to be evidence of whether a Division member engaged in misconduct, nor will it justify discontinuing the investigation.
9. The investigator will consider patterns in officer behavior based upon disciplinary history and other information in NPD's Early Warning System.
10. The investigator will finalize his/her investigation after he/she has obtained all of the necessary information, facts and evidence relative to the complaint in order to form a logical conclusion. The investigator shall be aware that the standard of proof in an administrative investigation is Preponderance of Evidence, not the more stringent standard of 'Beyond A Reasonable Doubt'.

The findings section shall include a narrative summary of information, facts and evidence relative to the complaint to explain the investigator's rationale in determining the appropriate disposition. Investigators should avoid editorializing when drawing investigation conclusions and shall base their conclusions/findings on the facts, information and evidence revealed and presented.

In cases involving a sustained complaint, the investigator shall cite the appropriate Division Rule or Regulation and/or specific provision violated in a given General Order or Memorandum.

11. Possible dispositions include the following:
 - a. **EXONERATED:** - The alleged incident did occur, but the actions of the Division member were justified, legal and proper.
 - b. **SUSTAINED:** - The investigation disclosed sufficient evidence by a preponderance of the evidence that the actions of the Division member violated a provision of rules, regulations, policy or procedures.



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- c. **NOT SUSTAINED:** - The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
- d. **UNFOUNDED:** - The alleged incident did not occur or did not involve the alleged Division member.

In matters involving firearms discharges, investigators shall make a finding determination of **JUSTIFIED** or **NOT JUSTIFIED**. These determinations will also be based on all information, facts and evidence revealed and presented during an investigation.

- 12. An investigator will not make a finding that an allegation of misconduct is unfounded, not sustained, or exonerated simply because the complaint is withdrawn or the complainant is unavailable, unwilling or unable to cooperate with an investigation, or refuses to provide medical records or proof of injury. If any of the aforementioned situations arise, the investigator shall continue as necessary to resolve the original allegation/s where possible based on the evidence, investigatory procedures and techniques available.
- 13. During the course of an investigation if it is determined that a Division member violated any provision of the Newark Police Division's Rules and Regulations, Policies or Procedures the assigned investigator shall:
 - a. Prepare a Complaint Against Personnel report (CAP) identifying the Division member by name, identification number and Command.
 - b. Specify the time, date and location of the violation.
 - c. Complete the narrative portion of the report citing the specific Division charge/s from the Police Division Rules & Regulation manual. In addition, the investigator shall record a Specification to each charge which details how the Division member specifically violated the rule, regulation, policy or procedure. General Orders or Memorandums shall be cited in the specification section. There may be multiple Specifications to each Charge.
 - d. The CAP report/s shall be attached with the investigation and forwarded to the Office of Professional Standards Commander for a review and approval. OPS will draw the CAP number.
 - e. The assigned investigator will close out the investigation with a Sustained disposition and recommend the matter be referred to a Trial Board Hearing.
- 14. If a misconduct complaint is sustained against a Division member and it is determined that formal charges will be filed, the Advocate Unit will prepare formal Charge document/s which shall be forwarded to the Public Safety Director without delay for his/her review and approval signature. The Advocate Unit will then formally serve upon the affected Division member the formal charge documents. All facets surrounding the disciplinary process are delineated in the Newark Police Division-Disciplinary Philosophy and Purpose General Order.



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15. At the conclusion of the investigation, and upon determination of one of the aforementioned dispositions, the investigator shall submit a disposition letter to the complainant and involved officer/s. If the allegation was unfounded, not sustained or the officer exonerated, the civilian disposition letter shall include a brief explanation specifically defining how the conclusion for the disposition was reached.

If the allegation was sustained, the complainant notification letter shall only state that the allegation was sustained and that the officer will be disciplined according to Police Division policy.

16. Office of Professional Standards- (Investigators) Upon the conclusion of an investigation the Commander of the Office of Professional Standards or designee shall review the investigator's disposition form, the signing of which will indicate his or her approval attesting to the accuracy and veracity of the investigative findings.
17. All submitted investigations shall also have a file reference Index Report included. The file reference Index Report will categorize and itemize investigation materials and documentation by section (i.e., preliminary investigation, complaint reports, operational reports, court documents, copies of ledgers, summonses, ECPO/PSB communications, etc.). Each section will be itemized in a lettering fashion starting with 'A' (up to and including 'Z', if necessary "AA"...).
18. Collateral issues and/or complaints stemming from initial misconduct investigations may be revealed during either internal or external matters. Collateral issues/complaints are acts of misconduct which are uncovered or presented during initial misconduct investigations. Collateral complaints must be addressed; the failure to address collateral matters can deprive the Division of the ability to identify and correct problems with personnel and procedures through self-critical analysis.
- When collateral issues arise, a separate investigation of personnel is generated and entered into BlueTeam and forwarded to OPS. The original complaint shall be cross-referenced.
19. Where an investigation of personnel has been generated and there is insufficient information to conduct a meaningful investigation, the matter may be filed without investigation, (F.W.I.). This also occurs when a complaint is based upon a misunderstanding of an otherwise legal and proper law enforcement practice, Division Rule/Regulation and/or duties of the Division member. This requires resolution with a complainant. An F.W.I. shall only be recommended by the commander of OPS, and shall only be approved by the Public Safety Director.
20. In addition to determining whether a Division member committed misconduct, administrative investigations will include an assessment of whether the police action was in compliance with training and legal standards, whether different tactics should or could have been employed and/ or if the incident suggests that the agency should revise its policies, strategies, tactics, or training.

Any such assessments which identify policy, training, tactical, or other concerns shall be promptly forwarded to the Public Safety Director and, if the issue is force-related, to the appropriate investigative arm of the Division for review and action.



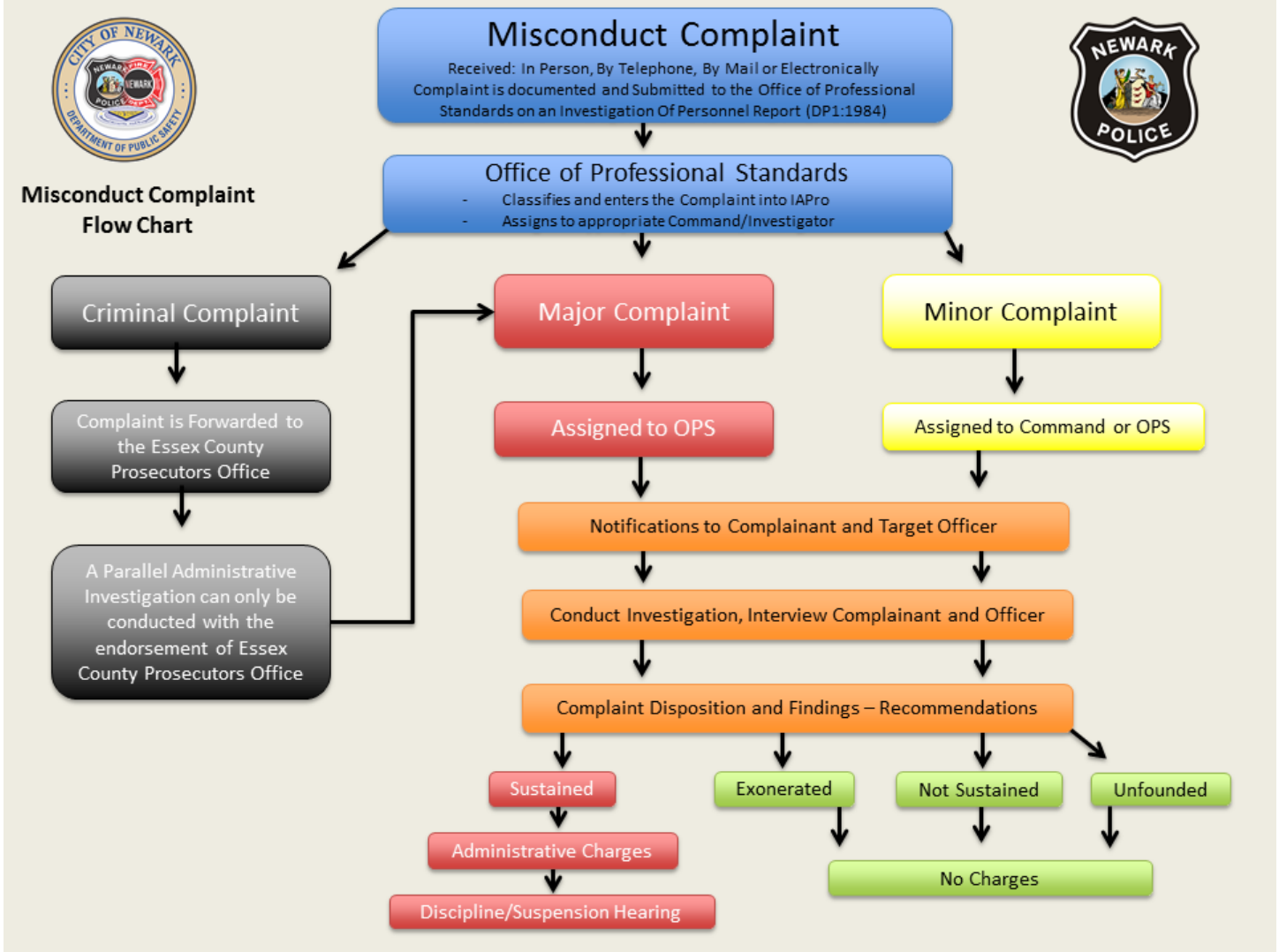
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21. There shall be no delay between the conclusion of the investigation by the assigned investigator and the decision to file charges by the person who has that responsibility, the Public Safety Director.
22. The Office of Professional Standards shall be responsible for ensuring that a complete sustained investigation packages and supplementary charging documents are promptly forwarded to the Department of Public Safety to ensure adherence to the 45-day rule.
23. Investigators and the Office of Professional Standards shall be additionally cognizant of avoiding bureaucratic delays during the investigative process. These bureaucratic delays may include long lapses in investigative actions, failure to expeditiously re-assign an investigation due to Division transfer, retirement, etc. or other unexplainable delays in the processing and completion of an investigation. Any explainable investigative delays (i.e. subject officer on long term illness, vacations, etc.) shall be detailed in the investigation.



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XIII. COMPLAINT ADJUDICATION

- A. The Commander of the Office of Professional Standards or designee shall review all completed investigations and approve or disapprove of all recommended findings. Disapproved investigations shall be forwarded back to the investigator for cited revisions. Investigators found to display consistent deficiencies and/or significant poor performance shall be re-trained by the Office of Professional Standards, and may face disciplinary action if warranted.



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- B. The Office of Professional Standards Commander or designee shall review all disciplinary histories of involved Division members once investigations are completed to ascertain if there may be indications of potentially improper patterns, practices or trends in regards to the conduct of Division members.
- C. Once reviewed the investigative finding shall be entered into the IAPRO/Blue Team Data Bases. Investigations with investigative materials shall be stored in the secured Office of Professional Standards Vault.

XIV. TRAINING

- A. The Newark Police Division shall provide training to all new recruits and current Division members in the complaint intake process. Complaint intake process training will include the following areas:
 - 1. Training all Division personnel, including dispatchers to properly field, process and route the complaint intake.
 - 2. Providing complaint materials and information.
 - 3. Consequences for failing to accept complaints.
 - 4. Strategies for turning the complaint process into a positive police-civilian interaction.
 - 5. A review of BlueTeam entries completed by Division members for clear and concise reporting and relaying of complainant information.
 - 6. Complaints for referral to the appropriate municipality and or the Essex County Prosecutor's Office.
 - 7. Identifying and handling complaints derived from Social Media, Facebook, Instagram, Snapchat, etc.
- B. The Commander of Professional Standards shall ensure that all investigators and supervisors receive the proper training to investigate allegations of misconduct. Investigators should receive training on a yearly basis and the curriculum should include the following topics:
 - 1. Defining and Accepting Complaints
 - 2. The Internal Affairs Investigative Process
 - 3. Ethics in Policing
 - 4. Brady and Garrity Case Law and Review
 - 5. Confidentiality and Internal Affairs Investigations
 - 6. Use of Force Investigations
 - 7. In-Custody Death



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8. In-Car and Body Cameras
 9. Inspections and Audits.
 10. Online Social Media Professional Development Course
 11. Performance Evaluations and Early Warning System Alerts derived from IAPRO-Blue Team.
 12. Knowledge and Efficiency in the IAPRO/BlueTeam computer programs. The Commander of the Office of Professional Standards shall also designate security clearance levels for all personnel assigned to input and access information in IAPRO/Blue Team.
 13. Compliance and Integrity-based testing to ensure compliance with NPD policies and constitutional policing.
 14. Knowledge of State of New Jersey, Internal Affairs Policy and Procedures, N.J.S.A. 40A:14-181
- C. Investigators assigned to the Office of Professional Standards shall receive the appropriate training when handling on-call assignments. Newly assigned investigators at the Office of Professional Standards will train with a seasoned investigator (with a minimum of 2 years' experience at OPS) for approximately (4) weeks prior to being called out to an on-call assignment.
- D. The Commander of Professional Standards shall coordinate with the Essex County Prosecutor's Office, Professional Standards Bureau to have all OPS investigators attend courses given by the ECPO associated with Internal Affairs.
- E. The Commander of the Office of Professional Standards shall also develop a training curriculum designed for Precinct/Command-level supervisors in the proper handling Internal Affairs complaints.

XV. EFFECT OF THIS ORDER

This Order is effective immediately upon promulgation. Any previous Orders, Memoranda, Directives, or portions thereof, that conflict with this Order are hereby rescinded.

By Order of

**Public Safety Director
Anthony F Ambrose III**