


MAPLEWOOD POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

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INTERNAL AFFAIRS POLICY & PROCEDURES

I. PURPOSE:

The Maplewood Police Department 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 official conduct and are expected to respect the rights of all citizens. Officer 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 Maplewood Police Force.

The effectiveness of a law enforcement agency is dependent upon public approval and acceptance to the community by providing formal procedures for the processing of complaints from the public regarding individual officer performance.

The purpose of this Standard Operating Procedure is to improve the quality of police services. Citizen confidence in the integrity of the police force increases through the establishment of meaningful and effective complaint procedures. This confidence engenders community support for the police force. Improving the relationship between the police and the citizens they serve facilitates cooperation vital to the police department's ability to achieve its goals. An effective disciplinary framework also permits police officials to monitor officers' compliance with police force policies and procedures.

Adherence to established policies and procedures assists officers in meeting department objectives while a monitoring system permits managers to identify problem areas requiring increased training or direction. Finally, this policy will ensure fairness and due process protection to citizens and officers alike. Heightened officer awareness of the rights afforded them when charged with misconduct will increase their appreciation of comparable rights afforded to citizens.

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

II. POLICY:

The New Jersey Legislature 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: "Every law enforcement agency 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." Therefore, the Maplewood Police Department shall follow at all times the policies and procedures contained herein and guidelines established by the Attorney General of the State of New Jersey titled "Internal Affairs Policy & Procedures" revised in December 2019.

Furthermore, it shall be the policy of the Maplewood Police Department to accept and investigate all complaints against this agency or its employees regardless of their source. Discipline shall be administered according to the degree of misconduct. Moreover, 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. Also officers may be disciplined for violation of any rule and regulation of the police department or for failure to obey any lawful instruction, order or command of a superior officer, supervisor or the Chief of Police. Disciplinary action in all matters will be determined based upon the merits of each case.

Finally, it is the policy of the Maplewood Police Department that prevention is the primary means of reducing and controlling misconduct. To that end, it

is the policy of this department to discover and correct organizational conditions, which permit the misconduct to occur. Special emphasis is placed on recruitment, selection and training of officers and supervisors, community outreach, and the analysis of misconduct complaints and their outcome.

III DEFINITIONS

A. Complaint. An allegation of a specific act or omission that, if true would amount to employee misconduct. or wrongdoing from any citizen, agency employee or any other sources, including anonymous sources. The term Complaint is not defined to include “Supervisory Actions.” See section IV below for information regarding “Supervisor Actions.”

B. Formal Disciplinary Action. Conduct that is considered sufficiently serious enough to warrant a Written Warning or Formal Disciplinary Charge.

C. Formal Disciplinary Charge. This level necessitates the formal documentation (case number and report) and a “booking card” to be written by the immediate supervisor and forwarded to the Captain’s Office for review and service. This is the only level of discipline that can be afforded a departmental hearing. A pleading of guilt or finding of guilt by a hearing officer will cause the action to formally appear on an officer’s personnel history sheet.

D. Initial Contact. As the name implies, this level is the first time minor infractions that need attention by the supervisor. These are contacts that are usually approached and accomplished on a one-on-one basis. There is no minimum or maximum number of times that this level can be utilized, depending on the severity of the infraction.

E. Misconduct. The term misconduct shall be liberally construed and shall include any of the following:

1. Commission of a criminal act;
2. Neglect of duty;
3. Violation of an agency rule and regulation, policy or procedure;
- and;
4. Conduct which reflects unfavorably on the employee or agency.

F. Minor Complaints. Minor complaints include demeanor and minor rule infractions and may be handled at the command or supervisory level.

G. Performance Notice. The Performance Notice is to be used as a teaching tool. The intent of a Performance Notice is to prevent a problem from becoming more serious or prolonged. A Performance Notice may be given for more serious or repetitive incidents of unsatisfactory work performance or conduct, and is given only after the supervisor and the employee have discussed the incident. The Performance Notice contains a description of the incident, how the officer's actions or conduct fails to meet performance or conduct standards, the correction expected and a reckoning period in which no similar performance or conduct can occur. Supervisors should document Performance Notice discussions and forward same to the Internal Affairs Officer. A performance notice shall not be utilized for "Disciplinary Action Calculation" purposes as specified under ordinance #2282-05 titled "Promotional Procedures for the Police Department."

H. Serious Complaints. Serious complaints include any of the following:

1. Criminal activity;
2. Excessive force;
3. Improper or unjust arrest;
4. Improper entry
5. Improper or unjustified search;
6. Differential treatment
7. Serious rule infractions;
8. Repeated minor rule infractions or demeanor complaints;
9. Gross inefficiency, effectiveness or inability to perform duties; and
10. Other complaints that suggest a serious allegation.

I. Verbal Warning. This level necessitates an administrative report to be written and forwarded to the Internal Affairs Officer. It should also include the infraction description, date and time of the warning, a short summary and the comments (if any) by the officer involved. Only two verbal warnings can be given for the same infraction before the next level is necessitated. Otherwise, there is no minimum number of times that this level can be utilized, depending on the severity.

J. Written Warning. This level necessitates the formal documentation (case number and report generated) in the form of an administrative report by the immediate supervisor and forwarded to the Captain's Office for the officer's file. The report should include a description of the infraction, the date and time of the warning, a short summary, the comments (if any) by the officer involved, any previous verbal warnings for the same infraction and subsequent follow-up date for an improvement review.

IV. PROCEDURES:

A. PHILOSOPHY OF DISCIPLINE

1. In keeping with the objectives of proper agency management, the disciplinary system established herein shall reflect the overarching emphasis for improving the quality of service being delivered by the employees of this department. Discipline should not engender a strictly negative connotation, as the disciplinary process is meant to correct employee actions and conduct that tend to impede the efficient and effective operation of the department. The proper use of discipline can achieve this objective without realizing a reduction in morale.

2. Training is a component of discipline that may be the desirable alternative to other discipline in situations where the actions giving rise to the initial complaint were not deemed to be an intentional violation of established department directives. Training may also be appropriate in situations where the complaint reveals a very minor or technical violation that likely requires no more than a reinforcement of existing directives to correct the employee's behavior.

3. Counseling as a component of discipline is an alternative for adjudicating minor complaints that should be considered when the need to address the employee in a forthright manner clearly exists, but the greater good will likely be served by limiting the discipline to formal counseling in lieu of punitive discipline. Counseling is not appropriate for serious violations or in situations where the offending employee's behavior is part of a continuing course of problematic behavior.

4. Serious violations and those committed as one in a series of repeated violations require swift and certain punitive measures in order to maintain proper discipline within the department. The Rules and Regulations set forth a schedule depicting the classes of offenses and recommended penalties for all violations charged under the rules and regulations.

B. SUPERVISORY RESPONSIBILITIES

1. The fundamental responsibility for direction and control of the department rests with the immediate supervisor at the operational level, not with the law enforcement executive. To provide such direction and control, supervisory personnel shall be granted the proper authority to carry out their responsibilities. In order to properly exercise this authority, supervisory personnel must be fully familiar with applicable agency rules and regulations. Therefore, the primary responsibility for maintaining and reinforcing officer and employee conformance with the standards of conduct of this police department shall be with the officer or employee and the 1st line supervisors.
2. Supervisors in the department shall:
 - a. Enforce department rules and insure compliance with department policies and procedures.
 - b. Exercise proper use of their command within the limits of their authority to assure efficient performance of their subordinates.
 - c. Exercise necessary control over their subordinates to accomplish the objectives of the department.
 - d. Guide and train subordinates to gain effectiveness in performing their duties.
 - e. Use departmental disciplinary procedures when necessary.
 - f. When using discipline, comply strictly with the provisions of the department disciplinary process as provided for herein.
3. Every supervisor must establish a familiarity with the agency's disciplinary process and develop an understanding of how to implement specific disciplinary procedures when called upon to deal with inappropriate behavior or misconduct.
4. Supervisors shall familiarize themselves with the employees in their unit, and closely observe their general conduct and appearance on a daily basis.
5. Supervisors should remain alert for indications of behavioral problems or changes that may affect an employee's normal job performance. Such information shall be documented by the supervisor and promptly submitted through the chain of command.

6. Where a supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action.

7. Counseling may be used by the supervisor as follows:

a. To determine the extent of any personal or job related problems that may be affecting performance, and to offer assistance and guidance.

b. To discuss minor and infrequent rule violations and discuss the substance and importance of the rules with the employee.

8. A supervisor may recommend additional training to reinforce and refresh the employee's skills.

9. Where appropriate, the supervisor shall document instances of counseling or additional training used to modify an employee's behavior on a departmental Performance Notice Form. The supervisor shall also prepare an administrative report documenting his or her actions and forward it to the Internal Affairs Officer.

C. SUPERVISORY ACTION

1. Employees may have performance problems or workplace behavior which, in the supervisor's judgment, fails to meet department standards but does not necessitate formal disciplinary action. These problems are best addressed jointly by supervisors and employees.

2. Supervisors are responsible for communicating performance and conduct standards to employees, for guiding, training and developing their employees, and for providing opportunities, if appropriate, to correct performance or behavior deficiencies.

3. Supervisors may use a variety of corrective action approaches as needed to address the specific nature of each problem professionally and constructively. These Supervisory corrective action approaches shall only include the use of:

a. Initial Contacts;

b. Verbal Warnings; and

c. Performance Notices.

4. For purposes of this directive Supervisory Action(s) are not considered "Complaint(s)" as the term is defined in this directive. Therefore, formal Internal Affairs Complaint Notification and Administrative Investigation advisement procedures shall not apply.

5. If at any time a Supervisory Action implicates Formal Disciplinary Action (Written Warning or Formal Disiplinary Charge), the supervisor shall provide written Internal Affairs Complaint Notification to the officer that an administrative investigation will commence. All other formal Internal Affairs procedures shall then be applied.

6. In the event a Supervisory Action is taken, the supervisor will forward a report to the Internal Affairs Officer with the details of the violation and action taken. This information will be included with the recorded in the Supervisory Action history to ensure repeated violations can be detected and when necessary, handled as an Internal Affairs Complaint. In the event the Supervisor is not certain about prior violations, the supervisor will have an initial contact with the employee to correct the matter but advise him / her that additional action may be taken after the information has been reviewed by the Internal Affairs Officer.

D. INTERNAL AFFAIRS OFFICER/INVESTIGATORS

1. The purpose of the internal affairs function is to establish a mechanism for the receipt, investigation and resolution of complaints of officer/employee misconduct. The goal of internal affairs is to insure that the integrity of the department is maintained through a system of internal discipline where fairness and justice are assured by an objective and impartial investigation and review.

2. Personnel assigned to the internal affairs function shall be directly responsible to the chief of police while assigned or working on any internal affairs matter.

3. The internal affairs officer will conduct investigations of allegations of misconduct by members of the department and review the adjudication of minor complaints handled by supervisors. Misconduct is defined as:

a. Commission of a crime or an offense; or,

b. Violation of department rules and regulations; or,

c. Conduct which adversely reflects upon the officer or the department; or,

d. Incompetence, inefficiency or failure to perform duties; or,

e. Other sufficient cause not enumerated above.

4. The Internal Affairs Officer will be responsible for the coordination of administrative investigations involving the non-training discharge of firearms by department personnel, vehicular pursuits involving department personnel, use of force incidents, and misconduct investigations involving township employees at the direction of the Chief of Police. Internal Affairs shall be responsible for any other investigation as directed by the Chief of Police.

5. The Internal Affairs Officer has an obligation to investigate or review any allegation of employee misconduct that is a potential violation of the agency's rules and regulations or which indicates that the employee is unable, unwilling or unfit to perform his or her 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 the this agency's jurisdiction or while the subject officer was off-duty.

6. Internal Affairs officers may conduct an Internal Affairs investigation on their own initiative upon notice to, or at the direction of the Chief of Police.

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

8. The Internal Affairs Officer may refer investigations to the employee's supervisor for action as provided for under section IV of this directive.

9. Internal Affairs Officer or officer(s) temporarily assigned to that function, shall have the authority to interview any member of the police department and to review any record or report of the police department relative to their assignment. Requests from internal affairs personnel, in the furtherance of their duties and responsibilities, shall be given full cooperation and compliance as though the request came directly from the Chief of Police officer. Members assigned to the internal affairs function come under the direct authority of the chief executive officer and report directly to the Chief of Police.

10. Every member of this agency, regardless of rank, shall treat an order or a request from the Internal Affairs Officer as if the order or request came directly from the Chief of Police.

11. The Internal Affairs Officer shall maintain a comprehensive Internal Affairs Central Index File on all complaints received by this department whether investigated by an internal affairs officer or assigned to the officer's supervisor for investigation and disposition.

12. A periodic report that summarizes the nature and disposition of all misconduct complaints received by the police department shall be compiled. Copies of this report will be made available to all command and supervisory personnel upon request. Recommendations shall be made for corrective actions for any developing patterns of abuse.

13. An annual report summarizing the types of complaints received from the public and the disposition of those complaints will be made available to members of the public. The names of complainants and accused officers shall not be published in this report. This annual report is submitted to the Essex County Prosecutor's Office in accordance with the Attorney General's Guidelines concerning Internal Affairs.

14. In addition, the Department shall periodically release a brief synopsis of all complaints where a fine or suspension of ten days or more was assessed to a member of the agency. The synopsis shall not contain the identities of the officers or complainants. However, it will outline the nature of the transgression and the fine or suspension imposed.

E. ACCEPTING COMPLAINTS ALLEGING OFFICER/EMPLOYEE MISCONDUCT

1. All department personnel are directed to accept complaints of officer/employee misconduct from all persons, who wish to file a complaint regardless of the hour or day of the week. Complaints may be received in person, in writing, via telephone or by electronic means. This includes, but is not limited to complaints from third party sources, juveniles, persons under arrest or in custody and complaints from sworn and/or civilian employees of this department. At no time should a complainant be told to return at a later time to file his/her report.

2. Citizens are to be encouraged to submit their complaints in person as soon after the incident as possible. However, if the complainant cannot file the report in person, a police department representative (except in very minor complaints) shall visit the individual at his/her home, place of business or any other location in order to complete the report, if feasible.

3. All department personnel are further directed to accept reports of officer misconduct from anonymous sources. If the anonymous complainant is talking to an officer, the officer should encourage him/her 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 an Internal Affairs Complaint Form listing as much of the information as the anonymous complainant is willing to provide.

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

5. Any department employee who witnesses an employee's misconduct shall immediately report the misconduct up the chain of command. Any accused officer in the chain of command shall be bypassed.

6. Any officer that is a witness to a civil rights violation shall immediately cause the action creating the civil rights violation to cease. He shall then report the conduct up the chain of command bypassing any accused officers. Failure to intercede may result in a violation of federal law. (18.U.S.C.241)

7. Complaints shall also be received from other law enforcement agencies, such as neighboring municipal police agencies, the county prosecutor or the Division of Criminal Justice. In such cases, the complaint should be forwarded to Internal Affairs Officer for immediate handling.

8. If a person wants to make a complaint about a member of another law enforcement agency, he or she should be referred to that agency. If the complainant expresses fear or concerns about making the complaint directly, he/she should be referred to the Essex County Prosecutor's Office.

9. The officer receiving the complaint will:
- a. The supervisor shall advise the complainant of police department procedures for the processing and investigation of citizen's complaints.
 - b. The supervisor shall ensure that a log number is generated from the Cody in-house computer system in order to document the time and date the complaint was made.
 - c. Whenever possible the supervisor will attempt to have the citizen put their complaint in writing on a "Citizens Report" form. However, the failure of the complainant to put their complaint in writing will in no way preclude the investigation of the allegations or relieve the supervisor of the responsibility to receive and process the complaint.
 - d. In addition, the supervisor shall document all complaints in writing on the "Internal Affairs Report Form" (see attachment A). The supervisor shall prepare this form in its entirety and have the complainant sign the bottom where indicated. Signing the form is optional. 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.
 - e. The supervisor shall issue a "Citizen Complaint Information Sheet" (see Attachment B) to the complainant at the time the report is made. If for any reason the supervisor is unable to issue the "Citizen Complaint Information Sheet," the supervisor shall notify the Internal Affairs Officer who will then forward the information sheet to the complainant by mail.
 - f. The supervisor shall prepare an administrative report utilizing the same log number as that which was generated for the citizen's initial report. The administrative report shall include the time and date the complaint was received and a narrative describing the nature of the complaint.
 - g. All completed reports shall then be promptly forwarded to the Internal Affairs Officer who is responsible for screening the complaint. The Internal Affairs Officer shall enter the information into the Internal Affairs Central Index File and designated in-house Internal Affairs computerized case tracking system. The Internal Affairs Officer shall create a case file including an Internal Affairs Checklist, designate a

return date and forward the file to the assigned investigator if other than the Internal Affairs Officer.

h. The supervisor shall advise the complainant that he or she will be kept informed of the status of the complaint and its ultimate disposition.

i. Under no circumstances shall it be necessary for a citizen to make a written report or sworn statement to initiate the Internal Affairs process.

10. In some cases, a complaint is based on a misunderstanding of accepted law enforcement practices or the duties of the officer. Supervisors are authorized to informally resolve minor complaints, whenever possible, at the time the report is made by providing an explanation of departmental policies and procedures. If the complainant is not satisfied with such a resolution, the complaint should be forwarded to the Internal Affairs Officer 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. Even if the citizen is satisfied with the informal resolution, the process shall be recorded on an administrative report and forwarded to the Internal Affairs Officer for review.

a. The supervisor may attempt to resolve these types of complaints by providing an explanation of police department policies and procedures, where applicable.

b. The supervisor should attempt to resolve these types of complaints at the lowest level possible.

c. Attempts to resolve these types of complaints shall be noted on the "Internal Affairs Report Form" (see Attachment A). The supervisor shall also document his/her actions in attempting to resolve the complaint on an administrative report which shall be forwarded to the Internal Affairs Officer.

11. All complaints shall be investigated, as long as the complaint contains sufficient factual information to warrant an investigation. In cases where the identity of the officer is unknown, the Internal Affairs Officer shall use all available means to determine proper identification.

12. Upon receipt of a citizen's complaint, the Internal Affairs Officer shall log the complaint into the Internal Affairs Central Index File,

then contact the complainant and acknowledge receipt of the complaint and advise him or her that the matter is under investigation.

F. GENERAL COMPLAINT ROUTING PROCEDURES

1. Complaints shall be handled as follows:
 - a. All complaints will be forwarded to the Internal Affairs Officer for screening and entry into the department's Internal Affairs record keeping system.
 1. The Internal Affairs Officer shall enter the information into the Internal Affairs Central Index File;
 2. The Internal Affairs Officer shall enter the information into the designated in-house Internal Affairs Computerized Case Tracking System;
 3. The Internal Affairs Officer shall create a case file including an Internal Affairs Checklist; and
 4. The Internal Affairs Officer shall designate a return date and forward the file to the assigned investigator if other than the Internal Affairs Officer.
 - b. Complaints of demeanor and minor rule infractions shall then be forwarded to the supervisor of the subject officer.
 - c. All other complaints shall be retained by the Internal Affairs Officer, including, but not limited to complaints of:
 1. Criminal activity;
 2. Excessive force;
 3. Improper arrest;
 4. Improper entry;
 5. Improper search;
 6. Differential treatment;
 7. Serious rule infractions;
 8. Repeated minor rule infractions or demeanor complaints;
 9. Gross inefficiency, effectiveness or inability to perform duties; and
 10. Other complaints that suggest a serious allegation.

G. INVESTIGATION AND ADJUDICATION OF MINOR COMPLAINTS.

1. The supervisor or commanding officer receiving the complaint shall complete an "Internal Affairs Report Form" (see attachment A) and issue a "Citizen Complaint Information Sheet" (see attachment B) to the complainant. The supervisor shall forward the original "Internal Affairs Report Form," copy of the signed "Citizens Complaint Information Sheet" and administrative report, together with any supporting documentation, to the Internal Affairs Officer for review.

2. The Internal Affairs Officer may, at his / her discretion, refer the matter to the involved officer's supervisor. The Internal Affairs Officer will also determine if the matter will be handled as a Supervisory Action or an Internal Affairs Investigation. Supervisory Actions will be used for minor rule violations only and should not be used for repeated violations. See section R for further details regarding Supervisory Action(s) history.

3. The Internal Affairs Officer or designee shall notify the subject officer in writing that a complaint has been made against him / her, and that an investigation will begin, unless the notification would interfere with the investigation. The Internal Affairs Officer or designee shall utilize the "Internal Affairs Complaint Notification" form (see attachment C) for this purpose.

4. The supervisor investigating the complaint shall interview the complainant, all witnesses and the accused officer, as well as review relevant reports, activity sheets or dispatch forms. The supervisor shall then submit a report to the Internal Affairs Officer summarizing the matter, indicating the disposition he/she recommends. Possible recommended disposition include the following:

(a) Exonerated

(1) The alleged incident did occur, but the actions of the officer were justified, legal, proper and consistent with department policy.

(2) The officer's behavior was consistent with department, but there was a policy failure.

(b) Sustained

(1) The investigation disclosed sufficient evidence to clearly prove the allegation.

(c) Not Sustained

(1) The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

(d) Unfounded

(1) The investigation indicated that the acts complained of did not occur.

(e) Administratively Closed

(1) To be used to close out a case when the complainant voluntarily requests that a complaint be withdrawn, or the subject officer terminates his or her employment prior to disposition of the complaint.

5. The internal affairs investigator shall continually reassess the nature of an internal affairs investigation as evidence is being gathered to determine whether any of the evidence gathered following the initial determination (administrative) changes the nature and scope of the investigation. If the 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, the investigator shall cease using the methods and procedures appropriate for an administrative investigation and notify the Essex County Prosecutor's Office immediately before proceeding any further.

6. If the investigating officer determines the disposition of the complaint is unfounded, not sustained or exonerated, and the Internal Affairs Officer concurs, the investigation report will be forwarded to the office of the Chief of Police for review. If the Chief of Police concurs with the disposition, the matter shall be closed and the Internal Affairs Central Index File shall be updated. The subject officer shall be notified in writing of the outcome of the investigation.

7. If the complaint is determined to be sustained, the superior officer so authorized should determine the appropriate disciplinary action. Typical disciplinary actions for minor infractions include Initial Contact, Verbal Warning, Performance Notice, or Written Warning. However, a Formal Disciplinary Charge is not precluded for a minor infraction or minor complaint. 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 Chief of Police or appropriate supervisor for review, placed in the officer's personnel file, and sent to internal affairs for entry into the Internal Affairs Central Index and filing.

8. The department must notify the subject officer(s) in writing of the complaint(s) and their outcomes, and must notify complainants of the outcome of the investigation upon final disposition.

9. Upon final disposition of the complaint, a letter shall be sent to the complainant by the Internal Affairs Officer explaining the outcome of the investigation and the final disposition. .

H. DISCIPLINARY PROCEDURES (MINOR COMPLAINTS).

1. The following procedures have been developed to better assist both the members of the department and the department's administration in complying with and administering the Maplewood Police Department Rules and Regulations.

2. The primary goal of internal affairs and discipline is to correct problems and improve performance. Therefore, relatively minor complaints may be handled by management in the subject officer's chain of command.

3. Whenever possible, minor complaints that are handled within the subject officer's chain of command shall be assigned to and handled by a commanding officer at least one step removed from the officer's immediate supervisor.

4. Initiation of disciplinary action for minor complaints may include any of the following steps:

- a. Initial Contact;
- b. Verbal Warning; and
- c. Performance Notice.

6. Supervisors retain the discretion to select a higher level of disciplinary action (Formal Disciplinary Action) in the handling of a minor complaint when warranted, as determined by the circumstances involved. Such higher levels include:

c. Written Warning; or

d. Formal Disciplinary Charge.

7. Initiation of disciplinary action for minor complaints:

a. The supervisor giving the Verbal Warning, Performance Notice or Written Warning shall complete the appropriate disciplinary document.

b. The officer or employee shall be advised of the discipline and given a copy of the disciplinary document.

c. The supervisor will forward copies of the disciplinary document to the Chief of Police for review, and to the Internal Affairs Officer for filing.

d. Personnel records are separate and distinct from internal affairs investigation records. Internal affairs investigation reports shall never be placed in an employees Personnel file. When a complaint has a disposition of Exonerated, Not Sustained, Unfounded or Administratively Closed, there shall be no indication in the employee's Personnel File that a complaint was ever made. In those cases where a minor complaint is sustained and discipline imposed a copy of the disciplinary document will be placed in the officer's or employee's personnel file according to the following procedures:

1. Verbal Warnings. Six (6) months after the date of issuance of a Verbal Warning, the disciplinary document indicating such action shall be removed from the employee's Personnel File, provided no other breach of discipline has occurred. Once removed from the employees Personnel File, the disciplinary document shall be retained in the employee's Internal Affairs file. It shall be the responsibility of the effected employee to request that the disciplinary document be removed from his or her Personnel File upon completion of the six (6) month period, provided no other breach of discipline has occurred. The Internal Affairs Officer shall notify the subject employee in writing that the disciplinary document indicating that a Verbal Warning was issued has been purged.

2. Performance Notices. Upon completion of the reckoning period, the Performance Notice shall be removed from the employee's Personnel File provided no other breach of discipline has occurred. Once removed from the employees Personnel File, the Performance Notice shall be retained in the employee's Internal Affairs file. It shall be the responsibility of the effected employee to request that the Performance Notice be removed from his or her Personnel File upon completion of the reckoning period, provided no other breach of discipline has occurred. The Internal Affairs Officer shall notify the subject employee in writing that the Performance Notice has been purged.

3. Written Warnings. The Written Warning will remain permanently in the officer's or employee's personnel file.

8. Repetitive minor rule infractions and demeanor complaints shall be treated in accordance with the procedures set forth in section H of this policy ("Investigation and Adjudication of Serious Complaints") immediately below.

H. INVESTIGATION AND ADJUDICATION OF SERIOUS COMPLAINTS

1. All serious complaints shall be immediately forwarded to the Chief of Police for assignment to the Internal Affairs Officer. These include complaints of:

- a. Criminal activity
- b. Excessive force
- c. Improper or unjust arrest
- d. Improper entry
- e. Improper or unjustified search
- f. Differential treatment
- g. Serious rule infractions
- h. Repeated minor rule infractions or demeanor complaints
- i. Gross inefficiency, effectiveness or inability to perform duties; and
- j. Other complaints that suggest a serious allegation

2. The supervisor or commanding officer initiating such action shall complete a "Citizen's Complaint Information Sheet" (see attachment

B) and an “Internal Affairs Report Form” (see attachment A). Upon completion of these forms, together with any supporting documentation, the forms shall be submitted to the Internal Affairs Officer for assignment for investigation as deemed appropriate.

3. The Internal Affairs Officer shall notify the subject officer/employee in writing that a complaint has been made against him or her, and that an investigation will begin, unless the notification would interfere with the investigation. The Internal Affairs Officer or designee shall utilize the “Internal Affairs Complaint Notification” (see attachment C) form for this purpose.

4. The Internal Affairs Officer shall interview the complainant, all witnesses and the subject officer. Whenever possible, the complainant and all witnesses to the matter under investigation should be personally interviewed and formal statements taken.

5. The Internal Affairs Officer shall ensure that all relevant reports and digital media are obtained and preserved as expeditiously as possible. Such media includes digital telephone and radio recorders, in-house computers systems and mobile data computers. The Internal Affairs investigator shall review all relevant reports relating to the subject officer’s duties, including but not limited to arrest reports, incident reports, radio logs, patrol logs, evidence logs, activity sheets and computer aided dispatch system entries. The investigator shall review documents of any other agency or organization 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, FBI or SBI records, motor vehicle abstracts and telephone records. In some instances, subpoenas or search warrants may be necessary to obtain the information. The investigator shall also obtain necessary information and materials such as:

- a. Physical evidence
- b. Statements or interviews from all witnesses
- c. Statements or interviews from all parties of specialized interest, such as doctors, employers, lawyers, teachers, legal advisors, parents, etc.
- d. Investigative aids, such as the various reports, activity sheets, computer entries or logs.

6. The internal affairs investigator shall continually reassess the

nature of an internal affairs investigation as evidence is being gathered to determine whether any of the evidence gathered following the initial determination (administrative vs. criminal) changes the nature and scope of the investigation. If the 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, the investigator shall cease using the methods and procedures appropriate for an administrative investigation and notify the Essex County Prosecutor's Office immediately before proceeding any further.

7. Where preliminary investigative data indicates the possibility of a criminal act on the part of the subject officer, or the investigation involves the use of force by the officer which results in serious bodily injury or death, the Essex County Prosecutor shall be notified immediately. No further action shall be taken, including the filing of charges against the officer, until directed by the county prosecutor. In those cases where both a criminal investigation and an administrative disciplinary investigation are needed, the Internal Affairs Officer shall separate the investigations by time - the criminal investigation is to be completed first, and then the administrative investigation shall follow.

8. Interviewing the subject officer.

a. The internal affairs investigator shall schedule an interview with the subject officer.

b. Questioning sessions shall be recorded mechanically (i.e. audio or video recorded) or by a stenographer. There shall be no "off-the-record" questions. All recesses called during the questioning shall be noted in the record. A transcript or copy of the recording shall be made available to the officer, if applicable, at the appropriate stage of a criminal or administrative disciplinary proceeding. If the subject officer wishes to make a recording of the interview, he or she may do so, and a copy of the recording shall be made available to the department upon request, at the agency's expense.

c. While the Sixth Amendment right to counsel does not extend to administrative investigations, an officer shall be permitted to choose an attorney as his or her representative if he or she so desires. If it appears that the presence of counsel or another representative (i.e. union official) requested by the subject will not disrupt or delay the interview, there is no reason to prevent his or her presence as an observer. However, the representative or attorney cannot interfere with the

interview. If the representative is disruptive or interferes, the investigator can discontinue the interview, documenting the reasons the interview was ended.

d. Before questioning begins, inform the subject officer of:

1. The nature of the complaint. Sufficient information to reasonably apprise the subject officer of the allegations shall be provided;
2. If it is known that the subject officer to be interrogated is a witness only, he or she shall be so informed;
3. The rank, name and command of the person in charge of the investigation as well as the rank, name and command of the interrogating officer, the names of all persons who will be present during questioning and the names of the complainant(s) if known to the department.
4. The questioning session must be of reasonable duration, taking into consideration the complexity and gravity of the subject matter of the investigation. The officer must be allowed time for meal breaks, rest periods, telephone calls and to attend to personal physical necessities as are reasonably necessary.
5. The subject officer/employee shall not be subject to any offensive language, nor shall he or she be threatened with transfer, dismissal or other disciplinary, punishment. No promise of reward shall be made as an inducement to answering questions. Nothing herein is to be construed as to prohibit the interrogating officer from informing the officer/employee that his or her conduct can become the subject of a disciplinary action resulting in disciplinary punishment.
6. If the subject officer or employee is under arrest or likely to be, that is, if he or she is suspect or target of an criminal investigation, he or she shall be given his or her rights pursuant to the United States Supreme Court Requirements (i.e. Miranda Rights) before any questioning commences.

e. 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 Investigations Only Advisement” form (see attachment D). 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. 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 his or her 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 against the officer in a criminal case.

f. The procedure by which an officer is informed that his or her statement will not be used against him or her in a criminal case is called a “Garrity warning.” Through this warning, the officer being interviewed is informed 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”. Under this doctrine, the officer’s statement cannot be introduced as evidence against him or her in a criminal case. In all cases, approval from the authorizing assistant prosecutor or deputy attorney general must be obtained before giving the Garrity warning.

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. The case shall then be promptly referred to the Essex County Prosecutor’s Office.

h. In cases of a potential criminal violation, it is absolutely necessary for the internal affairs investigator to coordinate officer interviews with the Essex County Prosecutor’s Office. The investigator shall consult with the county prosecutor prior to the initiation of an officer interview in matters that could involve criminal conduct. The investigator shall pay particular attention to the county prosecutor’s instructions concerning the type of interview to be conducted and types of procedures to be utilized (e.g. Miranda Warning, Garrity Warning, etc.). Because the county prosecutor is ultimately responsible for the prosecution of criminal cases, the internal affairs investigator shall defer to the supervision and direction of the county prosecutor in conducting officer interviews.

9. Interviewing the Officer as a Witness:

- a. When interviewing a law enforcement officer as a witness, he or she shall be made aware of the differences between being a witness in an administrative investigation and being the subject of an administrative investigation.
- b. The officer 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 shall be advised of that fact and the appropriate procedures followed.
- c. Officers who are witnesses have an obligation to cooperate. They must truthfully answer all questions that are narrowly and directly related to the performance of 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 his or her answer would incriminate him or her in a criminal matter, the officer must assert his or her Miranda rights.

10. Upon completion of all possible avenues of inquiry, the Internal Affairs Investigator shall submit the following reports to the Chief of Police:

- 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. The first part of the report will be an objective recounting of all the relevant information disclosed during the investigation, including statements, documents, and other evidence. This part of the report is similar in all respects to a standard law enforcement investigation report. It should contain a complete account of the investigation.
- b. Conclusions of fact/final dispositions, as defined in section IV. G-4 of this directive include any of the following:
 1. Exonerated;
 2. Sustained;
 3. Not sustained;
 4. Unfounded; or

5. Administratively Closed.

11. The completed investigation report and summary report along with all supporting documentation shall be forwarded to the Chief of Police.
12. After review of the report, supporting documentation and information gathered during any supplemental investigation, the Chief of Police shall direct whatever action is deemed appropriate.
13. Upon completion of its investigation with a finding of exonerated, not sustained or unfounded, the Internal Affairs Officer shall notify the subject officer in writing of the disposition.
14. If the complaint is sustained and it is determined that formal charges should be preferred, the Chief of Police shall direct the appropriate Division Commander, Supervisor or Internal Affairs Officer to prepare, sign and serve charges upon the subject officer or employee.
15. The Chief of Police, Division Commander or Internal Affairs Officer shall prepare a formal "Notice of Charges and hearing" and serve same upon the officer being charged.
16. The formal "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 (5) days after the date of services of the charges.
17. If the officer charged waives his right to a hearing and enters a plea of guilty, the Chief of Police shall permit the officer to present factors in mitigation prior to assessing a penalty.
18. Conclusions of fact and the penalty imposed will be noted in the officer's personnel file after he has been given an opportunity to read and sign it. The division commander will cause the penalty to be carried out and complete all required forms.

I. SUSPENSION PENDING DISPOSITION OR INVESTIGATION

1. A supervisor, commander or law enforcement executive 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. Advise the employee in writing via an “Immediate Suspension Notice” form (see attachment E) of why an immediate suspension is sought and the charges and general evidence in support of the charges. If the employee refuses to accept the written notification of immediate suspension, it shall be given to a representative of the employee's collective bargaining unit.
- b. Provide the employee with sufficient opportunity to review the charges and the evidence and to respond either orally or in writing.
- c. 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. Administrative reassignment

- a. In cases involving use of force that results in death or serious bodily injury the officer involved may be reassigned to administrative duty pending the outcome of the investigation.

b. Any officer under investigation or pending a hearing on charges may be reassigned by the Chief of Police to administrative or modified duties pending the outcome of the investigation or hearing if, in the discretion of the chief of police, such reassignment is necessary to protect the integrity and image of the police department.

c. These reassignments are subject to change at the discretion of the Chief of Police.

J. HEARING

1. Upon written notice of a request for a hearing from the subject officer the Chief of Police or his/her designee will set the date for the hearing within a reasonable time and arrange for the hearing of the charges. The Chief of Police or his/her designee shall provide written notice to all parties involved of the hearing date and time pursuant to 40A:14-147.

2. The Internal Affairs Officer will be responsible for or assist the assigned supervisor or prosecutor in the preparation of the 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.

3. In the event of a hearing, the Internal Affairs Officer 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. The subject officer or employee shall have the same rights to discovery as any defendant in a civil or criminal matter.

4. The hearing shall be held before the appropriate authority or the appropriate authority's designee.

5. All disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.

6. The hearing authority shall be empowered to enter a finding of guilty or not guilty, modify the charges in whole or in part as deemed necessary, or dismiss the charges stated in the complaint. The decision of the hearing authority should be in writing and should be accompanied by findings of fact for each issue in the case.

7. The hearing authority shall fix any of the following punishments when a determination of the guilt has been made. The appropriate punishment under the circumstances should be established from the following:

- a. Counseling
- b. Oral reprimand or performance notice
- c. Letter of reprimand
- d. Loss of vacation time
- e. Imposition of extra duty
- f. Monetary fine
- g. Transfer/reassignment
- h. Suspension without pay
- i. Loss of promotion opportunity
- j. Demotion
- k. Discharge from employment

8. A copy of the decision or order and accompanying findings and conclusions should 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 officer.

9. Upon completion of the hearing the Chief of Police or his/her designee will complete all required disposition forms, send appropriate memorandums and issue appropriate personnel orders.

10. Upon completion of the case the Internal Affairs Officer shall enter the disposition into the central index file.

11. If the charges were sustained the chief of police will cause the copy of the disposition form shall be permanently placed in the officer's or employee's personnel file. No part of the internal affairs investigation report shall be placed in the personnel file.

K. APPEALS

1. Appeals of disciplinary decisions handed down by a hearing officer shall be processed in accordance with the procedure outlined in the Rules and Regulations.

2. All other appeals of disciplinary actions instituted by authorized department personnel shall be processed in accordance with the Appeal Procedure as set forth in Township of Maplewood Employee Handbook (Effective Date October 6, 2009). In the event that provisions of the handbook concerning appeals of disciplinary actions conflict with any provisions of a collective bargaining agreement

entered into by the Township, the provisions of the collective bargaining agreement shall govern.

L. COOPERATION WITH INTERNAL AFFAIRS INVESTIGATORS

1. All officers and employees of the Maplewood Police Department shall fully cooperate with any internal affairs investigation. Officers are required to answer all questions specifically or directly related to the performance of his/her duties. Refusal to immediately cooperate with an order or request by an internal affairs investigator is a violation of police department's rules and may be grounds for disciplinary action.
2. Any required self-incriminating statements made in the absence of a Miranda Warning may be used only in subsequent administrative proceedings and not for criminal actions.
3. No officer or employee of the Maplewood Police Department shall at any time alter, conceal or in any manner contaminate any evidence, reports or tamper with any witness or complainant in an internal affairs matter.

M. EVIDENCE

1. The assigned investigator should obtain all relevant physical evidence. All evidence, such as clothing, hair or fibers, stains and weapons should be handled according to established evidence procedures.
2. With respect to radio tapes, the original tape is the best evidence and should be secured at the outset of the investigation. Transcripts or copies of the original recordings can be used as investigative leads. Tapes should be monitored to reveal the totality of the circumstances.
3. Photographs
 - a. In the event of a complaint involving excessive force, the following photographic documentation shall be obtained when appropriate. Whenever possible, color photography shall be used.

1. Photographs of the complainant at the time of the arrest or following the alleged incident of excessive force.
2. Photographs of the officer in the event that the officer was a victim.
3. A recent photograph of the accused officer(s) in the event that a photo line-up will be used for identification purposes. The photo line-up must be retained for possible evidentiary purposes.
4. Photographs of the scene of the alleged incident, if necessary.

4. Physical Tests

- a. Police officers who are the subjects of internal affairs investigations may be compelled to submit to various physical tests or procedures to gather evidence. Such evidence may be used against them in a disciplinary proceeding.
- b. No person has a right to refuse to submit to an examination to obtain a record of his physical features and other identifying characteristics of his physical or mental condition. Evid. R. 25(a). Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:
 1. Blood samples.
 2. Breath samples.
 3. Requiring the suspect to speak.
 4. Voice recordings.
 5. Participation in a suspect line-up.
 6. Handwriting samples.
 7. Hair and saliva samples.
 8. Urine analysis.
- c. Generally, a person cannot be physically forced to produce this evidence or submit to such tests, although a court order may be obtained to legally compel him to do so. Refusal to comply with the order can result in a contempt of court action, and may also result in a second disciplinary action for failure to comply with a lawful court order.

5. Polygraph Tests

a. While a police officer who is the subject of an internal investigation may request a polygraph examination, an employer shall not influence, request or require an employee to take or submit to a polygraph examination as a condition of employment or continued employment (N.J.S. 2C:40A-1).

b. An officer cannot be required to submit to a polygraph on pain of dismissal. *Engel v Township of Woodbridge*, 124 N.J. Super. 307 (App. Div. 1973)

c. If a polygraph is used, a qualified police polygraph operator must administer the test.

6. Search and Seizure

a. Property belonging to the Maplewood Police Department or located within the police department's buildings, vehicles or facilities is subject to inspection at any time. All department vehicles, assigned storage space(s), desks, computer files, lockers and the like are subject to entry and inspection without notice. Personal brief cases, bags and containers shall not be searched without a warrant or consent.

7. Documentation and Evidence Storage

a. To ensure the confidentiality and security of the Internal Affairs process, evidence collected by Internal Affairs investigators will not be entered in the Cody Records Management System. Further, evidence will be secured by Internal Affairs personnel and maintained by the members of the Internal Affairs unit.

b. For potential criminal investigations, the Internal Affairs investigator will turn evidence over to the Essex County Prosecutor's Office Professional Standards Bureau if and/or when requested and/or ordered. If the evidence is collected by the Prosecutor's Office investigator(s), the Internal Affairs Investigator will include the information in the case report. The chain of custody will be managed by the Prosecutor's Office. Evidence collected by members of the Maplewood Police Department Internal Bureau will be documented and maintained by the Internal Affairs Unit until such time the Prosecutor's Office requests and/or orders it be turned over. The details will be documented by the Internal Affairs investigator.

c. For administrative investigations, any evidence collected during the investigation, recordings, photos, etc..., will be kept with the case file with any necessary details included in the case report.

N. TOWNSHIP INVESTIGATION

Nothing contained herein shall be applicable to an investigation conducted by the Township Committee Members, other law enforcement agency, or agents of any of these organizations or agencies.

O. CONFIDENTIALITY

1. The nature and source of internal allegations, the progress of internal affairs investigations, and the resulting materials are confidential information.
2. The progress of internal affairs investigations and all supporting materials are considered confidential information. All department employees are required to keep all aspects of any internal affairs case and/or investigation in strict confidence, whether involved in the investigation or not. This shall be construed as to prohibit any employee from revealing any information whatsoever, including, but not limited to:
 - a. An employee's participation in an internal affairs interview;
 - b. The existence of an internal affairs investigation;
 - c. The subject matter of an internal affairs investigation;
 - d. The target of an internal affairs investigation;
 - e. The identity of complainants and/or witnesses; and
 - f. Any other information related to an internal affairs investigation.
3. All Internal Affairs files shall be fully secured in a central repository clearly marked as "confidential." Such files shall be retained and maintained by the Internal Affairs Officer.
4. The information and records of an internal investigation shall not be released, whatsoever, without the written authorization of the Chief of Police; and then only under the following limited circumstances:

- a. In the event that administrative charges have been brought against an officer, and a hearing will be held, a copy of those internal investigation reports to be used as evidence in the administrative hearing shall be provided to the officer.
 - b. In the event that the subject officer, agency or governing jurisdiction has been named as a defendant in a lawsuit arising out of the specific incident covered by an internal investigation, a copy of the internal investigation reports may be released to the attorney representing the subject officer, agency or jurisdiction.
 - c. Upon the request or at the direction of the county prosecutor or Attorney General.
 - d. Upon a court order.
 - e. The Chief of Police may authorize access to a particular file or record for good cause. The request and the authorization should be in writing, and the written authorization should specify who is being granted access, to which records access is being granted, and for what time period access is permitted. The authorization should also specify any conditions, such as one in which the files may be reviewed only at the internal affairs office and may not be removed. The Chief of Police should grant such access sparingly, keeping in mind the purpose of the internal affairs process and the nature of many of the allegations against officers.
 - f. Subpoenas directing the production of internal affairs investigative records. However, before responding to the subpoena, the Chief of Police or internal affairs investigator shall consult with this agency's legal counsel to determine whether the subpoena is valid and reasonable. Invalid or unreasonable subpoenas may be modified or quashed by the court. A court will require those seeking to modify or quash the subpoena to file the appropriate motion with the court.
5. If the release of internal affairs documents is appropriate, the agency should inventory the reports they are releasing and obtain a signed receipt.
6. Only the Chief of Police or his designee is empowered to release publicly the details of an internal investigation or disciplinary action.

7. All disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.

P. REPORTING & NOTIFICATIONS

1. The Internal Affairs Officer shall prepare periodic reports for the Chief of Police that summarize the nature and disposition of all misconduct complaints received by the agency. This report shall be prepared at least quarterly, but may be prepared more often if needed. The report shall include the principal officer, the allegation, the complainant, the age, sex, race and other complainant characteristics which might signal systematic misconduct by any member of the department, and the status of the investigation. Concluded complaints should be recorded and the reasons for termination explained. This report shall be considered a confidential, internal work product. Dissemination of the report should be limited to command personnel, the Essex County Prosecutor, and the Appropriate Authority.

3. All training and counseling actions resulting from a performance issue shall be documented and forwarded to the Chief of Police or his designee for review/approval.

4. All punitive actions applied as a result of discipline shall be documented and forwarded to the Chief of Police or his designee for review/approval.

5. This agency shall report internal affairs activity to the Essex County Prosecutor's Office on an annual and bi-annual basis as follows:

a. Annual Report

1. Internal Affairs Summary Report. This report summarizes the number of cases received and their dispositions during the reporting period. The reports to be used are provided by the Essex County Prosecutor's Office and are labeled as follows: Tables 1 "Complaints Filed;" Table 2 "Agency Dispositions" and Table 3 "Court Dispositions."

b. Bi-Annual Reporting

1. Executive Summary & Risk Management Assessment. This report is filed by the Chief of Police on a bi-annual basis and includes the following information:

- a. Summary of Internal Affairs Matters for prior six months;
- b. Trends observed
- c. Whether or not any officers have been identified for enhanced supervision as a result of the Early Intervention System;
- d. Tables for Citizen, Internal and Anonymous Complaints.

c. The Essex County Prosecutor's Office will provide this agency with the report forms to be used, instructions on completing the forms, and a reporting schedule.

6. The Internal Affairs Officer shall notify the Essex County Prosecutor's Office, Professional Standards Bureau of an allegation made against an officer of this agency involving conduct which constitutes an offense (i.e. Indictable, DP, PDP) under state or federal law within seven (7) days of the date the allegation is made.

5. In addition, the Internal Affairs Officer shall promptly report to the county prosecutor the identity of a subject officer who has been found to have committed an act of misconduct or any disciplinary infraction which relates to the subject officer's veracity and credibility, such as falsifying official records or reports.

Q. INTERNAL AFFAIRS RECORDS

1. A separate internal affairs file system shall be maintained in a secured file cabinet under strict control of the chief of police and internal affairs supervisor. Access shall be restricted to those approved by the chief who possess a bona fide need in connection with official department business.

2. The Internal Affairs investigation file system shall contain all investigative files resulting from internal affairs complaints and the original copy of the following reports:

- a. Vehicular Pursuit Reports
- b. Use of Force Reports
- c. Firearm's Discharge Reports

3. The internal affairs investigation file should contain the entire work product of the internal affairs investigation, regardless of the author.

This includes investigators' reports, transcripts of statements, and copies of all documents relevant to the investigation. The file should also include all related material from other department incidents as may be applicable.

4. Internal affairs Investigation files will be numbered with a prefix corresponding to the last two digits in the calendar year in which the complaint was received followed by the chronological number of the complaint in that calendar year.

5. In those cases where an internal affairs investigation results in the filing of criminal charges, the internal affairs file shall be made available to the county prosecutor's office. It will be the responsibility of the county prosecutor's office to decide which items are discoverable and which are admissible. In these cases, the department must follow the instructions of the county prosecutor.

6. Personnel records are separate and distinct from internal affairs investigation records. Internal affairs investigation reports shall never be placed in an employees personnel file. 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. In those cases 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.

7. The internal Affairs Officer shall also maintain an Internal Affairs Index File in accordance with Attorney General Guidelines. The purpose of the internal affairs index file is to serve as a record control device. It will maintain an inventory of internal affairs case files and summarize the status of each case for authorized personnel. Upon completion of a case, the internal affairs investigator shall turn the file over to the Chief of Police or his/her designee where an entry will be made in the Internal Affairs Central Index. The instrument used for such an index file may include a log book, index cards or a computerized data base. All internal affairs complaints shall be recorded in the index file. Entries should record the basic information on each case, 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 location of the complete investigation file, and will simplify case tracking.

8. 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. The schedule provides for a minimum retention period. However, longer retention periods than those provided for under the schedule will provide this department with the resources and evidence necessary to assist with the defense of civil lawsuits should they arise. Therefore the following retention periods taken from the schedule shall be considered only to be a minimum period of time to retain Internal Affairs Records. Longer periods of retention are encouraged.

- a. Files concerning a criminal homicide must be permanently maintained.
- b. Files involving a criminal matter that resulted in the arrest of the subject officer must be maintained for 75 years.
- c. All other criminal or administrative internal affairs investigative files shall be maintained for five years after the subject officer’s retirement.

9. No Internal Affairs record(s) shall be destroyed without the written consent of the Chief of Police.

R. INTERNAL AFFAIRS HISTORY AND SUPERVISORY ACTION HISTORY

1. In addition to the Internal Affairs Index, an individual history shall be kept for all personnel which will include all Internal Affairs complaints against the employee. The history will include the following:

Name of employee
Complainant information
Allegation
Complaint status / disposition
Administrative case number
Internal Affairs case number

It is necessary to maintain an accurate history in order to ensure progressive discipline is properly applied. Whenever the Internal Affairs Officer is determining the level at which a complaint will be investigated, Internal Affairs investigation or Supervisory Action and disciplinary recommendations (when applicable) the Internal Affairs Officer will first review the employee’s history for prior violations. An employee’s history will remain confidential and shall be used for Internal Affairs matters. Only authorized Internal Affairs personnel will have access to an employee’s history. The history will be provided to the Essex County Prosecutor’s

Office Professional Standards Bureau for any cases reviewed by their agency (required).

2. The Internal Affairs Officer will also review the employee's Supervisory Action History to determine if the employee has had other incidents of the same / similar nature that were handled at a lower level. The Internal Affairs Officer will use this information when determining if lower level resolutions have failed and whether or not the new matter warrants an Internal Affairs investigation or should be handled at a lower level (minor complaints and or rule violations only). The Supervisory Action History will include:

Name of the employee
Initiated by
Nature
Status / disposition
Administrative case number
Case management number

An employee's supervisory action history will remain confidential. Only Internal Affairs personnel will have access to an employee's supervisory action history.

Internal Affairs personnel may share the nature of both Internal Affairs complaint(s) and supervisory action(s) with the employee's immediate supervisors when a matter is sustained. This will ensure the employee's supervisor can properly monitor the individual(s) under their command, identify patterns / trends and make the appropriate referrals. This may consist of anything from requesting a higher or lower action in resolving a matter, an early intervention referral and / or provide the employee with information for the employee assistance program when appropriate.

S. COORDINATION WITH OTHER LAW ENFORCEMENT AGENCIES

1. In certain circumstances it is appropriate and necessary to share Internal Affairs investigation files with other agencies. This Department will ensure compliance with the Attorney General's Guidelines with regards to when Internal Affairs information is to be shared and requested.

a. In the event a Maplewood Police Officer (prior or current employee) is being investigated as part of the hiring process by another jurisdiction, this Department will share with the inquiring agency all internal investigative files related to the Officer's employment with the Maplewood Police Department as this information is necessary for the inquiring agency to make an informed decision regarding hiring the individual. Any information shared with a requesting agency must remain confidential and the information will not be permitted to be disclosed to any other party.

b. This requirement to share information does not apply when the Internal Affairs file cannot be shared because the information is clearly subject to a non-disparagement or non-disclosure agreement. Due to the fact that these agreements inhibit the ability of law enforcement agencies to fully evaluate candidates and these agreements pose a risk to public safety, agencies are strongly discouraged from entering into these agreements.

c. In the event this Department has an applicant that worked for another jurisdiction prior, the other agency/agencies will be contacted and inquiry will be made if the applicant has an Internal Affairs history with the agency/agencies. If so, access of the investigative files will be requested so that they can be reviewed prior to any decision regarding whether or not the individual will be hired. This information will be used solely for this purpose and the information will not be disclosed to any other party.

-END-

Attachment A: Maplewood Police Department Internal Affairs Report Form

Attachment B: Maplewood Police Department Citizen Complaint Information Sheet

Attachment C: Maplewood Police Department Internal Affairs Complaint Notification Form

Attachment D: Maplewood Police Department Administrative Investigations Only Advisement

Attachment E: Maplewood Police Department Immediate Suspension Notice

Attachment F: Attorney General's Internal Affairs Policy & Procedures
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