

	RUTGERS UNIVERSITY POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM		2:10
	INTERNAL AFFAIRS		
	Effective Date: 07-19-2018	Supersedes: 2:10 (08-05-2016)	

2:10-1 PURPOSE

- a. The Rutgers University Police Department is committed to providing law enforcement and security services that are fair, effective and impartially applied. To help achieve this, all department personnel, including both sworn officers and civilian employees, are held to the highest standards of conduct and are expected to respect the rights of all persons. Adherence to these standards, by personnel motivated by a moral and professional obligation to perform their jobs to the best of their ability is the ultimate objective of this department.
- b. The effectiveness of a law enforcement agency is dependent upon public approval and acceptance of law enforcement authority. The department must be responsive to the community by providing formal procedures for the processing of complaints from the public regarding individual officer performance.
- c. The purpose of this policy is to improve the quality of law enforcement services. Citizen confidence in the integrity of the law enforcement agency increases through the establishment of meaningful and effective complaint procedures. This confidence engenders community support for the law enforcement agency. Improving the relationship between the officers and the citizens they serve facilitates cooperation vital to the department's ability to achieve its goals. An effective disciplinary framework also permits law enforcement officials to monitor officers' compliance with department policies and procedures. Adherence to established policies and procedures assists officers in meeting department objectives while a monitoring system permits managers to identify problem areas requiring increased training or direction.
- d. Finally, this policy will ensure fairness and due process protection to citizens and officers alike. 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.

2:10-2 POLICY

- a. It is the policy of the Rutgers University Police Department to accept and investigate **all** complaints of alleged personnel misconduct or wrongdoing from all persons who wish to file a complaint regardless of the hour or day of the week. This includes, but is not limited to: reports from anonymous sources, third parties, juveniles, intoxicated persons and persons under arrest or in custody. Following a thorough and impartial examination of the available factual information, the subject employee shall be either exonerated or held responsible for the alleged misconduct.
- b. It is the policy of this department that officers and other employees, regardless of rank or position, 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 and other employees are also subject to disciplinary action for failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment. In addition, they may be disciplined for violation of any rule or regulation of the department or for failure to obey any lawful instruction, order or command of a superior officer or supervisor. Disciplinary action in all matters will be determined based upon the merits of each case.

- c. It is the policy of this department that officers conducting the investigation of any allegation of misconduct must strive to conduct a thorough and objective investigation without violating the rights of the subject employee or any other employee, and show proper respect to all members of the public. Accordingly, all supervisors and any other officer who may be called upon to do an internal investigation must be thoroughly familiar with the department's internal affairs policy.
- d. It is the policy of this 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, supervisors, and other employees; community outreach; and the analysis of misconduct complaints and their outcome.
- e. It is the policy of this department that each employee shall be provided ready access to an official, department-written manual which contains specific directions for conducting all aspects of law enforcement work. Categories of misconduct shall be clearly described and defined, and the disciplinary process shall be thoroughly explained in the manual.
- f. This department shall have policies consistent with the Guidelines established by the New Jersey State Attorney General's Office, and the applicable directives issued by the respective County Prosecutor's Offices in the area of Internal Affairs.

2:10-3 GENERAL

- a. The Professional Standards Division Commander (PSD Commander) has been designated as the internal affairs commander ("IA Commander") to oversee the internal affairs function and shall report directly to the Executive Director of Public Safety / Chief of University Police for this function (EDPS / CUPD). Personnel assigned to the internal affairs function shall serve at the pleasure of and report directly to the PSD Commander with regard to the investigation to which they are assigned.
- b. The IA Commander shall have staff and line authority over matters pertaining to internal affairs.
- c. The IA Commander may assign internal affairs responsibilities such as the investigation of specific complaints to other members of the department. The following personnel are generally given internal affairs assignments:
 - Division Commanders
 - Tour Commanders
 - First Line Supervisors
 - Department Firearms Officer

- Security Division Supervisors
- d. 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 objective, impartial investigation and review.
- e. Duties and responsibilities
 1. The Internal Affairs Bureau (IAB) is responsible for the investigation and review of all allegations of misconduct by members of this department.
 2. In addition to investigations concerning allegations of misconduct, internal affairs shall be responsible for the coordination of investigations involving the discharge of firearms by department personnel.
 3. Internal affairs shall be responsible for any other investigation as directed by the EDPS / CUPD.
 4. Supervisors may conduct an internal affairs investigation on their own initiative upon approval by, or at the direction of, the EDPS / CUPD or the IA Commander.
 5. The IA Commander may refer investigations to the employee's supervisor for action as outlined in this directive.
 6. Personnel assigned to the IAB, or that may be temporarily assigned to the Internal Affairs Function shall have the authority to interview any member of the department and to review any record or report of the department relative to their assignment. Requests from internal affairs personnel, in furtherance of their duties and responsibilities, shall be given full cooperation and compliance as though the requests came directly from the Chief of Police.
 7. The IA Commander shall maintain a comprehensive central file on all complaints received by this department, whether investigated by the IAB or assigned to the employee's supervisor(s) for investigation and disposition. This comprehensive central file shall be maintained within the IAPro[®] software.
 8. The Internal Affairs Commander shall prepare quarterly reports that summarize the nature and disposition of all misconduct complaints received by the department for submission to the EDPS / CUPD.
 9. Copies of the internal affairs report shall be distributed to the county prosecutor's office (*as required*) and will be available for review by all command officers.
 10. An annual report summarizing the types of complaints and internal affairs investigations received and the dispositions of the complaints shall be made available to members of the public. This annual summary report shall be published to the department's website. The names of complainants and subject employees shall not be published in this report. This report shall include a brief synopsis of all complaints where a fine or suspension of ten days or more was assessed to a member of the agency.
- f. For purposes of this directive, the term "complaint" shall be liberally construed to include allegations of employee conduct that may be unconstitutional, unlawful, inappropriate, or a possible violation of this department's written directives.
 1. A tort claim notice or the filing of a civil lawsuit, by either a civilian or department employee, which alleges misconduct by a department employee while on duty or acting in an official capacity would be considered a

- “complaint” for the purposes of this directive and therefore would be investigated within the guidelines established herein.
2. The filing of a civil suit against a department employee from off duty conduct while not acting in an official capacity that alleges racial bias, physical violence or threat of physical violence would also be considered a “complaint” under this section. *(Note: If the same allegations were investigated as part of a tort claim notice and there has been no additional allegations addressed in the ensuing lawsuit no additional investigation is necessary.)*
 - g. Upon receipt of an internally generated complaint; the IA commander shall review the complaint as well as the disciplinary history of the employee and determine whether the report should be classified as a performance deficiency and be referred to a supervisor for addressing through non-disciplinary corrective actions (see 1:14-3(j) & 1:14-4(a-c)) or assigned for further investigation consistent with sections 2:10-5 and 2:10-6 of this directive.
 - For the purposes of this section, a “performance deficiency” is defined as a reportable incident of any minor rule infraction that can be addressed at the supervisory level of an employee. This department recognizes that not all reportable incidents constitute misconduct and certain reportable incidents are more effectively handled outside of the disciplinary process.
 - Performance deficiency incidents are not internal affairs investigations and shall therefore not be classified as under the IA File Number sequence.
 - h. The EDPS / CUPD shall be notified of all complaints made against the department and/or its employees. The IA Commander is responsible for making the notification by the next business day. The PSD Commander shall be immediately notified in the following instances and shall cause concurrent notification to the EDPS / CUPD:
 - When the complaint alleges criminal activity on the part of an employee
 - When the complaint has the potential to disrupt the operations of the department
 - When the complaint may result in immediate suspension of an employee
 - Where there may be a question as to the department's liability
 - When the complaint has the potential for media attention
 - Where the department has been named as a party to either a tort claims notice or law suit
 - i. Investigations of complaints should ordinarily be completed within 30 days following assignment. Requests for extensions shall be documented and forwarded to the IA Commander, preferably by email or memorandum. The IA Commander may grant extensions in 10 day increments.
 - j. The department shall make available information to the public on procedures to be followed in registering complaints against the department or its employees on its websites and where appropriate.
 - k. When an internal affairs investigation is being conducted; employees have a duty to fully cooperate during the investigation or any corresponding administrative interview. The employee (regardless of his/her involvement: *subject, witness, etc.*) must truthfully answer all questions put to him or her during the course of the administrative investigation. An employee's failure to fully cooperate with an

administrative investigation and/or failure to be completely truthful during an administrative interview can form the basis for disciplinary action separate and apart from the allegations under investigation.

- l. The provisions of the contractual agreements with the Fraternal Order of Police, AFSCME, COLT Local 888, AFT-URA, CWA, Teamsters or other applicable bargaining unit will be adhered to during the course of the investigation and the disposal of internal affairs and disciplinary matters as appropriate.
- m. This department's disciplinary process is discussed in depth at Directive 1:14.

2:10-4 ACCEPTING REPORTS ALLEGING EMPLOYEE MISCONDUCT

- a. **All police supervisory personnel** are directed to accept and record all external complaints (those made by members of the public) regarding employee conduct, inadequate service, department policies and procedures, etc. from any person who wants to file a complaint regardless of the hour or day of the week. **In the absence of a police supervisor**, all sworn personnel are directed to accept and record external complaints. Complaints shall be accepted in writing, in person, or by telephone. It is essential that personnel accepting complaints obtain complete and accurate information (to the extent possible) regarding the complainants and their allegations (complaints may be made anonymously). This should include:
 - 1. Name, address and telephone number of the complainant and any additional information indicating where the complainant may be contacted;
 - 2. Specifics of the allegation including the date, time, location, and description of the incident;
 - 3. Name, address, and telephone numbers of any witnesses; and
 - 4. Description or identity of the departmental personnel involved.
- b. The police supervisor (or officer) receiving the complaint will, to the extent possible:
 - 1. Provide the person making the complaint with the internal affairs "Citizen Complaint Information Sheet" which explains the department's internal affairs procedures;
 - 2. Advise the complainant that he or she will be kept informed of the status of the complaint and its ultimate disposition;
 - 3. Complete the Internal Affairs Report Form according to the instructions provided;
 - 4. Have the complainant sign the completed form. If the complainant will not sign the form, the officer receiving the complaint will so note that fact. However, the failure of a citizen to sign a complaint will in no way preclude the investigation of the allegations. The complainant may also be provided with an Internal Affairs Report Form to be completed and returned at their convenience; and
 - 5. Cause a CAD event to be created documenting time expending receiving the complaint. This event shall denote only that a complaint was received and shall not include any identifying information relative to same.
- c. Civilian employees confronted with a member of the community who wishes to file a complaint shall refer that person to a police supervisor either directly or by

recording a name and contact information (telephone number, email address, etc.) for subsequent contact.

1. In the event a supervisor's response will be delayed and/or the complainant is unwilling to await the supervisor's arrival; the employee should attempt to record the complainant's name and contact information for subsequent contact.
 2. In the event the complainant wishes to remain anonymous and/or is unwilling to provide any contact information, civilian employees are instructed to accept whatever information the complainant is willing to provide, either verbally or in written form. This should be immediately forwarded to a police supervisor.
- d. All department personnel are directed to accept reports of employee misconduct from anonymous sources. If the anonymous complainant is talking to an officer, the officer should encourage him to submit his complaint in person. In any case, the complaint will be accepted. The officer accepting the anonymous complaint shall complete as much of the Internal Affairs Report Form as possible with the information provided.
- e. **Under no circumstances** will a member of the public who wishes to file a complaint be turned away, told to call back, or in any way instructed that his/her complaint will not be accepted.
- f. All complaints will be forwarded to the IA Commander for entry into the record keeping system and assignment to the appropriate supervisor for investigation.
- g. In cases not involving allegations of criminal conduct, the subject employee shall be notified of the complaint by the investigator once the preliminary investigative data has been gathered unless the nature of the investigation requires secrecy. This shall ordinarily be done by providing the subject employee with the Internal Affairs Complaint Notification Form. *An investigation requiring secrecy does not relieve the assigned investigator from notifying the subject employee; however may justify a delay in the notification required under this section.*
- h. All reports of employee misconduct are considered confidential in nature. All employees accepting complaints are expected to exercise reasonable precautions to ensure the integrity of the complaint and confidentiality of the process.

2:10-5 INVESTIGATION AND ADJUDICATION OF MINOR COMPLAINTS (CATEGORY II)

- a. Category II complaints generally fall into two categories:
- **Demeanor**: Complaint that an employee's bearing, gestures, language, attitude, demeanor, or other similar actions were inappropriate.
 - **Minor Rule Infractions**: Violations of departmental or university directives such as tardiness, improper care, use or loss of equipment, abuse of sick time, failure to follow procedures, etc.
- b. In some cases, a complaint is based on a misunderstanding of law enforcement policies, practices or the duties of the employee. Complaints regarding inadequate service provided by members of the department that do not involve employee misconduct will be investigated, but do not fall under the guidelines established in this directive.

- c. Supervisors are authorized to informally resolve minor complaints, whenever possible, at the time the report is made. If the complainant is not fully satisfied with such a resolution, the complaint should be forwarded to the IA Commander for further action, if warranted. The process of informally resolving internal affairs complaints requires sound judgment and discretion by supervisors.
- d. In the event the citizen/complainant is satisfied with the informal resolution, the process should be recorded on an internal affairs complaint form. Regardless of the means of resolution, the integrity of the internal affairs process, particularly the receipt of citizen's complaints, demands that they be uniformly documented for future reference. The form should indicate that the matter was resolved to the satisfaction of the citizen and sent to the IA Commander for review and filing. The IA Commander shall periodically audit those reports indicating that a citizen's complaint was informally resolved to ensure that the department's supervisors are properly implementing their authority to resolve citizen complaints.
- e. If a minor complaint cannot be resolved informally, the following steps will be followed:
 - 1. All Category II complaints from the community shall be submitted to the IA Commander for review. The IA Commander will inform the Chief of Police and appropriate commanding officer of the receipt of the complaint.
 - 2. The IA Commander will generally assign the investigation of the alleged misconduct to a subordinate's supervisor unless the supervisor is also the subject of the complaint. In cases of complaints against the supervisor, the investigation will be handled by the next higher level of supervision or by the commanding officer of the division or bureau. Nothing in this section precludes the IA Commander from personally conducting any Category II investigation. When assigning investigations throughout the chain of command, the IA Commander shall be cognizant of potential collateral issues which may not be discerned by involved supervisors through their investigation.
 - 3. Supervisors observing employee conduct or actions which would be classified as category II complaints shall immediately address their observations and forward their actions to the IA Commander who will inform the Chief of Police.
 - 4. In the case of external complainants whose identity is known, the assigned investigating officer shall in writing:
 - i. Notify the complainants that their complaint has been received;
 - ii. Identify himself/herself as the investigating officer; and
 - iii. Inform the complainant that the investigation has been initiated and that they will be informed of the results of the investigation.
 - iv. In cases of a protracted length the assigned investigator shall issue periodic status reports to the complainant, minimally every 45 days.
 - 5. The subject employee shall be notified in writing (Internal Affairs Complaint Notification Form) of the complaint by the investigator once the preliminary investigative data has been gathered unless the nature of the investigation requires secrecy. *An investigation requiring secrecy does not relieve the assigned investigator from notifying the subject employee; however may justify a delay in the notification required under this section.*

6. The investigator will also review all relevant reports, activity sheets, dispatch records, recordings, and physical evidence and where appropriate examine incident scenes,
7. If investigative data reveals the possibility of a criminal act or the use or threatened use of excessive force on the part of the subject employee, the investigator will immediately inform the IA Commander. The investigation will be upgraded and handled in accordance with Category I procedures (2:10-6).
8. Interview of the subject employee. (See 2:10-6k)
9. Upon completion of the investigator's inquiry, the investigator shall submit his/her reports (investigative & summary report, see 2:10-6l for procedures relating to preparing these reports) and supporting documentation to the IA Commander for review.
10. The IA Commander will review the investigator's reports, supporting documents and recommendations. The IA Commander will determine the final disposition of the investigation and recommendation for any applicable disciplinary action, which will be forwarded to the Chief of Police for final resolution of the matter.
11. If the investigator determines that the complaint is unfounded, exonerated or not sustained, the investigation report is to be forwarded to the IA Commander for review and entry in the index file and filing. The subject employee shall be notified in writing of the outcome of the investigation.
12. If the complaint is sustained, the superior officer so authorized should institute the appropriate corrective action. Typical corrective actions for minor infractions include, but are not limited to, corrective training, counseling or written reprimands. This will be conducted pursuant to the Department's Disciplinary Process discussed at Directive 1:14, specifically in a manner commensurate with the designated authority of the supervisor as addressed at 1:14-5 and procedures contained at 1:14-6.
13. The investigator will draft a letter to the complainant explaining the outcome of the investigation. If the investigation resulted in a conclusion of unfounded, not sustained or exonerated, this conclusion should be stated and defined for the civilian complainant. If the investigation resulted in a sustained allegation with discipline, the letter should simply state that the allegation was sustained and that the employee has been disciplined according to department procedures. The specifics related to any disciplinary actions should not be disclosed. Sample letters are contained at Attachment J of this directive.
14. Conclusions of fact and the penalty imposed will be noted in the employee's personnel file after he/she has been given an opportunity to read and sign it. The IA Commander will cause the penalty to be carried out and complete all required forms.

2:10-6 INVESTIGATION AND ADJUDICATION OF SERIOUS COMPLAINTS (CATEGORY I)

- a. All serious complaints (Category I) received from the community or those initiated by departmental personnel shall be immediately forwarded to the IA Commander for review. The IA Commander will inform the Chief of Police, who will notify the Vice President for Administration and Public Safety of the receipt of each Category I complaint. The Chief of Police in the Newark & Camden Divisions of

this department shall cause concurrent notifications to the Office of the Campus Chancellor or designee, for their respective campus.

- b. Category I complaints include, but are not limited to the following:
- Crime: Complaint regarding commission of an illegal act that constitutes a violation of the criminal code including disorderly and petty disorderly persons offenses.
 - Excessive Force: Complaint regarding the use or threatened use of excessive force against a person.
 - Improper Arrest: Complaint that the restraint of a person's liberty was improper or unjust, or violated the person's civil rights.
 - Improper Entry: Complaint that entry into a building or onto property was improper or that excessive force was used against property to gain entry.
 - Improper Search: Complaint that the search of a person or property was improper, unjust, violated established department procedures, or violated a person's civil rights.
 - Differential Treatment: Complaint that the taking, failure to take, or method of police action was predicated upon factors such as race, appearance, age, or sex.
 - Serious Rule Infractions: Complaint for conduct such as insubordination, drunkenness on duty, sleeping on duty, false statements or malingering.
 - Repeated Minor Rule Infractions: Complaint for repeated conduct, such as repeated untidiness, tardiness, faulty driving or failure to follow procedures.
 - Domestic Violence: Complaint that a department employee violated the provisions of N.J.S.A. 2C:25-17 et seq. This category is not limited to cases in which a criminal or disorderly person's complaint is filed or a temporary restraining order is issued.
- c. Where preliminary investigative data indicates the possibility of a criminal act on the part of the subject employee or the investigation involves the use of force by the employee which results in serious bodily injury or death, or involves the use of a firearm by an officer that results in injury or death, the duty supervisor shall **immediately** notify the Chief of Police and the IA Commander. Upon receiving notification, the IA Commander shall cause immediate notification to the appropriate County Prosecutor.
- No further action shall be taken, including the filing of charges against the employee, until directed by the county prosecutor.
 - The prosecutor may authorize separate criminal and internal investigations. Pursuant to the instructions of the county prosecutor, the investigation(s) may then proceed.
- d. In certain cases, the IA Commander may assign the investigation to the subject employee's commanding officer (i.e., division commander, watch commander, bureau commander, etc...), who will serve as a member of the IA Unit, as outlined at section 2:10-3(c) of this directive. If the subject employee's commanding officer or supervisor is not assigned, the supervisor or commanding officer will still be notified of the complaint.
- e. The assigned investigating officer shall in writing:
1. Notify the complainant that the complaint has been received;

2. Identify himself/herself as the investigating officer; and
 3. Advise the complainant that they will be informed of the results of the investigation.
 4. In cases of a protracted length the assigned investigator shall issue periodic status reports to the complainant, minimally every 45 days.
- f. In cases not involving allegations of criminal conduct, the subject employee shall be notified of the complaint by the investigator once the preliminary investigative data has been gathered unless the nature of the investigation requires secrecy. This shall ordinarily be done by providing the subject employee with the Internal Affairs Complaint Notification Form. *An investigation requiring secrecy does not relieve the assigned investigator from notifying the subject employee; however may justify a delay in the notification required under this section.*
 - g. The investigator shall interview the complainant (if known), all witnesses and the subject employee.
 - h. Parties of specialized interest such as experts in related or involved fields should also be considered for interview, where appropriate.
 - i. The investigator will also review all relevant reports, activity sheets, dispatch records, MVR tapes, physical evidence and incident scenes.
 - j. The investigator is not limited to resolving citizen reports simply by narrowly focusing on whether the subject employee engaged in the alleged misconduct, as in many cases the examination of collateral issues presented by the citizen's report maybe as important as the resolution of the allegation itself.
 - k. Interviewing the employee:
 1. Depending upon the circumstances, employees being interviewed fall into four general categories:
 - Employee is the subject of the investigation-criminal matter;
 - Employee is a witness in the investigation-criminal matter;
 - Employee is the subject of the investigation-administrative matter;
 - Employee is a witness in the investigation-administrative matter.
 2. The internal affairs investigator shall schedule an interview with the employee. Interviews should take place in a reasonable and appropriate location designated by the investigator. The employee's supervisor should be made aware of the time and place of the interview so the employee's whereabouts are known. The session must be of reasonable duration, taking into consideration the complexity and subject matter of the investigation. The employee must be allowed time for meal breaks and to attend to personal physical necessities.
 3. If there is a potential for discipline, one person of the employee's choosing may attend the interview session. This option may be offered to the employee or may be requested by the employee. (In investigations of criminal allegations, it is not appropriate for a union representative to be present. However, the employee shall be given the opportunity to consult with a union representative prior to questioning.)
 4. Before questioning begins, the investigator will inform the subject employee that/of:

- The interview is being recorded;
 - The nature of the complaint;
 - The interviewer's name, and the names of all persons who will be present during the interview;
 - The name and address of the complainant;
 - Whether the employee is being interviewed as a subject of the investigation or as a witness; and
 - Whether the investigation is criminal in nature or administrative.
5. If the matter under investigation involves an administrative allegation, the employee will be advised of his or her duties and obligations to answer truthfully using the Administrative Advisement Form. This should be signed by the employee and witnessed by his/her representative, when available.
 6. If the matter under investigation involves a possible criminal violation, the internal affairs investigator shall notify the IA Commander, who will consult with the county prosecutor regarding the advisability of issuing a Garrity warning to the subject employee.
 7. If the employee refuses to answer questions based upon his/her right against self-incrimination, the Internal Affairs Investigator shall stop the interview and immediately notify the IA Commander. The appropriate Prosecutor's Office will be notified prior to any additional questioning.
 8. All questioning sessions for alleged violations will be audio and may be video recorded. All parties present during the interview shall be made aware of the recording process. This recording will be considered the official recording of the interview.
 9. If at any time during the questioning session the employee becomes a suspect in a criminal act, the employee shall be so informed and the questioning shall **end**. The IA Commander shall be promptly notified and the matter referred to the county prosecutor.
 10. Employees 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 employee's actions, observations, knowledge and any other pertinent information of which they may be aware, whether it concerns their own performance of duty or that of other employees. If the employee feels his or her answer would incriminate him or her in a criminal matter, the employee must assert his or her Fifth Amendment rights.*
 11. The following guidelines will be followed when any representation is requested:
 - Any employee designated as a principal or witness, who reasonably believes that the investigation may result in disciplinary action against him/her, is entitled, upon request of the interviewee, to have a union representative accompany the interviewee to the interview.
 - Any employee who is a potential principal or witness in the investigation may not act as a Weingarten representative.
 - The exercise of the interviewee's right to a union representation may not interfere with the investigation. However, a reasonable period of time should be allowed for the representative to appear for the interview.

- An interviewee is not entitled to the representative of his/her choosing. Any union representative or other person designated by the union will satisfy the representation requirement.
 - The principal and his/her representative shall be informed of the subject matter of the investigation and given a reasonable period of time to confer prior to the interview. The union representative may be present during the interview, and once the interview has begun, they may not leave the room for purposes of further consultation without the approval of the investigator. If the principal refuses to make a statement or answer any questions, he/she will be informed that such refusal may result in discipline/dismissal and the interview shall be terminated.
 - The investigator shall not negotiate with the representative. The representative may be permitted to clarify facts or make suggestions (e.g., other potential witnesses) after the investigator's questioning of the principal. The investigator is free to insist that he/she is only interested in hearing the interviewee's own account of the matter under investigation. In other words, the representative shall not be permitted to answer for the principal or conduct their own interview.
- I. Upon completion of all possible avenues of inquiry, the investigator shall submit the following documents to the IA Commander:
1. A copy of the letter to the complainant acknowledging receipt of the complaint and identifying the investigating officer along with any subsequent correspondence required in cases of a protracted length (See: 2:10-6(e)(4)).
 2. Investigative report (IR) is an objective report of all of the investigative activity, including all of the information obtained during the course of the investigation.
 3. Summary report in memorandum format which will summarize the matter and provide a conclusion of fact for the recommended disposition of each allegation. If improper conduct is found to have occurred the report must cite the department rule, regulation, policy or directive that was violated. If the investigation reveals evidence of misconduct not based on the original complaint this too must be included in the report. The report must also contain any aggravating or mitigating circumstances around the situation. Possible dispositions include:
 - Exonerated: The alleged incident did occur, but the actions of the employee were justified, legal, and proper.
 - Sustained: The investigation disclosed sufficient evidence to prove the allegation, and the actions of the employee violated a provision of the department's rules, regulations or procedures.
 - Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
 - Unfounded: The alleged incident did not occur.
 - Administratively Closed: The complaint or investigation is closed prior to reaching a disposition. Examples may include situations when the subject employee terminates his or her employment prior to disposition of the complaint.

(Note: Investigations may still proceed without complainant cooperation.)

4. Draft of the letter advising the complainant of the investigator's findings and disposition
 5. Copies of any statements completed/prepared by department employees.
 6. Documentation of any audio recordings made during the course of the investigation.
 7. Any other supporting information or documents.
- m. The IA Commander will review the investigator's report, supporting documents, dispositions and recommendations. The IA Commander will formulate recommendations on the disposition of the case and appropriate disciplinary action and submit them to the Chief of Police for approval. The Chief of Police will advise the Vice President for Administration and Public Safety prior to imposing major disciplinary actions against department employees as required at University Policy 30.3.1(b)(3). The intention of this section is to ensure similar investigations and fact finding inquiries occurring in different divisions are disposed of in a similar fashion and in a manner consistent with established precedent and practices. *For the purpose of this section, the term "prior to imposing" shall be construed to mean prior to serving the Preliminary Notice of Disciplinary Action upon the subject employee.*
 - n. The notification to the EDPS / CUPD as discussed above at 2:10-6(m) is intended to supplement and not supplant other internal organizational notifications (i.e. Chancellor's Office, Human Resources, etc.) and associated reporting practices and requirements.
 - o. Upon receiving approval from the Chief of Police, the IA Commander or designee will take the following action:
 1. If the investigation results in a finding of exonerated, not sustained, or unfounded, the disposition shall be entered into the index file and the report filed. The subject employee will be notified in writing of the disposition.
 2. If the complaint is sustained, the procedures provided at Directive 1:14 – Disciplinary Process shall apply.
 3. Conclusions of fact and the penalty imposed will be noted in the employee's personnel file after he/she has been given an opportunity to read and sign it. Internal affairs will cause the penalty to be carried out and complete all required forms.
 - p. If the internal investigation reveals evidence of misconduct not based on the original complaint, an investigation of this evidence shall be initiated concurrent to the complaint.
 - q. The IA Commander will ensure that all reports, statements and other documentation resulting from the complaint are placed in the Internal Affairs File.

2:10-7 PHYSICAL EVIDENCE

- a. Investigators should obtain all relevant physical evidence. All evidence, such as clothing, hair or fabric fibers, stains and weapons should be handled according to established evidence procedures.
- b. Photographs
 1. Photographs and video tape can be useful tools if relevant to the investigation. In the event of a complaint involving excessive use of force,

photographs of the complainant and the employee should be taken as close as possible to the time of the incident. In addition, photographs can be used to create a record of any other matter the investigator believes is necessary. Whenever possible, color photography should be used. When photographs are taken of a complainant under this section, only a department owned camera may be used. Consideration should be given to recalling an officer specifically trained in the taking of such photographs.

2. This department shall maintain a recent photograph of each employee. These photographs can be used in the event a photo array is needed for identification purposes. If a photo array is used, it must be properly retained for possible evidentiary purposes.

c. Physical Tests

1. Employees who are the subjects of internal investigations may be compelled to submit to various physical tests or procedures to gather evidence.
2. Evidence Rule 503 (a) states that "...no person has the privilege to refuse to submit to examination for the purpose of discovering or recording his corporal features and other identifying characteristics or his physical or mental condition." Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:
 - Breath sample
 - Blood sample
 - Requiring suspect to speak
 - Voice recordings
 - Participation in a lineup
 - Handwriting samples
 - Hair and saliva samples
 - Urine specimens
 - Video taping
 - Field sobriety tests
3. For internal affairs investigations that may result in a criminal prosecution, physical tests should be conducted pursuant to a court order or an investigative detention under Court Rule 3:5A.
4. For internal affairs investigations that may result in an administrative disciplinary proceeding, subject employees may be ordered by the internal affairs investigator or the appropriate supervisor to perform or participate in a physical test.
5. The order must be reasonable and relevant to the investigation at hand. Employees who refuse to perform or participate in a lawfully ordered physical test can be disciplined for their refusal to do so.

- d. An employee may be required to submit to a medical or laboratory examination, at the department's expense, when the examination is specifically directed and narrowly related to a particular internal affairs investigation being conducted by the department.

- e. N.J.S.A. 2C:40A-1 states that an employer **shall not** influence, request or require an employee to take or submit to a lie detector test as a condition of employment or continued employment; therefore, employees of this department should never

be asked to take a polygraph examination as part of an internal affairs investigation. However, the subject employee may voluntarily request to take a polygraph examination.

- f. Employees may be ordered to stand in a lineup to be viewed by witnesses or complainants. If a photo array or lineup is used, it must conform to current procedures and be properly retained for possible evidentiary purposes.
- g. An employee may be required to submit financial disclosure statements when it is believed these statements may be material to a particular internal affairs investigation being conducted by the department. This request will conform to current legal practice and be conducted with guidance from the appropriate counsel.
- h. All citizens, including employees of this department, have a Fourth Amendment right to be free from unreasonable searches and seizures. In an internal affairs investigation, the Fourth Amendment applies to any search undertaken by the employing department. The internal affairs investigator must be cognizant of the various principles governing search and seizure, particularly where the investigator will conduct a search as part of a criminal investigation or the investigator will search personal property belonging to the subject employee.

2:10-8 ADMINISTRATIVE REASSIGNMENT

- a. Administrative reassignments are changes in an employee's duties from service in the field to administrative duties at headquarters or other locations. Administrative reassignments are intended to prevent further incidents and/or provide a period of recuperation pending the outcome of an investigation. Administrative reassignments are not considered a disciplinary action.
- b. In cases involving the use of force which results in death or serious bodily injury, the employee may be reassigned to administrative duty.
- c. Administrative reassignments may also be made in other internal affairs cases if it is believed to be necessary by the employee's Division Commander or Chief of Police.
- d. All administrative reassignments are subject to review by the Chief of Police.

2:10-9 SUSPENSION PENDING DISPOSITION OF INVESTIGATION

Procedures for suspension of an employee pending disposition of an investigation are discussed within Directive 1:14 – Disciplinary Process, specifically at section: 1:14-7.

2:10-10 COMPLAINTS REGARDING EXCESSIVE USE OF FORCE & OTHER CRIMINAL VIOLATIONS – MIDDLESEX COUNTY ONLY

- a. The Professional Standards Officer within the Middlesex County Prosecutor's Office shall be notified upon receipt of any complaint alleging the excessive use of force and other criminal violations alleged to have occurred within the corporate boundaries of Middlesex County. Ordinarily this notification shall be made by the IA Commander of the Central Division and shall occur within twenty-four (24) hours of the receipt of said complaint.

1. Following the notification discussed above, The IA Commander will then complete the *"MCPO Review of Excessive Force/Other Criminal Violations"* form and deliver same along with a copy of the complaint to the Professional Standards Officer.
 2. In addition, the Professional Standards Officer will be provided with a complete copy of all prior internal affairs investigations for the subject officer. This shall include any and all past internal affairs investigations involving the subject officer regardless of the allegations and prior findings. These records shall include but not be limited to: complaints, investigative reports and dispositions.
- b. Notwithstanding the time frames discussed at 2:10-3(h), complaints investigated under this section shall be completed within thirty (30) days from the date of receipt. In the event that the investigation is not completed within the established time frame, a written request for an extension shall be submitted to the designated MCPO Professional Standards officer for consideration.
 - c. Upon completion of the investigation by the assigned department employee, the case will then follow the established internal review procedure (2:10-6(m)) and be endorsed as appropriate. This signature by the EDPS/CUPD will denote agreement with the investigative efforts taken as well as the conclusion drawn as a result of the investigation. The department's recommended findings may not be disclosed to the complainant or the subject officer until the final MCPO review and approval is completed and approved by the Chief of Police with Geographic Responsibility, as discussed below at 2:10-11(d).
 - d. As soon as the case has gone thru the department's review process a copy of the entire case file will be forwarded to the MCPO Professional Standards Unit. Upon receipt, the MCPO Professional Standards Unit shall review the department's investigation for thoroughness and completeness and to confirm that the conclusion reached is fact based and logical. The department will be advised of the result of the MCPO review and any changes and/or recommendations will be discussed directly with Chief of Police – New Brunswick or other Chief of Police, as appropriate.
 - e. Once a final review has been concluded and the department will move forward with required notifications to the complainant and subject employee as discussed herein.

2:10-11 CONFIDENTIALITY

- a. The nature and source of internal allegations, the progress of internal affairs investigations and the resulting materials are confidential information. The contents of the internal investigation case files shall be retained in the internal affairs unit and clearly marked as confidential. The information and records of an internal investigation shall only be released under the following limited circumstances:
 - In the event that administrative charges have been brought against an employee, and a grievance 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 employee upon request.
 - In the event that the subject employee, department or Rutgers, the State University of New Jersey 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 employee, department or jurisdiction.

- Upon the request or at the direction of the county prosecutor or Attorney General.
 - Upon a court order (i.e., subpoena requesting release).
- b. Recordings resulting from Internal Affairs Investigations shall likewise be considered confidential and shall not be released from department control absent a subpoena and/or the approval of the respective county prosecutor and/or University Counsel, as applicable.
 - c. Any individual to whom internal affairs documents or media (photographs, audio/video recordings, etc.) are released shall be required to sign a form acknowledging the confidential nature of this material. Individuals seeking documents, media, etc. under this section will be responsible for the reimbursing the department of the cost for those materials at the department's current discovery rate(s).
 - d. The contents of internal investigation case files will be retained by the IA Commander. The files will be kept in secure storage and only the Chief of Police and IA Commander will have access. When these records are stored electronically, steps shall be taken to restrict access only to the internal affairs function.
 - e. Only the Chief of University Police, IA Commander or designee is empowered to release the details of an internal investigation or disciplinary action.
 - f. Procedures for responding to subpoenas' for law enforcement officers' personnel and/or internal affairs/professional standards files are discussed at Directive: 5:16-6.
 - g. Internal Affairs Investigation records or reports should never be placed in personnel files. When a complaint has a disposition of exonerated, not sustained, or unfounded, there shall be no indication in the employee's personnel file that a complaint was ever made.
 - h. The records of internal affairs complaints that have a disposition of unfounded, exonerated or not sustained shall not be used to effect progressive discipline or in any way impact on any condition of employment, including promotions.

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INTERNAL AFFAIRS INFORMATION SHEET

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

- ✓ Your complaint will be sent to a superior officer or a specially trained internal affairs investigator who will conduct a thorough and objective investigation.
- ✓ You might be asked to help in the investigation by giving a detailed statement about what happened or providing other important information.
- ✓ All complaints against law enforcement officers are thoroughly investigated. You will be advised in writing of the outcome of the investigation.
- ✓ If our investigation shows that a crime might have been committed, the county prosecutor will be notified. You might be asked to testify in court.
- ✓ If our investigation results in an officer being charged with a violation of department rules, you might be asked to testify at a departmental hearing.
- ✓ If our investigation shows that the complaint is unfounded or that the officer acted properly, the matter will be closed.
- ✓ You may provide additional information by calling the Professional Standards Division at: (848) 932-4930.

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UNIVERSITY POLICE

INTERNAL AFFAIRS REPORT FORM

DEPARTMENT: Rutgers Police Department			DIVISION:			IA CASE #		
NAME:				DO YOU HAVE ANY OTHER NAMES? IF SO, PLEASE LIST				
HOME ADDRESS:				CITY		STATE		ZIP
TELEPHONE NUMBER			CELL PHONE NUMBER			E-MAIL ADDRESS		
DATE OF BIRTH	AGE	SEX MALE FEMALE	RACE ASIAN/PACIFIC ISLANDER AMERICAN INDIAN/ALASKAN			BLACK/AFRICAN AMERICAN WHITE OTHER: _____		
EMPLOYER/SCHOOL:						TELEPHONE:		
ADDRESS:				CITY		STATE		ZIP
NATURE OF COMPLAINT <i>(Please describe your complaint):</i>								
COMPLAINT AGAINST <i>(Name(s) if know) or description of employee(s):</i> BADGE/ID#								
1.						Police Security	CSO Civilian/Dispatcher	
2.						Police Security	CSO Civilian/Dispatcher	
DATE OF OCCURRENCE:		TIME OF DAY:		LOCATION OF OCCURRENCE:				
WITNESS(Name):			ADDRESS		PHONE		AGE	SEX
WITNESS(Name):			ADDRESS		PHONE		AGE	SEX
DESCRIPTION OF INCIDENT <i>(Please be as specific and detailed as possible, use additional sheet(s) if necessary)</i>								
_____						_____		
Complainant's Signature						Date/Time Signed		
FOR AGENCY USE ONLY:								
METHOD RECEIVED:			Walk-In		Telephone		US Mail Other:	
RECEIVED BY (NAME/ID#):			SIGNATURE:			DATE/TIME:		

INTERNAL AFFAIRS REPORT FORM CONTINUATION/SUPPLEMENTAL

Page: _____ of _____

DEPARTMENT: Rutgers Police Department	DIVISION:	IA CASE #
DESCRIPTION OF INCIDENT (Please be as specific and detailed as possible, use additional sheet(s) if necessary)		
_____ Complainant's Signature		_____ Date/Time Signed
FOR AGENCY USE ONLY:		
METHOD RECEIVED:	Walk-In Telephone US Mail Other:	
RECEIVED BY (NAME/ID#):	SIGNATURE:	DATE/TIME: