

# HUNTERDON COUNTY SHERIFF'S OFFICE

## DEPARTMENTAL RULES AND REGULATIONS/POLICIES AND PROCEDURES

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EFFECTIVE DATE: <b>1/1/2011 (Original)</b> <b>June 1, 2020 (Revised)</b>	BY ORDER OF: <b>SHERIFF</b> <b>FREDERICK W. BROWN</b> <i>FB</i>			
CROSS REFERENCE #: N.J.S.A. 40A:14-181	GENERAL ORDER: <b>2010-29</b>			

### **I. PURPOSE**

The Hunterdon County Sheriff's Office 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 shall respect the rights of all citizens. Officers' adherence to these standards, to support and protect the public, motivated by a moral and professional obligation to perform their job to the best of their ability, is the ultimate objective of this agency.

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

The purpose of this policy is to delineate the Internal Affairs process of the Hunterdon County Sheriff's Office. The goal being to improve the quality of police services, and citizen confidence in the integrity of the Sheriff's Office increases through the establishment of meaningful and effective complaint procedures. This confidence creates community support for the Sheriff's Office. Thus, ensuring transparency and the vital relationship between the police and citizens they serve.

An effective disciplinary framework also permits the administration to monitor officers' compliance with policies and procedures. Adherence to established policies and procedures assists officers in meeting department objectives. A monitoring system permits managers to identify problem areas requiring increased training or direction (See AG Directive 2018-3 *Early Warning System*). Finally, an effective disciplinary framework will insure fairness and due process protection to citizens and officers alike. Heightening officer awareness of the rights afforded them when charged with misconduct will increase their appreciation of comparable rights afforded citizens accused of a crime.

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### II. POLICY

The policy of this agency is to accept and investigate all complaints of alleged officer misconduct or wrongdoing from any citizen, agency, or employee. Following a thorough and impartial examination of the available factual information, the officer shall either be exonerated or held responsible for the alleged misconduct. Discipline shall be administered according to the degree of misconduct.

The policy of this office is that officers and employees, regardless of rank, shall be subject to disciplinary action for violating their oath or public trust. Committing an offense punishable under the laws of the United States, the State of New Jersey, Hunterdon County resolutions, or local ordinances constitutes a violation of that oath or public trust. Officers are also subject to disciplinary action for failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment. In addition, officers may be disciplined for violation of any rule, regulation, or policy of the Office, or for failure to obey any lawful instruction, order, or command of a superior officer. Disciplinary action in all matters will be determined based upon the merits of each case.

The Policy of this office is that officers conducting the investigation of any allegation of misconduct strive to conduct a thorough and objective investigation without violation the rights of the subject officer 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 office's internal affairs policy. (Note- the assignment and standardization of training for staff assigned to Internal Affairs Investigations shall be consistent with AG guidelines effective 4/1/2020).

The Policy of the HCSO is that prevention is the primary means of reducing and controlling officer misconduct. Every officer shall be provided ready access to an official agency policy and procedure manual, which contains specific directions for conducting all aspects of police work. Categories of misconduct shall be clearly described and defined, and the disciplinary process shall be thoroughly explained. This agency shall seek to provide a professional environment for each member to thrive. Conditions identified which permit misconduct to occur shall be aggressively corrected. Special emphasis shall be placed on recruitment, selection, training, community outreach, and the analysis of misconduct complaints and their outcomes in order to mitigate future events. (See in AG Directive 2018-3 *Early Warning Systems*) p12.

### III. DEFINITIONS

- A. **Major Disciplinary Action.** Major disciplinary actions are those which carry a penalty of more than five (5) days' suspension without pay. Officers are entitled to a hearing in a major disciplinary action if they so request. **Note-** AG directive 2020-5 dated June 15, 2020, requiring public disclosure of officers committing serious discipline should be referenced. See Section H. 5.

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- B. Minor Disciplinary Action.** Minor disciplinary actions are those which carry a penalty of five days' suspension without pay or less. May include written reprimands. Officers are not entitled to a formal hearing in minor disciplinary actions.

## IV. PROCEDURES

### A. Internal Affairs Office.

1. **Established.** The Internal Affairs Office of the Hunterdon County Sheriff's Office is herein established. The Sheriff shall designate an Administrative Undersheriff as the Internal Affairs Officer. His designee shall request/assign members of the Office to the Internal Affairs Unit as needed. Personnel assigned to the Internal Affairs Office shall serve at the pleasure of and be directly responsible to the Internal Affairs Officer for the length of the investigation or detachment.
  - a. **Goals.** The goal of Internal Affairs is to ensure the integrity of the office is maintained through a system of internal discipline, where fairness and justice are assured by objective, impartial investigation and review.
  - b. **Staffing.** As the need arises, other personnel may be assigned to assist the Internal Affairs Officer upon approval of the Sheriff.
2. **Duties and Responsibilities.**
  - a. **Responsibility.** The Internal Affairs Officer is responsible for the investigation and review of all allegations of misconduct, violations of rules, regulations, and general orders by members of this department.
  - b. **Misconduct Defined.** Misconduct is defined as the following.
    - (i) Commission of a crime or an offense; or,
    - (ii) Violation of the Office Rules and Regulations; or,
    - (iii) Conduct which adversely reflects upon an officer or the Sheriff's Office.
  - c. **Additional Duties.** In addition to investigations concerning allegations of misconduct, Internal Affairs shall be responsible for the coordination of investigations involving; (1) the discharge of firearms by Sheriff's Office personnel, (2) all use of force reports, (3) and all

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vehicle pursuits. The Internal Affairs Office shall also be responsible for any other investigation as directed by the Sheriff.

- d. **Investigations.** The Internal Affairs Officer may conduct an Internal Affairs investigation on his own initiative upon notice to, or at the direction of the Sheriff.
- e. **Referrals.** The Internal Affairs Officer may refer investigations to the employee's supervisor for action.
- f. **Authority.** The Internal Affairs Officer or Investigators temporarily assigned to that function, shall have the authority to interview any member of the officer and to review any pertinent Office record or report. 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 Sheriff. Members assigned to the Internal Affairs function come under the direct authority of the Sheriff, reporting directly to the Administrative Undersheriff.
- g. **Files.** The Internal Affairs Officer shall maintain a comprehensive central file on all complaints received by the Sheriff's Office. A listing of the complainant, officer(s) involved, and disposition(s) shall also be recorded and available for inspection by the County Prosecutor.
- h. **Reporting.** The Internal Affairs Officer shall prepare or shall have prepared for submission to the Sheriff, quarterly reports that summarize the nature and disposition of all misconduct complaints received by the agency.
- j. **Annual Reports.** An annual report summarizing the types of complaints received and the dispositions of the complaints shall be made to the Hunterdon County Prosecutor's Office on the *HCSO Internal Affairs Summary Report Form*. A copy of this report is posted on the Sheriff's public website. Names of the complainants and accused officers shall not be published in these reports\* (\*See Disclosure K.1. K.2).

### B. Accepting Reports of Misconduct.

- 1. **Complaints.** All officer personnel are directed to accept reports of officer misconduct from all persons who wish to file a complaint regardless of the hour or day of the week. Citizens are to be encouraged to submit their complaints in person as soon after the incident as possible. If the complainant cannot file the report in person, an office representative, except in very minor complaints, shall visit the individual at his or her home; place of business or at another location in order to complete the report. If the complaint is against an officer from another agency, the complainant shall

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be advised to contact that agency, the Hunterdon County Prosecutor's Office, or the State Attorney General.

2. **Referral.** All Complaints shall be referred to Internal Affairs Officer. Supervisors should be cognizant of the fact that they may be required to accept an Internal Affairs complaint in the absence of the Internal Affairs Officer.
3. **Availability.** If the Internal Affairs Officer is not immediately available, all supervisory personnel are directed to accept the report of officer misconduct. In the absence of a supervisor, any sworn officer shall accept the complaint. Under no circumstances will a complainant be advised to call at a later time or date.
4. **Procedures for Accepting Complaints.** The officer receiving the complaint shall do the following:
  - a. Explain the Office reporting procedures to the person making the complaint.
  - b. Advise the complainant that they will be kept informed of the status of the complaint and ultimate disposition.
  - c. Complete a HCSO Complaint Form, and have the complainant sign the form. If the complainant will not sign the form, the officer receiving the complaint will so note that fact. The failure of a citizen to sign the Complaint Form will in no way preclude the investigation of the allegations.
  - d. All Office personnel are directed to accept reports of officer misconduct from anonymous sources. If the anonymous complainant is talking to an officer, the officer should encourage the submission of the complaint in person. In any case, the complaint will be accepted. In the case of an anonymous complaint, the officer accepting the complaint will complete as much of the HCSO Complaint Form as they can with the information provided.
  - e. All complaints will be forwarded to the Internal Affairs Officer for processing and entry into the record keeping system.
  - f. The subject of the complaint shall be notified by the Internal Affairs Officer in writing of the complaint as soon as possible, unless the nature of the investigation requires other action.

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### C. Suspension Pending Disposition or Investigation.

1. **Criteria for Suspension.** The Sheriff or designee may immediately suspend an officer from duty if they determine that one of the following conditions exists.
  - a. The employee is unfit for duty.
  - b. The employee is a hazard to any person if permitted to remain on the job.
  - c. An immediate suspension is necessary to maintain the safety, health, order, or effective direction of public services.
  - d. The employee has been formally charged by any law enforcement agency with a crime of the first, second, or third degree, or a crime of the fourth degree committed on the job, or directly related to the job or indicted by a grand jury for any of the aforementioned crimes. In the case of criminal complaints filed against a member by citizens or arrested persons, an investigation by the prosecutor's office must show probable cause that the alleged crime occurred before a member can be suspended.
  
2. **Requirements.** The Sheriff or designee imposing an immediate suspension shall:
  - a. Advise the employee in writing as to why an immediate suspension is being imposed, and the charges and general evidence in support of the charges.
  - b. Provide the employee with sufficient opportunity to review the charges and to respond either orally or in writing.
  - c. Advise the employee's supervisor of the suspension and the facts and circumstances surrounding the suspension. This will be done orally, followed with a written report on the case.
  - d. Require the suspended employee to surrender their **weapon, badge, and identification card**, pending disposition of the case.
  
3. **Charges.** Within five days of the suspension, the Internal Affairs Officer must complete and file formal charges against the suspended employee.

**D. Investigation of Complaints.**

1. After screening and entering the complaint into the record keeping system, the Internal Affairs Officer may designate an Investigator to investigate the complaint. The Investigator shall interview the complainant, all witnesses, and the accused officer. Prior to interviewing an officer as a witness, the officer will be given the Witness Acknowledgment Form. The Internal Affairs Investigator will also review relevant reports and obtain necessary information and materials, including but not limited to the following;
  - a. Physical evidence.
  - b. Statements or interviews from all witnesses.
  - c. Statements or interviews from any parties of specialized interest and relevant to the investigation.
  - d. Investigative aids, patrol records, audio or video evidence, activity sheets, complaint cards, and dispatcher's forms.
2. **Preliminary Findings.** Where preliminary investigative data indicates the possibility of a criminal act on the part of the accused officer, or the investigation involves the use of force by the officer, which results in serious bodily injury or death, the Hunterdon County Prosecutor's Office shall be notified immediately. No further action shall be taken, including the filing of charges against the officer, until directed by the County Prosecutor's Office. The County Prosecutor may require an officer to submit to the following:
  - a. Medical or laboratory examinations.
  - b. Having the employee photographed for identification.
  - c. The employee may be directed to appear in a line up.
  - d. Employees may be required to submit financial disclosure statements upon an order from the court.
  - e. Employees may not be compelled to take a polygraph test; however, they may request to have one administered.
3. **Interviewing the Subject Officer**
  - a. The Internal Affairs Investigator shall schedule an interview with the subject officer.

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- b. One (1) person of the officer's choosing may attend the interview serving as a Weingarten representative. This representative may accompany additional witnesses called if interviews are conducted sequentially. All rules of confidentiality apply to the person(s) selected.
  - c. Before questioning begins, inform the subject officer of:
    - (i) The nature of the complaint.
    - (ii) The name of the person in charge of the interview and the names of all persons who will be present.
  - d. Questioning sessions may be recording at the discretion of the Internal Affairs Investigator. The member may request the session to be recorded in writing; however, the Internal Affairs Investigator has the right to refuse the request.
  - e. If the matter under investigation involves an administrative allegation, the officer will be advised of his or her duties and obligations to answer.
  - f. If the matter under investigation involves a possible criminal violation, the internal affairs investigator shall consult with the County Prosecutor's Office regarding the advisability of giving a Miranda Warning to the subject officer.
  - g. If at any time during the questioning session the officer becomes a suspect in a criminal act, the officer shall be so informed, given their rights under Miranda, and the questioning shall end. The investigation must promptly be referred to the County Prosecutor's Office for further investigation.
  - h. Any offer of immunity shall be at the direction of the Prosecutor. Any forms, filings, and documentation shall be furnished and prepared by the prosecutor's office.
- 4. Investigation Reporting** Upon completion of all available avenues of inquiry, the Internal Affairs Investigator shall complete the following reports.
- a. Investigation Report: this is the objective report of all the investigative activity, including all of the information obtained during the course of the investigation.
  - b. Conclusions: This report will summarize the matter and will provide recommended dispositions for each allegation. Possible dispositions include one of the following (for each charge):

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- (i) **Sustained.** The investigation disclosed sufficient evidence to prove the allegation.
- (ii) **Not Sustained.** The investigation failed to disclose sufficient evidence to prove or disprove the allegation.
- (iii) **Unfounded.** The investigation indicated that the acts complained of did not occur, or there is insufficient information to conduct a meaningful investigation.
- (iv) **Administratively Closed.** In some cases, the complaint or investigation is closed prior to reaching a disposition.

NOTE- "Administratively Closed" Examples include situations when a complainant voluntarily requests that a complaint be withdrawn, or the subject officer terminates their employment prior to disposition of the complaint. Withdrawn or Administratively Closed complaints exposing departmental or unlawful conduct may proceed as an investigative internal action(s).

### F. Sustained Charges.

1. If the proposed penalty is Minor Disciplinary Action, Internal Affairs will complete the Notice of Minor Disciplinary Action form. The employee will then be given an opportunity to present any mitigating factors prior to the imposition of any penalty.
2. If the penalty is Major Disciplinary Action, the Internal Affairs Officer shall initiate the disciplinary action through the Hunterdon County Personnel Office. Such notice shall be prepared and served upon the officer charged in accordance with N.J.S.A. 40A:14-106a. and the New Jersey Civil Service Commission Rules N.J.A.C. 4A:1-1.1 et seq., and use of the "Notice of Major Disciplinary Action" form, and the "Notice of Immediate Suspension" form.

### G. Major Disciplinary Hearing.

1. **Hearing.** Upon written notice of a request for a hearing from the charged employee, a hearing will be held.
4. **Plea of Guilt.** If the employee charged enters a plea of guilty, the Sheriff shall permit the employee to present factors in mitigation prior to assessing a penalty. Conclusions of fact and the penalty imposed will be noted in the officer's personnel file after they have been given an opportunity to read and sign it. Internal Affairs will cause the penalty to be carried out and complete all required forms.
3. **Preparation for Hearing.** The Internal Affairs Officer in collaboration with the County Prosecutor shall be responsible for the preparation of the

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Office's prosecution of the charges. This includes the notification of all witnesses and preparing all documentary and physical evidence for presentation at the hearing. The Internal Affairs Officer will also ensure discovery is provided.

4. **Hearing Authority.** The hearing shall be held before the appropriate authority or the appropriate authority's designee. The hearing authority is empowered to sustain, modify in whole or in part, or dismiss the charges stated in the complaint. The decision of the hearing authority shall be in writing and should be accompanied by findings of fact for each issue in the case.
5. **Finding of Guilt.** The hearing authority, in collaboration with the Sheriff, may impose any of the following sanctions, which it deems appropriate.
  - a. Counseling.
  - b. Oral reprimand or performance notice.
  - c. Letter of reprimand.
  - d. Loss of vacation time.
  - e. Monetary fine.
  - f. Transfer or reassignment.
  - g. Suspension without pay.
  - h. Loss of promotion opportunity.
  - i. Demotion.
  - j. Discharge from employment.
6. **Report of Findings.** A copy of the decision or order together with accompanying findings and conclusions shall be delivered to the officer or employee who was the subject of the hearing and the Operations Undersheriff if he/she was not one of the hearing officers. Upon completion of the hearing, the Internal Affairs Officer will complete all required forms including the entry of the disposition in the central log.
7. **Imposition of Penalty.** If the charges were sustained, the Internal Affairs Officer, upon consent and approval of the Sheriff, will cause the penalty to be carried out. A report shall be permanently placed in the officer or employee's personnel file.

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- 8. Complainant Notification.** Upon final disposition of the complaint, the Internal Affairs Officer shall send a letter to the complainant explaining the outcome of the investigation.

### H. Confidentiality

- 1. Investigations.** The progress of internal affairs investigations and all supporting materials are considered confidential information.
- 2. Log.** Upon completing a case, the Internal Affairs Officer will enter the disposition in the Internal Affairs central log.
- 3. Case Files.** The Internal Affairs Officer will retain the contents of internal investigation case files. The files shall be clearly marked as confidential.
- 4. Publication of Findings.** Only the Sheriff or the Internal Affairs Officer are empowered to release publicly the details of an internal investigation or disciplinary action.
- 5. Release by Employee.** The subject employee may request, in writing, the Sheriff to release copies of formal disciplinary charges and the outcome to any third party. The release will be limited to a copy of the charges and the final decision. The release and public disclosure of the identity and findings of officers committing major discipline shall be released in accordance with AG directive 2020-5, dated June 15, 2020.
- 6. Hearing Restrictions.** All disciplinary hearings shall be closed to the public unless the accused requests, in writing to the Sheriff, an open hearing.

### I. Supervisory Authority to Discipline.

As appointing authority, the Sheriff has the authority to impose discipline up to and including dismissal. Undersheriffs, the Chief Warrant Officer, and Sergeants have the authority to recommend the following disciplinary actions.

1. Recommend an employee to be given remedial training.
2. Counseling.
3. Oral reprimand.
4. Written reprimand.
5. Emergency Suspensions under section IV.C.1 of this policy.

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### J. Internal Affairs Administration and Oversight Programs and Protocols

**1. Attorney General's Law Enforcement Drug Testing (LEDT) Policy.** The Internal Affairs Officer (IAO) shall facilitate the LEDT for the HCSO. Random testing shall be conducted as delineated in the March 8, 2018 Attorney General's LEDT Policy. Members selected shall submit to random testing at the date and time they are selected unless otherwise directed by the Sheriff or Internal Affairs Officer. HCSO LEDT shall include, 1) Applicant Testing, 2) Trainee Testing, and 3) Reasonable Suspicion Testing. All testing, record keeping, Sheriff and Prosecutor's notification and disciplinary actions shall be managed through the HCSO Internal Affairs Office.

**NOTE** - As indicated in LEDT Policy, the date(s) of testing shall be determined by the County Prosecutor or designee. The methods of officer selection may be determined by the department.

**2. Facilitation and review of the disciplinary history of officers seeking employment from other law enforcement agencies.** The IAO shall facilitate the review and transfer of IA files and records to departments requesting same. The IAO shall obtain IA files from prior law enforcement employers for all applicants.

**3. The establishment and incorporation of a departmental *Early Warning System Protocol (AG Directive 2018-3)*** to identify officer conduct that is or may be problematic and to ensure that events minor episodes do not escalate to more serious disciplinary issues.

**4. Incorporates the Law Enforcement Resiliency Initiatives established by the *Officer Resiliency Directive (AG Directive 2019-01)*.** In coordination with program coordinators, the OIA shall ensure coordination and confidentiality of communications to ensure officers participating in this directive does not face adverse internal affairs or disciplinary actions.

**5. Incorporates the AG Directive (2019-6) for compliance with *Brady v. Maryland and Gigio v. United States*.** The OIA shall coordinate the *confidential* review and evaluation of personnel files of any current or former member of the HCSO to comply with *Brady-Giglio* quests from County and Federal Prosecutors.

**6. Facilitates and manages the *Extreme Risk Protection Order (ERPO)* for members of the HCSO.** The OIA shall immediately act on a petition filed on a respondent officer(s). The investigative and administrative requirements as delineated in the AG Policy (2019-2) will be conducted in collaboration with the County Prosecutor.

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### **K. Disclosure**

1. Effective July 1, 2020, in accordance with Attorney General guidelines, the department will publish an annual report delineating complaints received and the dispositions of those complaints completed by December 31 of each calendar year.
2. Annually, the agency will submit to the County Prosecutor a brief synopsis of all complaints where termination, reduction in rank, or suspension of five (5) days or more was assessed to an agency member. This synopsis shall include the identity of each officer subject to final discipline, a brief summary of the transgressions and a statement of the sanction imposed.
3. The background investigation of new recruits / trainees shall include a review of the internal affairs files of any candidate who previously

### **EFFECT**

In accordance with policy, The Internal Affairs Officer, Undersheriff(s), or Chief Warrant Officer shall notify the Sheriff of any changes that may be necessary to this policy.

**BY ORDER OF THE SHERIFF**

*Frederick W. Brown*  
Frederick W. Brown, Sheriff