	NEW PALTZ POLICE DEPARTMENT Policy and Procedures	
	<i>Subject</i> 25.1 Internal Affairs Functions	
	ISSUED: May 12, 2011	EFFECTIVE: May 12, 2011
	REVISED: November 22, 2021	RESCIND:
<i>N.Y.S. Accreditation Ref: A25.1</i>	<i>Page 1 of 5</i>	Authority: Chief Robert J. Lucchesi

Internal Affairs Functions

PURPOSE

The purpose of this policy is to inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of employee misconduct.

POLICY

Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect this agency's integrity. The New Paltz Police Department shall accept and investigate fairly and impartially all complaints of employee conduct to determine the validity of allegations and to impose any disciplinary actions that may be justified in a timely and consistent manner.

PROCEDURES

A. Basis for Discipline

1. Employees are subject to discipline for violations of law or agency policy, rules or regulations. Discipline for violations of law or agency policy, rules, training and regulation can range from verbal counseling to termination.
2. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable state law, local ordinances, administrative rulings, collective bargaining agreements and policy and procedure.
3. Employees who withhold information from, or fail to cooperate with, internal investigations or who fail to report misconduct of employees are subject to disciplinary action in addition to any other disciplinary action that may result from the investigation.

B. Acceptance /Filing of Complaints

1. The "Compliment/Complaint/Suggestion Form" shall be made available to the public at the New Paltz Police Department and online via the department's website. The form is also available at the Town and Village Halls and Town website.
2. Complaints may be received by supervisory members of this agency either in person, over the telephone or in writing, and may be lodged anonymously or by any other means. In the event there is no supervisor available, the most senior officer on shift will act in his stead and receive the complaint.
3. Employees shall assist those who express the desire to lodge complaints against any employee(s) of this agency. This includes but is not limited to:
 - a. calling a supervisor to the scene to document the complaint,
 - b. explaining the agency's complaint procedures



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N.Y.S. Accreditation Ref: A25.1

Page 2 of 5

Authority: Chief Robert J. Lucchesi

- c. providing referrals to individuals and/or locations where such complaints can be made in person, or
- d. explaining alternative means for lodging complaints, such as by phone or mail.

C. Investigation of Civilian Complaints- Supervisor's Role/Responsibility

- 1. First line supervisors receiving civilian complaints regarding law enforcement personnel or operations will immediately forward said complaint to the Internal Affairs Lieutenant for further investigation.
- 2. As a rule, complaints regarding law enforcement personnel or operations will be handled by the Lieutenant acting as Internal Affairs Lieutenant.

D. Investigation of Complaints- Internal Affairs Lieutenant Role/Responsibility

- 1. The Lieutenant has primary responsibility for review and investigation of all complaints against employees, whether initiated by the public or by a member of the department.
 - a. In the event the Lieutenant is the subject of the investigation, the Chief of Police shall handle the investigation
- 2. The Internal Affairs Lieutenant will notify the complainant, as soon as practical, that the department acknowledges receipt of the complaint, that the complaint is under investigation and that the investigation will be completed as soon as possible.
 - a. If the investigation exceeds 30 days, the Internal Affairs Lieutenant will notify the complainant of such.
- 3. The Lieutenant may also initiate an investigation with or without a formal complaint, with prior knowledge and approval of the Chief of Police.
- 4. The Internal Affairs Lieutenant shall also have the following additional responsibilities:
 - a. Conduct a regular audit of complaints to ascertain the need for changes in training or policy;
 - b. Maintain statistical and related information to identify trends involving all complaints of excessive force and abuse of authority;
 - c. Track complaints against individual employees to assist in employee risk analysis;
- 5. Once the investigation is complete, the Internal Affairs Lieutenant will notify the complainant of the investigation findings.
 - a. If the case is determined to be founded, the complainant will be informed that it will be handled administratively
- 6. The New Paltz Police Department Internal Affairs Lieutenant will function as the liaison with the Ulster County District Attorney's Office in investigations involving alleged criminal conduct on the part of any employee.

E. Chief of Police Responsibilities include:

- 1. Maintaining the IA log;



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N.Y.S. Accreditation Ref: A25.1

Page 3 of 5

Authority: Chief Robert J. Lucchesi

2. Maintain a central file for complaints in a secured area and in conformity with records retention requirements of state law;
3. Direct the Internal Affairs Lieutenant to initiate all investigations with the Ulster County District Attorney's Office on a case-by-case basis;
4. Apprise the Police Commission of all Internal Affairs investigations;
5. Make notification to the New York State Office of the Attorney General Law Enforcement Misconduct Investigative (LEMIO)

- a. New York State Executive Law § 75(5)(b) requires the Chief of Police to refer to LEMIO instances in which the department has received "at least five complaints from five or more individuals relating to at least five separate incidents involving a certain officer or employee within two years."

I. For purposes of Executive Law § 75(5)(b), a "complaint" should be understood as either:


- a. an allegation received by the covered agency from a non-employee that an officer or employee has violated law or agency policy or otherwise misused their authority; or
- b. an allegation received by the covered agency from an officer or employee that another officer or employee has violated law or agency policy or misused their authority in connection with law enforcement activities.
- c. Lawsuits and notices of claims involving alleged officer or employee misconduct, as well as complaints filed with a civilian review board, should be considered complaints for purposes of § 75(5)(b). Internal complaints involving routine employer-employee matters should not be considered complaints for purposes of § 75(5)(b).

II. Executive Law § 75 does not supplant or supersede the department's internal processes for reviewing public complaints, preventing misconduct, or managing personnel. Section 75(5)(b) does not relieve the department of its responsibility to thoroughly investigate and address allegations of officer and employee misconduct.

III. Communications with LEMIO do not satisfy any duties your agency may owe to OSI. The Office of Special Investigations ("OSI"), which conducts criminal investigations related to deaths potentially caused by the act or omission of a police or peace officer pursuant to Executive Law § 70-b, is a separate unit within the Office of the Attorney General.

F. Investigative Interviews and Procedures


1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint.

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<i>N.Y.S. Accreditation Ref: A25.1</i>	<i>Page 4 of 5</i>	Authority: Chief Robert J. Lucchesi

2. Interviews may be conducted while the employee is on or off duty. Employees will be compensated if called in on their off time.
3. The complete interview may be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed.
4. The employee shall be provided with the name, rank and command of all persons present during the questioning. The employee shall also be given the following admonitions:
 - a. You will be asked and are required to answer all questions specifically related to the performance of your duties and your fitness for office.
 - b. If you refuse to answer these questions, you can be subject to discipline that can be as much as discharge or removal from office. You may also be subject to discipline for knowingly giving false statements.
 - c. The statement and answering of all questions are compulsory and as such Garrity attaches precluding their use in any criminal prosecution.
5. Counsel at Interview
 - a. Employees may have an attorney or union representative with them during any internal investigative interview so long as the individual is not involved in any manner with the incident under investigation.
6. Examinations and Searches
 - a. The agency may direct that the employee undergoes an intoximeter, blood, urine, psychological, polygraph, medical examination or any other exam not prohibited by law if it is believed that such an examination pertinent to the investigation.
 - b. Property belonging to the law enforcement agency is subject to inspection for investigative purposes.

G. Disposition

1. The Lieutenant shall review the complaint report and investigative findings once deemed complete. They will compile a report of findings and provide a disposition recommendation for each charge as follows:
 - a. *Founded:* Evidence sufficient to prove allegations.
 - b. *Unsubstantiated:* Insufficient evidence to either prove or disprove allegations.
 - c. *Exonerated:* Incident occurred but was lawful.
 - d. *Unfounded:* Allegation is false or not factual or the employee was not involved.
2. The Internal Affairs's Lieutenant may make any additional inquiries or investigative measures deemed necessary to verify, authenticate or clarify findings and recommendations of the investigative report and may include such findings and disposition recommendations with the report submitted to the Chief of Police.

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3. All disciplinary investigation findings and recommendations shall be forwarded to the Chief of Police through the chain of command for information, review and comment.
4. The Chief of Police will review the investigative report and supporting documents and may accept the findings and recommendations or remand the case for additional investigation in all or in part.
 - a. The Chief of Police will review the accepted investigation findings and recommendations with the Police Commission.
5. If the complaint is founded and the Chief of Police determines that formal charges will be brought, the Chief of Police in consultation with the Police Commission and the Town Labor Attorney will direct that a charging document be prepared, signed and thereafter served upon the subject employee. The charging document will provide:
 - a. nature of the charges,
 - b. a reasonable time frame in which the employee can respond to the charges either in written or oral form.
6. Employees who desire an opportunity to be heard on these proposed charges may make a request for a hearing to the Chief of Police or their designee within the period permitted for this action as outlined in state law and the collective bargaining agreement.
7. Following a hearing or written response of the subject employee to the charges, the Chief of Police shall determine an appropriate disposition of the charge(s), compliant with the collective bargaining agreement, or may remand the case for further investigation or related actions.
8. The employee may appeal the findings and/or discipline as provided by law, ordinance, collective bargaining agreement, or departmental or governing jurisdiction procedure.
9. The disposition shall be executed by the Chief of Police per the collective bargaining agreement.

H. Internal Affairs's Lieutenant Records and Confidentiality

1. The Internal Affairs's Lieutenant shall be informed of all final disciplinary decisions.
2. The Internal Affairs's Lieutenant's information is considered confidential and will be retained under secure conditions within his office.
3. The Internal Affairs's Lieutenant case files and personnel dispositions may not be released to any source without prior approval of the Chief of Police unless otherwise provided by law.
4. Case investigation files shall be retained for a period as defined by state law or the Chief of Police.