

# Newark Police Division Draft Complaint Intake and Investigation Process Policy

## *What You Need to Know*

### **Background**

Newark residents deserve a police department that impartially and properly addresses complaints lodged against its members and their officers.

The Consent Decree entered into by the Department of Justice and the City of Newark requires the Newark Police Division (NPD) to develop a comprehensive complaint intake and investigation process policy to address these issues. Paragraphs 112-149 of the Consent Decree outline the requirements of this complaint intake and investigation process policy.

### **Draft Complaint Intake and Investigation Process Policy Summary**

The draft complaint intake and investigation process policy contains 15 sections: (1) purpose; (2) policy; (3) responsibility for compliance; (4) definitions; (5) prevention of misconduct; (6) community outreach; (7) allegations of misconduct; (8) Office of Professional Standards; (9) complaint intake process; (10) major offense complaints; (11) complaint classification and assignment; (12) complaint investigation; (13) complaint adjudication; (14) training; and (15) effect of this order.

This fact sheet summarizes some of the draft policy's key areas. Pages 3-5 of the policy contain definitions of important terms used throughout the policy, including Major Offense, Minor Offense, Preliminary Investigation, and Misconduct.

### **WHAT IS THE PURPOSE OF THE POLICY?**

This policy seeks to create a complaint intake and investigation process to deal seriously with accusations against NPD members, approaching "each case factually and fairly." The process should also "correct unclear or deficient agency policy and procedures."<sup>1</sup>

### **WHAT ARE ALLEGATIONS OF MISCONDUCT?**

The policy defines misconduct as "a commission of a crime, offense, or violation of Division Rules, Regulations, Policies, Procedures or conduct that adversely reflects upon the Division." All NPD members must report allegations of criminal behavior or administrative misconduct by another member to a supervisor or to the Office of Professional Standards. All NPD members must also immediately notify their Command desk supervisor any time they are arrested or detained for any crime or offense. The Public Safety Director and Professional Standards Commander shall thoroughly review all allegations of misconduct "to determine the manner of response that best serves the public and members of the Police Division."<sup>2</sup>

### **WHAT IS THE OFFICE OF PROFESSIONAL STANDARDS?**

The Office of Professional Standards (OPS) will consist of members of the Division assigned by the Public Safety Director and is tasked with maintaining internal accountability through "objective, thorough, and impartial investigations and reviews." Division members with a sustained complaint of or who have been disciplined for excessive use of force, false arrest, unlawful search and seizure, sexual harassment, discrimination, or dishonesty will not be eligible for assignment to the OPS. The OPS will use the Early Warning System, a database-type police management tool, to identify Division members who demonstrate at-risk behavior, training deficiencies, or indicators of stress.<sup>3</sup>

### **RESPONSIBILITIES OF THE OFFICE OF PROFESSIONAL STANDARDS**

- Review and investigate all misconduct allegations by Division members
- Coordinate investigations involving discharges of firearms by officers with the Essex County Prosecutor

<sup>1</sup> See Complaint Intake and Investigation Process Policy at I.

<sup>2</sup> See Complaint Intake and Investigation Process Policy at IV, VII.

<sup>3</sup> See Complaint Intake and Investigation Process Policy at VIII.

- Investigate evidence of misconduct arising from criminal prosecutions/civil lawsuits
- Prepare monthly reports summarizing sustained investigation dispositions and annual reports for the NPD website summarizing complaints
- Plan and execute “regular, targeted, and random internal reviews and integrity audits to ensure compliance”<sup>4</sup>

### **WHAT IS THE COMPLAINT INTAKE PROCESS?**

NPD has to take ALL complaints made to them by any means, and officers must never dissuade or discourage the filing of a complaint. Complainants will be provided with event numbers and be advised that as soon as the complaint is accepted, the investigation process is initiated. Division members accepting complaints will ask complainants or witnesses for any supporting information or documentation and proceed to submit the evidence with the complaint. Complainants are allowed to be anonymous. The Division is prepared with interpretation services for complainants who do not speak English and officers will not ask about a complainant’s immigration status. Retaliating against a complainant in any form, delaying the process, or concealing information will result in disciplinary action. If a complainant expresses fear or concerns about making a complaint, he or she will be referred to the Essex County Prosecutor’s Office.<sup>5</sup>

### **WHAT ARE MAJOR AND MINOR OFFENSE COMPLAINTS?**

The Commander/designee of the OPS shall make all final determinations on whether complaints against Division personnel are Major or Minor. The policy defines Major Offenses as “[s]erious violation/s of Division rules, regulations, policies or procedures which shall include any criminal violation of Federal or State Laws.” Examples of Major Offenses include arrest, domestic violence, and intoxication on duty. The policy defines Minor Offenses as “[l]ower level violations of Division rules, regulations, policies or procedures”; examples include demeanor and tardiness. Page 21 of the policy includes a chart outlining how both Major and Minor Complaints are handled.<sup>6</sup>

### **WHAT DOES COMPLAINT INVESTIGATION LOOK LIKE?**

Allegations of misconduct will be thoroughly investigated to their logical conclusion. Investigators will gather all possible evidentiary items in addition to recorded interviews with involved Division members, complainants, and witnesses. The standard of proof for an investigator’s conclusion is the “Preponderance of Evidence,” not the more stringent “Beyond a Reasonable Doubt.” There are four possible investigation dispositions, defined further on page 17: exonerated, sustained, not sustained, or unfounded. If a misconduct complaint is sustained and it is determined that formal charges will be filed, the Advocate Unit will prepare formal Charge Documents which shall be forwarded to the Public Safety Director for review and approval. The Advocate Unit will then formally serve the member; the Newark Police Division-Disciplinary Philosophy and Purpose General Order outlines the disciplinary process.<sup>7</sup>

### **WHAT IS COMPLAINT ADJUDICATION?**

The Commander of the OPS will review completed investigations and approve or disapprove of findings; if disapproved they will be sent back for revision. Investigators displaying consistent deficiencies will be re-trained or face disciplinary action if warranted. The disciplinary histories of involved Division members shall also be reviewed for any improper patterns, practices, or trends.<sup>8</sup>

### **WHAT ARE THE TRAINING REQUIREMENTS?**

The NPD will provide training to all new and current members on the complaint intake process including proper fielding, processing, and routing of complaints; providing complaint materials and information; consequences for failing to accept complaints; turning the complaint process into positive police-civilian interactions; and identifying and handling complaints from social media platforms. Investigators will also receive additional annual training.<sup>9</sup>

### **WILL THERE BE COMMUNITY OUTREACH?**

The disciplinary process will be outlined in regularly scheduled community meetings.<sup>10</sup>

<sup>4</sup> See Complaint Intake and Investigation Process Policy at VIII.

<sup>5</sup> See Complaint Intake and Investigation Process Policy at IX.

<sup>6</sup> See Complaint Intake and Investigation Process Policy at IV, X, XI, XII.

<sup>7</sup> See Complaint Intake and Investigation Process Policy at XII.

<sup>8</sup> See Complaint Intake and Investigation Process Policy at XIII.

<sup>9</sup> See Complaint Intake and Investigation Process Policy at XIV.

<sup>10</sup> See Complaint Intake and Investigation Process Policy at VI.