

GENERAL ORDER GO-128	DATE ISSUED: 06/15/2011	EFFECTIVE DATE: Immediately	Revised:	
			Date:	Section:
SUBJECT: Internal Affairs and Citizen Complaint Policy			05/21/2012	I. & II.
			02/23/2013	III.B.1.
REFERENCES: Attorney General's Guidelines, September 2011 N.J.S.A. 40A: 14-147			12/09/2013	III. A,B,E G
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I. Purpose

- A. The Warren Township Police Department agency is committed to providing law enforcement services that are fair, effective, and impartially applied. Police department employees are held to the highest standards of official conduct and are expected to respect the rights of all citizens. Employees' adherence to these standards, motivated by a moral and professional obligation to perform their job to the best of their ability, is the ultimate objective of this agency.
- B. The effectiveness of a law enforcement agency is dependent upon public approval and acceptance of law enforcement authority. The Warren Township Police 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 employees' compliance with department policies and procedures. Adherence to established policies and procedures assists employees in meeting department objectives while a monitoring system permits managers to identify problem areas requiring increased training or direction. This policy will ensure fairness and due process protection to citizens and employees alike.
- D. 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 employees.

II. Policy

- A. It is the policy of the Warren Township Police Department agency to accept and investigate all complaints of alleged employee misconduct or wrongdoing from any citizen or agency employee to include anonymous complaints. Following a thorough and impartial examination of the available factual information, the

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employee shall be either exonerated or held responsible for the alleged misconduct. Discipline shall be administered according to the degree of misconduct.

- B. It is the policy of the Warren Township Police Department that officers and employees, regardless of rank, shall be subject to disciplinary action for violating their oath and trust. Committing an offense punishable under the laws of the United States, the State of New Jersey, or municipal ordinances constitutes a violation of that oath and trust. Officers are also subject to disciplinary action for failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment. In addition, officers may be disciplined for violation of any rule and 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 the Warren Township Police 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 officer or any other law enforcement 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 department's internal affairs policy.
- D. It is the policy of this agency that prevention is the primary means of reducing and controlling misconduct. It is the policy of this agency to discover and correct organizational conditions which permit the misconduct to occur. Special emphasis is placed on recruitment, selection and training of officers and supervisors, community outreach, and the analysis of misconduct complaints and their outcome.
- E. It is the policy of the Warren Township Police Department that each employee shall be provided ready access to an official, agency 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.

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III. Procedure

A. Internal Affairs Unit

1. The Internal Affairs Unit shall consist of the Services Lieutenant and any member of the department assigned to the Internal Affairs Unit by the Chief of Police. Personnel assigned to the internal affairs unit shall serve at the pleasure of and be directly responsible to the Chief of Police or the designated internal affairs supervisor. The goal of internal affairs is to ensure 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.
 - a. The Chief shall assign personnel to Internal Affairs who have sufficient experience and rank to effectively handle sensitive investigations.
 - b. Any Internal Affairs investigators with conflicts of interest must recuse from certain cases, and the Internal Affairs investigatory function can never be contracted out to a private entity. The department shall refer matters to the Somerset County Prosecutor when it is unable to investigate a matter on its own.
 - c. An officer subject to an administrative investigation has a good-faith basis to question the impartiality or independence of an investigation being conducted within the agency, the officer may report their concerns to the Somerset County Prosecutor.
2. Duties and Responsibilities
 - a. The Internal Affairs Unit is responsible for the investigation and review of all allegations of misconduct by members of this department.
 - (1) A crime or an offense.
 - (2) Violation of departmental rules and regulations.

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(3) Conduct which adversely reflects upon the officer or the department.

- b. 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.
- c. Internal affairs shall be responsible for any other investigation as directed by the Chief of Police.
- d. Internal affairs officers may conduct an internal affairs investigation on their own initiative, upon notice to or at the direction of the Chief of Police or internal affairs supervisor.
- e. Internal affairs may refer investigations to the employee's supervisor for action as outlined under this policy.
- f. Internal affairs officers assigned to that 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. Members assigned to the internal affairs unit come under the direct authority of the Chief of Police, reporting directly to the Chief of Police through the internal affair's chain of command.
- g. Internal affairs officers assigned to the function shall complete training as mandated by the Division of Criminal Justice prior to assignment to the internal affairs unit.
- h. Internal affairs shall maintain a records system containing an internal affairs index system and filing system for all documents and records. Reasonable physical security measures must be implemented and access to the records must be restricted to such persons specified by the Chief of Police.

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- i. The internal affairs unit shall prepare a Somerset County Prosecutor's Office Quarterly- Internal Affairs Incident Report that summarizes the nature and disposition of all misconduct complaints received by the agency. This report shall be submitted to the Chief of Police and Somerset County Prosecutor's Office.
 - j. Copies of the internal affairs report shall be distributed upon request to all command personnel, the appropriate authority, and the county prosecutor's office. The Chief of Police shall advise the county prosecutor of trends in the department, goals for the next reporting period and outcomes from past periods.
 - k. An annual report summarizing the types of complaints received and the dispositions of the complaints should be made available upon request to members of the public. The names of complainants and subject officers shall not be published in this report.
3. Risk Management procedures shall provide an optimal level of service to the community and reduce its exposure to civil liability.
- a. The internal affairs unit shall monitor and track the conduct of all its officers with the ability to identify those officers with a disproportionate number of complaints against them and utilize the information to prevent patterns, practices or trends of inappropriate behavior or conduct from developing. See GO-141 The Early Warning Policy for additional information.
 - b. The police department shall provide its superior officers with sufficient training and resources to properly perform their duties should they identify officers with performance and misconduct issues, in a timely fashion. Supervisors are expected to recognize potentially troublesome officers, identify training needs of officers and provide professional support in a consistent and fair manner.

B. Accepting Reports Alleging Officer Misconduct

- 1. All department personnel are directed to accept reports of employee misconduct from all persons who wish to file a complaint regardless of the hour or day of the week. All Persons are to be encouraged to submit their

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complaints in person as soon after the incident as possible. If the complainant cannot file the report in person, a department representative shall visit the individual at his or her home; place of business or at another location in order to complete the report, if feasible.

2. Complainants shall be referred to the internal affairs unit if an officer is immediately available.
3. If an internal affairs officer is not immediately available, all supervisory personnel are directed to accept the report of officer misconduct.
4. If an internal affairs officer and a supervisor are not available, the most senior officer shall accept the complaint. The Somerset County Prosecutor is directly responsible for Internal Affairs investigations of municipal law enforcement executives and administrative teams, regardless of the type of alleged misconduct.
5. The officer receiving the complaint will:
 - a. The officer shall explain the department's internal affairs procedures.
 - b. Advise the complainant that he or she will be kept informed of the status of the complaint and its ultimate disposition.
 - c. Complete the Internal Affairs Report Form, according to the instructions provided.
 - d. 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.
6. All department 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 him to submit his complaint in person. In any case, the complaint will be accepted. In the case of an anonymous complaint, the officer accepting the complaint shall

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complete as much of the Internal Affairs Report Form as he can with the information provided.

7. A standardized civilian complaint form shall be made available in multiple languages on the department website.
8. Complaints shall be handled as follows:
 - a. All complaints will be forwarded to the internal affairs unit for screening and entry into the record keeping system.
 - b. The internal affairs officer will notify the Chief of Police of all complaints against the agency or its employees on the next business day. The following complaints or accusations will require immediate notification of the Chief of Police.
 - (1) Complaints which require immediate suspension or relief from duty of any employee.
 - (2) Complaints of any type against the administrative staff of the police department.
 - (3) Any other complaint, at the discretion of the internal affairs officer.
 - c. Complaints of demeanor and minor rule infractions shall then be forwarded to the supervisor of the subject officer.
 - d. All other complaints shall be retained by the internal affairs unit, including complaints of:
 - (1) Criminal Activity
 - (2) Excessive Force
 - (3) Improper Arrest
 - (4) Improper Entry

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- (5) Improper Search
 - (6) Differential Treatment
 - (7) Serious Rule Infractions
 - (8) Repeated Minor Rule Infractions
 - (9) Traffic Warrant
9. The subject employee shall be notified in writing of the complaint as soon as possible, unless the nature of the investigation requires secrecy.
10. The internal affairs unit commander shall assure that disciplinary charges alleging a violation of agency rules are filed no more than 45 days of the complaint obtaining all sufficient information, subject to the exceptions noted below, when the 45 day rule shall be stayed pending the outcome of the criminal investigation. (See N.J.S.A. 40A: 14-147)
- a. Where preliminary investigation indicates the possibility of any criminal act by the subject officer, the county prosecutor must be notified immediately and the notifying agency must await further direction prior to taking any further action, including but not limited to, interviewing the subject officer.
 - b. Use of Force by an officer which results in serious bodily injury or death also requires immediate notification to county prosecutor, and, pending a decision of the prosecutor, the agency will withhold further investigation and the filing of any criminal or administrative charges.
 - c. Cases of domestic violence involving an officer (either alleged perpetrator or victim) require immediate notification by the officer and the investigating agency to the employing agency's internal affairs officer. In cases where the officer is the alleged perpetrator, the officer's service weapon and all other weapons that the officer may possess must be seized. If preliminary investigation indicates the possibility of a criminal act, the county

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prosecutor must immediately be notified, and the agency will await further direction.

- d. The Chief may take steps to ensure prompt resolution of the matter. Investigators must provide further notice to the Chief every additional 45 days the investigation remains open. In the rare cases the agency has not filed disciplinary charges within 180 days of receipt of the complaint, the agency must notify the Somerset County Prosecutor, who will investigate the reasons for the extended investigation and examine the agency's internal affairs function. The Somerset County Prosecutor may take any steps necessary to ensure prompt resolution of the pending matter, including suppression of the agency's investigation.

C. Suspension Pending Disposition or Investigation

1. The Chief of Police or his designee may immediately suspend an employee from duty if he or she determines 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 safety, health, order or effective direction of public services.
 - d. The employee has been formally charged with a first, second- or third-degree crime.
 - e. The employee has been formally charged with a first, second, third- or fourth-degree crime while on-duty, or the criminal act related to his or her employment.
2. The supervisor imposing the immediate suspension must:
 - a. Provide the employee with sufficient opportunity to review the charges and the evidence and to respond either orally or in writing.

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b. Advise the employee in writing of why an immediate suspension is sought and the charges and general evidence in support of the charges. If the employee refuses to accept the written notification of immediate suspension, it shall be given to an officer of the employee's local bargaining unit.

c. Advise his immediate supervisor in writing of the suspension and the facts and circumstances requiring the suspension.

3. Within five days of the suspension, the department must complete and file formal charges against the suspended employee or return the employee to work.

D. Investigation and Adjudication of Minor Complaints

1. Complaints of demeanor and minor rule infractions shall be forwarded to the subject officer's respective lieutenant. The respective lieutenant shall investigate or designate a supervisor to investigate the allegation of misconduct.

2. The investigating officer shall interview the complainant, all witnesses and the subject employee, as well as review relevant reports, activity sheets, recordings, or dispatcher forms. The investigating officer shall then prepare a report summarizing the matter, indicating the appropriate disposition. Possible dispositions include the following:

a. Exonerated: The alleged incident did occur, but the actions of the officer were justified, legal and proper. Within this category, it may have been determined that the problem was with an agency rule or procedure.

b. Sustained: The investigation disclosed sufficient evidence to prove the allegation, and the actions of the officer violated provisions of rule and regulation or agency procedures.

c. Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

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d. Unfounded: The alleged incident did not occur.

3. If the investigating officer determines the disposition of the complaint is unfounded, not sustained or exonerated, the investigation report is to be forwarded to internal affairs for review, and entry in the index file and filing.
4. Upon the final disposition of the complaint, a letter shall be sent to the complainant by internal affairs explaining the outcome of the investigation.
5. Initiation of action for minor complaints, formal progressive discipline begins with a written reprimand which remains in an officer's personnel file. Oral reprimands are considered training aids as they are removed from personnel files after six (6) months provided no other breach of discipline has occurred.
 - a. The supervisor giving the counseling, oral reprimand or written reprimand shall complete the appropriate documents.
 - b. The officer or employee shall be advised of the discipline and given a copy of the disciplinary document.
 - c. The supervisor will forward copies of the disciplinary document to the Chief of Police or his designee for review. The internal affairs officer will then make an entry in the index file.
 - d. A copy of the disciplinary document will be placed in the officers or employee's personnel file.
 - e. Oral Reprimands or Counseling
 - (1) Six months after the date of the oral reprimand or counseling, the disciplinary report shall be removed from the personnel file and destroyed, provided no other breach of discipline has occurred.
 - (2) The subject officer shall be notified in writing that the oral reprimand or performance notice has been purged.

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f. Written Reprimands

The written reprimand will remain permanently in the officer's or employee's personnel file.

E. Investigation and Adjudication of Serious Complaints

1. All serious complaints shall be investigated by the internal affairs unit, including complaints of:
 - a. Criminal activity
 - b. Excessive force
 - c. Improper arrest
 - d. Improper entry
 - e. Improper search
 - f. Differential treatment
 - g. Serious rule infractions
 - h. Repeated minor rule infractions.
2. 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, the county prosecutor shall be notified immediately. No further action shall be taken, including the filing of charges against the employee, until directed by the county prosecutor.
3. The internal affairs investigator shall interview the complainant, all witnesses and the subject employee, as well as review relevant reports and records, and obtain other relevant information and materials.

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- a. When taking a formal statement from a civilian, including a complaint, the investigator shall video or audio record the statement according to the same protocols that would apply if the civilian were being interviewed in connection with a criminal investigation.
 - b. If a witness objects to the recording of the interview, the investigator may proceed without the recording, but must document in writing the reason for doing so.
4. Interviewing the Subject Employee
 - a. The internal affairs investigator shall schedule an interview with the employee.
 - b. One person of the employee's choosing may attend the interview. 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.
 - c. Before questioning begins, inform the subject employee of:
 - (1) The nature of the complaint.
 - (2) The name of the person in charge of the interview, and the names of all persons who will be present during the interview.
 - d. If the matter under investigation involves an administrative allegation, the officer will be advised of his or her duties and obligations to answer using the Administrative Advisement Form.
 - e. All investigations of firearm discharges are generally conducted by the Somerset County Prosecutor or in cases of discharges resulting in a fatality, the Attorney General shall perform the investigation.
 - f. If the matter under investigation involves a possible criminal violation, the internal affairs investigator shall consult with the county prosecutor regarding the advisability of giving a Miranda Warning to the subject officer.

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- g. All on-duty and off-duty firearm discharges by a law enforcement officer, except in certain limited circumstances, must be documented and reviewed by Internal Affairs to determine whether additional investigation is necessary.
 - h. When taking a formal statement from an officer, the investigator shall video or audio record the statement, except that in cases that did not arise from a civilian complaint, the investigator need not record the statement unless the officer requests it.
 - i. 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. Promptly refer the case to the county prosecutor.
 - j. Employees that are interviewed as witnesses will read and sign the Internal Affairs Witness Acknowledgment Form.
5. Upon completion of all possible avenues of inquiry, the internal affairs investigator shall complete the following reports:
- a. Investigation report to document all of the investigative activity, including all of the information obtained during the course of the investigation.
 - b. Summary report in memorandum format, will summarize the matter, and will provide recommended dispositions for each allegation. Included will be disposition recommendation form. Possible dispositions, as defined in this policy, include the following.
 - (1) Exonerated
 - (2) Sustained
 - (3) Not sustained
 - (4) Unfounded

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6. Forward the completed reports through the internal affairs supervisor to the Chief of Police.
7. The Chief of Police, upon completion of the review of the report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action is deemed appropriate.
8. Upon completion of its investigation with a finding of exonerated, not sustained, or unfounded, internal affairs shall notify the subject officer in writing of the disposition. The subject officer may review the investigation by request through the Chief's office.
9. If the complaint is sustained and it is determined that formal charges should be preferred, the Chief of Police shall direct internal affairs, or the investigating officer to prepare, sign, and serve charges upon the subject officer or employee. Lieutenant, supervisor or internal affairs, as directed, shall prepare the formal notice of charges and hearing on the Charging Form.
10. The notice of charges and hearing shall direct that the employee charged must enter a plea of guilty or not guilty, in writing, on or before the date set forth in the notice for entry of plea. Such date for entry of plea shall be set within a reasonable time, at least five days after the date of service of the charges.
11. If the officer charged enters a plea of guilty, the Chief of Police shall permit the employee to present factors in mitigation prior to assessing a penalty
12. Conclusions of fact and the penalty imposed will be noted in the officer's personnel file after he has been given an opportunity to read and sign it. Internal affairs in conjunction with the appropriate division commander will cause the penalty to be carried out and complete all required forms.
13. Personnel records are separate and distinct from internal affairs investigation reports and shall never be placed in personnel records.

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When a complaint has a disposition of exonerated, not sustained or unfounded, there shall be no indication in the employee's personnel file that a complaint was ever made. In those cases where a complaint is sustained and discipline imposed, the only items to be placed into the personnel file are a copy of the administrative charging form and a copy of the disposition form. No part of the internal affairs investigation report shall be placed in the personnel file.

F. Hearing

1. Upon written notice of a request for a hearing from the subject employee the Chief of Police will set the date for the hearing within a reasonable time and arrange for the hearing of the charges.
2. Internal affairs shall be responsible for any assistance to the assigned supervisor or prosecutor in the preparation of the department's prosecution of the charges. This includes proper notification of all witnesses and preparing all documentary and physical evidence for presentation at the hearing.
3. In the event of a hearing, internal affairs will be responsible for preparing a discovery package from the internal affairs file and providing it to the subject employee or his or her representative.
4. The hearing shall be held before the appropriate authority or the appropriate authority's designee.
5. All disciplinary hearings shall be closed to the public unless the defendant employee requests an open hearing.
6. The hearing authority is empowered to enter a finding of guilty or not guilty, or to modify the charges as deemed necessary. The decision of the hearing authority should be in writing and should be accompanied by findings of fact for each issue in the case.
7. The hearing authority will fix any of the following punishments which it deems appropriate under the circumstances.
 - a. Counseling, Training or Re-Training

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			02/23/2013	III.B.1.
REFERENCES: Attorney General's Guidelines, September 2011 N.J.S.A. 40A: 14-147			12/09/2013	III. A,B,E G
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- b. Oral Reprimand
- c. Written Reprimand
- d. Monetary Fine
- e. Transfer or Reassignment
- f. Suspension without Pay
- g. Loss of Promotion Opportunity
- h. Demotion
- i. Discharge from Employment

- 8. A copy of the decision or order and accompanying findings and shall be delivered to the officer or employee who was the subject of the hearing and to the Chief of Police if he was not the hearing authority.
- 9. Upon completion of the hearing internal affairs will complete all required forms including the entry of the disposition in the index file.
- 10. If the charges were sustained, internal affairs will cause the penalty to be carried out. The report shall be permanently placed in the officers or employee's personnel file.

G. Confidentiality

- 1. The progress of internal affairs investigations and all supporting materials are considered confidential information.
- 2. Upon completing a case, internal affairs will enter the disposition in the index system and a filing system for all documents and records.
- 3. The contents of internal investigation case files will be retained in the internal affairs unit. The files shall be secured in a locked file cabinet and clearly marked as confidential.

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4. Only the Chief of Police or his designee is empowered to release publicly the details of an internal investigation or disciplinary action. These records may only be released under a narrow range of circumstances, including when the Chief has "good cause". Good cause may exist when another law enforcement agency requests records related to a current or former officer that the agency is considering whether to hire.
5. Law enforcement officers seeking tools to cope with the emotional and mental stresses of their work shall not face adverse internal affairs consequences for the sole reason that the officer decided to seek medical or psychological treatment for a mental health concern.

H. Somerset County Prosecutor's Office Internal Affairs- Infoshare Module

1. The Somerset County Prosecutor's Office Internal Affairs Infoshare Module serves as an Internal Affairs case index, case management database, Early Warning System indicator tracking mechanism as well as a Brady-Giglio notification system.
2. Warren Township Police Department is required to use the County Infoshare database to input all Internal Affairs complaint information, all Internal Affairs investigative reports and all respective dispositions.
3. Warren Township Police Department shall enter all Internal Affairs investigations and Early Warning System indicators into the module retroactively from January 1, 2020. All potential Brady-Giglio materials already submitted to Somerset County Prosecutor's Office shall be uploaded into the Infoshare Module.
4. Effective October 1, 2020 all new Brady-Giglio entries for any officers that have previously been provided must be entered into the Infoshare Internal Affairs Module by the Warren Township Police Department Internal Affairs officer. Additionally, all potential Brady-Giglio materials for the department's remaining officers that has not been previously provided must also be entered into the Infoshare Module.

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I.

1. On an annual basis, the Warren Township Police Department shall publish on its public website a report summarizing the types of complaints received and the dispositions of those complaints. This report should be statistical in nature.
2. On a periodic basis, and at least once a year, the Warren Township Police Department shall submit to the County Prosecutor and publish on the agency's website a brief synopsis of all complaints where termination, reduction in rank or grade, and/or suspension of more than five days was assessed to the officer. This synopsis shall include the identity of each officer subject to final discipline, a brief summary of their transgressions, and a statement of the sanction imposed. This synopsis shall not contain the identities of the complainants.