



# CITY OF BETHLEHEM

OFFICE OF OPEN RECORDS

10 East Church Street, Bethlehem, Pennsylvania 18018-6025

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[www.bethlehem-pa.gov](http://www.bethlehem-pa.gov)

August 26, 2020

**Via Email: [ejg1@lehigh.edu](mailto:ejg1@lehigh.edu)**

Mr. Edward J. Gallagher  
49 W. Greenwich Street  
Bethlehem, PA 18018

RE: Pennsylvania Right to Know Law ("RTKL") Request

Dear Mr. Gallagher:

Your request directed to the Open Records Officer was dated and received on August 24, 2020. You seek the "15-page directive on citizen complaints" referenced by Chief Mark DiLuzio during the August 11, 2020 Public Safety Committee meeting.

Your request is granted in the form of Bethlehem Police Directive Number 1.3.3 titled "Allegations of Misconduct and Internal Affairs" last updated February 13, 2019 and attached hereto.

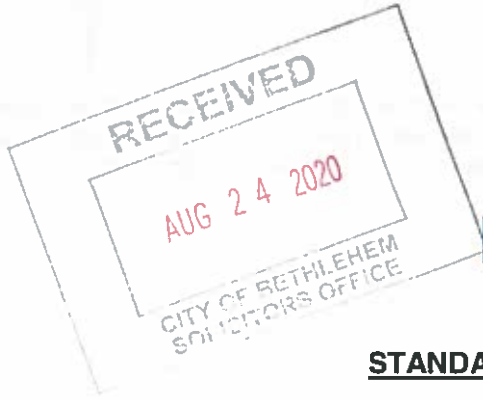
The City believes that it has met your request in full; however, if you wish to appeal this decision, you have 15 business days from the date of this letter in which to mail your written appeal to: Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17120-0225. You can also send your appeal via facsimile (717-425-5343) or email ([openrecords@pa.gov](mailto:openrecords@pa.gov)) as a Microsoft Word or PDF attachment. Appeals filed via e-mail including attachments exceeding 4MB warrant a phone call to the Office of Open Records to obtain prior approval to send such a large data file by email. All appeals must contain the following: (1) a copy of the RTK request; (2) a copy of the Agency's response; (3) all grounds why you believe the request seeks a public record; and (4) address any ground stated by the agency for the denial.

If you have any questions, please feel free to contact my office at (610) 865-7011.

Very truly yours,

A handwritten signature in blue ink that reads "Tad J. Miller".

Tad J. Miller  
Open Records Officer



**pennsylvania**  
OFFICE OF OPEN RECORDS

**STANDARD RIGHT-TO-KNOW REQUEST FORM**

**DATE REQUESTED:** 08/24/20\_\_\_\_\_

**REQUEST SUBMITTED BY:**       E-MAIL       U.S. MAIL       FAX       IN-PERSON

**REQUEST SUBMITTED TO (Agency name & address):**\_\_\_\_\_  
City of Bethlehem, 10 E. Church St., Bethlehem, Pa.  
18018\_\_\_\_\_

**NAME OF REQUESTER:**\_\_\_\_\_  
Edward J. Gallagher\_\_\_\_\_

**STREET** \_\_\_\_\_ **ADDRESS:**\_\_\_\_\_  
49 W. Greenwich St.\_\_\_\_\_

**CITY/STATE/COUNTY/ZIP(Required):**  
Bethlehem, Pa 18018\_\_\_\_\_

**TELEPHONE** (Optional): 610-691-2456\_\_\_\_\_ **EMAIL**  
(optional): ejg1@lehigh.edu\_\_\_\_\_

**RECORDS REQUESTED:** During the 8/11 Public Safety Committee meeting in a discussion with Councilman Colon, Chief DiLuzio mentioned a 15-page directive on citizen complaints. I seek that directive.

*\*Provide as much specific detail as possible so the agency can identify the information.  
Please use additional sheets if necessary*


- DO YOU WANT COPIES?**  YES  NO
- DO YOU WANT TO INSPECT THE RECORDS?**  YES  NO
- DO YOU WANT CERTIFIED COPIES OF RECORDS?**  YES  NO
- DO YOU WANT TO BE NOTIFIED IN ADVANCE IF THE COST EXCEEDS \$100?**  YES  NO

**\*\* PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES \*\***  
**\*\* IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL \*\***

***FOR AGENCY USE ONLY***

**OPEN-RECORDS OFFICER:**  
 I have provided notice to appropriate third parties and given them an opportunity to object to this request

**DATE RECEIVED BY THE AGENCY:**  
**AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:**

	<b>BETHLEHEM POLICE DIRECTIVE NUMBER 1.3.3</b>		
	<b>VOLUME:</b>	Administration	
	<b>CHAPTER:</b>	Professional Standards	
	<b>TITLE:</b>	Allegations of Misconduct and Internal Affairs	
	<b>ISSUED BY:</b>	Mark A. Diluzio – Chief of Police	
<b>REPLACES:</b>	BPDN 1.3.3 – 15 APR 2014	<b>Original Date:</b>	22 Dec 2010
<b>CALEA Reference:</b>	52	<b>Evaluation Date:</b>	13 FEB 2019
<b>PLEAC Reference:</b>	2.3.1	<b>Next Evaluation Date:</b>	13 FEB 2021

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**PURPOSE:** To provide procedures and guidelines for allegations of misconduct and internal affairs concerning the Department or any of its employees.

**POLICY:** It is incumbent upon every professional law enforcement organization to thoroughly investigate all complaints or allegations of misconduct brought against the Department or any of its employees. The investigative procedure must be thorough and above reproach. All complaints or allegations, whether made anonymously, phoned, mailed, email, etc. against the Department or any of its employees shall be investigated.

**NOTE:** This Directive is for the internal use of the Bethlehem Police Department only and does not enlarge the Department's, an officer's, or other employee's civil liability in any way. This Directive should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against the Department, officers, or employees. A violation of this Directive, if proven, can only form the basis of a complaint by the Department for non-judicial administrative action in accordance with Department policy and controlling legal authority.

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### DEFINITIONS:

Allegation of Employee Misconduct-An allegation from any source amounting to a specific act or omission which, if proven true, would amount to employee misconduct that constitutes a violation of law, Department rule, regulation, and/or policy by any Department employee.

Complaint-a complaint may be an expression of dissatisfaction from an external source with a policy, procedure, practice, philosophy, service level, or legal standard of the Department. Complaints against the Department in general shall be noted on the Employee Misconduct Allegation Record (PD-92) as against the "Department" and not any one individual employee.

Note: A disagreement over the validity of a parking ticket, traffic citation, or criminal charge is not grounds for the initiation of a complaint or allegation of employee misconduct. The complainant should be advised that this is a matter for adjudication by the proper court.

Employee-Sworn and non-sworn fulltime and part-time paid members of the Bethlehem Police Department.

Employee Misconduct Allegation Record (PD-92)-Form used by the Department to document basic information about a complainant or allegation of employee misconduct, as well as about the incident being brought to the Department's attention; designed to be understood by those fluent in either English or Spanish.

Internal Affairs Investigation-For the purposes of this directive the term "Internal Affairs Investigation" shall refer to an internal investigation, conducted by the Professional Standards Division, of an allegation that is serious in nature.

Receiving Supervisor-A police supervisor of the Bethlehem Police Department that initially receives and records the complaint or alleged employee misconduct on an Employee Misconduct Allegation Record.

### PROCEDURE:

- I. Documenting a Complaint or Allegation of Employee Misconduct
  - A. Employee Misconduct Allegation Record (PD-92)
    1. All complaints or allegations of misconduct, regardless of reporting method or degree of seriousness, require the submission of an Employee Misconduct Allegation Record (PD-92).

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2. Employee Misconduct Allegation Records shall be completed by a police supervisor.
    - a. This documentation shall be completed by the supervisor that initially receives the complaint or allegation.
    - b. If the complainant is not present the receiving supervisor shall complete the PD-92 in as much detail as possible.
    - c. If a non-supervisory employee is contacted by a citizen with a complaint or allegation, they shall:
      1. Immediately contact a supervisor to receive the report.
      2. If the complainant declines to meet with the supervisor, the non-supervisory employee will explain the nature of the complaint or allegation to the supervisor who will complete a PD-92, if applicable.
  3. Any Department employee may submit a PD-92 concerning an allegation of misconduct by another Department employee, regardless of rank or position.
    - a. If the complainant is a Department employee, the PD-92 may be submitted directly to the Office of the Chief of Police.
    - b. No Department employee shall retaliate in any way against another Department employee who submits a PD-92 in good faith.
    - c. Supervisors observing subordinate misconduct shall utilize the standard Violation Record (PD-77) (Ref. Directive 1.3.2) to document the violation. The PD-92 is not required unless the employee's actions will generate an internal affairs investigation (Ref. section IX).
- B. Completion of the COMPLAINANT INFORMATION section of the Employee Misconduct Allegation Record
1. The receiving supervisor shall complete all fields regarding the complainant information:
    - a. Name and home address
    - b. Home and work or cell phone numbers
    - c. Date of birth and age
    - d. Sex and race
  2. The receiving supervisor shall record the name and/or badge numbers of all officers involved in the incident, including:
    - a. Officer(s) against which the allegation is made
    - b. Other officer(s) present during the incident
  3. Description of Alleged Misconduct
    - a. The receiving supervisor shall indicate the nature of the complaint or allegation, and record the following:
      1. Date and time alleged misconduct occurred
      2. Date and time allegation was reported

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3. Location
  4. Incident number
  5. Reporting method
  - b. Complainant written statement
    1. The receiving supervisor shall ask the complainant and witnesses that are present to provide a separate written/signed statement detailing their complaint, allegation, or witness observations on a Statement Form PD-33.
    2. The complainant/witness statement(s) shall be attached to the PD-92.
  4. Identity and signature of Complainant
    - a. Complainants must show proof of identity and sign the PD-92 for disciplinary action to occur absent any other independent evidence.
    - b. Before the complainant signs the PD-92, the receiving supervisor shall read to the complainant the statement regarding verification of the truth of the facts set forth, and the warning regarding Unsworn Falsification to Authorities, and ensure that the complainant understands that filing a false allegation is a prosecutable offense.
      1. The complainant's signature will attest to his/her understanding of this warning.
      2. Department Employees are also subject to the Unsworn Falsification provision referenced on the PD-92.
    - c. If the complainant does not sign the form, or if the complainant is anonymous or not present, the receiving supervisor will indicate the reason for the absence of a complainant's signature on the signature line (i.e. language barrier, refusal, anonymous complaint or allegation, emailed complaint, etc.)
    - d. Third party signed complaints or allegations shall be accepted when any of the following conditions exist:
      1. A parent or guardian is filing the complaint or allegation on behalf of a person under 18 years of age.
      2. The complainant is not physically or mentally able to file a complaint or allegation.
      3. The nature of the complaint or allegation would require an Internal Affairs investigation.
  5. The receiving supervisor shall print his/her name and badge number on the PD-92.
- C. Evidence collection/preservation.
1. The receiving supervisor shall retain and secure any evidence available that is relative to the complaint or allegation.
  2. Photographs shall be taken of any injuries, or the absence of injuries, in any use of force or injury allegation.

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3. If the complainant refuses to permit their injuries or absence thereof to be photographed, the recording supervisor will document this refusal in memo format as an attachment to the PD-92.
4. The aforementioned evidence will be secured in accordance with Directive 3.12.1 (Evidence and Property) under a newly generated incident number with Incident Type: Miscellaneous.
  - a. A memo will be generated by the receiving supervisor and attached to the PD-92, detailing the evidence collection, if applicable.
  - b. No narrative will be written in the Department electronic records management system (RMS) in order to maintain employee confidentiality.

#### D. Distribution of copies

1. Copy to complainant
  - a. If the complainant(s) is present, the receiving supervisor shall give them the complainant's (pink) copy of the completed PD-92.
  - b. If they are not present the complainant's copy will remain attached to the completed PD-92 and be forwarded to the Professional Standards Division.
2. All completed PD-92s, related statements, and memos shall be forwarded, as soon as practicable, to the Professional Standards Division for database entry, assignment for investigation, and tracking.
3. The employee named in the allegation (if known) will be provided a copy (yellow) by the investigating supervisor so long as this notification will not hinder the investigation.

#### E. Required Notifications

1. Unless it impedes the investigation the employee will be informed as soon as practicable that an allegation of misconduct was made against them.
  - a. This notification will be made by the receiving supervisor if possible.
  - b. If the employee is not available to be notified, the investigating supervisor will ensure that the employee is notified.
2. If the alleged misconduct is of a serious nature i.e. gross misconduct, use of excessive force, death, injury, violations of criminal law, or violations of a highly sensitive nature, the receiving supervisor must immediately notify the Office of the Chief of Police of the allegation.
3. The Professional Standards Division will notify the Office of the Chief of Police and the appropriate Division captain of the complaint or allegation by memo or e-mail.

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### II. Investigation and Resolution Procedure

#### A. Assignment of Investigation

1. Misconduct allegations of a minor nature (i.e. failure to take proper action, poor demeanor, etc.): The Professional Standards Division shall forward a copy of the PD-92 and any statements to the appropriate lieutenant, who shall assign the employee's first line supervisor to investigate the allegation.
  - a. The lieutenant will notify the Professional Standards Division of the assigned investigator.
  - b. The supervisor will investigate the allegation in an effort to determine whether the employee's actions were legal, justified, proper, and in conformance with the law and Department directives and procedure.
2. Misconduct allegations of a serious nature (i.e. gross misconduct, use of excessive force, death, injury, violations of criminal law, or violations of a highly sensitive nature): The allegation shall be investigated by the Professional Standards Division unless directed otherwise by the Office of the Chief of Police.
3. Misconduct allegations against lieutenant or higher rank:
  - a. The Office of the Chief of Police shall designate the investigator for allegations made against a lieutenant or higher.
  - b. Complaints or allegations of misconduct regarding the Police Chief shall be forwarded to the Office of the Mayor for investigation.

#### B. Interviewing the employee

1. Prior to interviewing the employee, the investigating supervisor shall:
  - a. Advise the employee of the following:
    1. The nature of the allegation made against them.
    2. Any directive or procedure they might have violated.
    3. Their right to have a Bargaining Unit representative present if the interview may lead to disciplinary action. If requested by the employee the interview shall be suspended for a reasonable amount of time until representation can be obtained.
    4. Their right to respond to the allegation.
    5. The importance of cooperation and truthful responses to questions.
  - b. Complete an Employee Administrative Interview form PD-77a (Appendix A), if the interview with the employee might lead to disciplinary action being taken against them.
    1. The Employee Administrative Interview form shall be signed and dated by the employee, the interviewing



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- supervisor, and a witness/representative.
  2. If the employee refuses to sign the form, the interviewing supervisor shall indicate the refusal in the signature space.
  3. Forward the original to the Professional Standards Division at the conclusion of the investigation.
  4. A copy shall be provided to the employee at the time of the interview.
2. When the investigated employee writes a written statement, a transcript is taken, or mechanical record made, a copy of same must be given to the interviewed employee, without cost, upon request.
- C. Interviewing the complainant/witnesses
1. The investigating supervisor shall make an effort to interview the complainant and any known witnesses.
    - a. All interviews shall be documented.
    - b. Supervisors shall document their efforts to contact uncooperative complainants/witnesses.
  2. A complainant's criminal history, untimely allegation, or other past experience with the police does not prohibit them from making a complaint or allegation of misconduct.
    - a. Investigating supervisors may take the complainant's or witness's history into consideration when weighing the veracity or motivation of a citizen making a complaint or allegation of misconduct.
    - b. Under no circumstances will a complaint or allegation of misconduct be dismissed or disposed of solely because a complainant or witness has past experience or arrests with police.
- D. The investigating supervisor will provide periodic documented status reports on the investigation to the involved employee(s) and the complainant(s).

### III. Allegations Involving Possible Criminal Prosecution

- A. If during the course of an investigation, evidence reveals an employee's involvement in criminal conduct, the investigating supervisor will immediately notify the Office of the Chief of Police.
- B. The Office of the Chief of Police may consult with the District Attorney's Office, and or the Mayor's Office regarding whether the investigation will be continued internally or externally.
- C. If the allegation is of a serious nature that could lead to criminal charges against the employee, the investigating supervisor shall, prior to conducting an interview:
  1. Provide employees written notice of their rights and responsibilities relating to the investigation, including but not limited to, those enumerated in Weingarten, Garrity, and/or Miranda.
  2. Ensure the employee is aware of this Directive (BPDN 1.3.3) and

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- provide a copy to the employee if requested.
3. If during the course of the interview, evidence is revealed concerning the employee's involvement in criminal conduct, the interviewing supervisor shall immediately stop the interview and notify the Office of the Chief of Police, according to subsections A and B above.
- D. If any employee is questioned while under arrest, or is likely to be placed under arrest as a result of the interview, he shall be completely informed of all his or her rights prior to the commencement of the interview.

### IV. Conclusion of Investigation

- A. At the conclusion of the investigation, the investigating supervisor shall forward a written report of the findings, in memo format, through their chain of command to the Office of the Chief of Police.
- B. This report shall include:
1. All statements or other evidence collected during the investigation.
  2. All documents generated pursuant to the investigation.
  3. A statement of facts concerning the complaint or allegation of misconduct.
  4. Dates and times of interviews or other relevant events.
  5. A conclusion of fact based on the findings of the investigation, and a recommended disposition of one of the following:
    - a. Sustained: The alleged act did occur, and there was deviation from Department directives or other misconduct. (Place copy of PD-92 and/or Violation Record (PD-77) in the employee's PEIS File and Personnel File).
    - b. Not sustained: The investigation failed to produce a preponderance of evidence to prove the allegation.
    - c. Exonerated: The alleged act did occur, but the employee's actions were legal, justified, proper, or in conformance with the law and Department policy and procedure.
    - d. Unfounded: The alleged act did not occur, or when an anonymous complaint or allegation is made against an employee and no corroborative evidence exists.
- C. Final Disposition
1. The final disposition shall be determined and indicated by the Office of the Chief of Police, upon completing an Administrative Review of the investigative report.
  2. The investigating supervisor shall not indicate a final disposition on the PD-92 form.
  3. Each level of the chain of command may make additional comments on the investigating supervisor's recommended disposition upon review of the investigation report.

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### V. Suggested or Implemented Corrective Action

- A. If, after the investigation, the supervisor has identified a deficiency in the employee's performance, the supervisor shall:
  - 1. Initiate corrective measures such as counseling or remedial training.
  - 2. In more serious matters, the supervisor may recommend disciplinary action based on the results of the investigation, regardless of the complainant's preference.
- B. Corrective action may be suggested or implemented as appropriate at each level of the chain of command.
- C. The Office of the Chief of Police shall be the final arbiter on any corrective action recommended, needed, or taken.

### VI. Disposition Notifications

- A. The Professional Standards Division will notify the complainant of the final disposition of the complaint or allegation.
  - 1. This notification will be a written, electronic, or telephonic notification.
  - 2. This notification will not include any disciplinary action taken.
- B. The Professional Standards Division will notify the employee of the final disposition of the complaint or allegation, including a copy of the completed PD-92 indicating the final disposition.
- C. Unless agreed to by the employee, the Department shall not make any public comment on the reason for the disciplinary action brought against the employee. Any employee who makes an unauthorized disclosure shall be subject to discipline.

### VII. Filing Criminal Charges Relating to Unsworn Falsification

- A. The investigating supervisor may file criminal charges against a complainant for knowingly and intentionally filing a false misconduct allegation.
- B. The investigating supervisor will consult with a representative of the district attorney's office from the appropriate county before filing charges.
  - 1. If charges are to be filed, this action will be reported as soon as practicable, through the chain of command, to the Office of the Police Chief.
  - 2. Any consultations will be documented in memo format and will be included with the documents forwarded to the Professional Standards Division.

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### VIII. Employee Restrictions

- A. An employee who is involved in an internal investigation as a subject or witness shall not:
  - 1. Be present during any investigative contact with the complainant or complainant's witnesses.
  - 2. Contact, or cause to be contacted, the complainant or complainant's witnesses, with the intent of hindering the investigation or encouraging the withdrawal of the misconduct allegation.
- B. Nothing in these procedures shall be construed to prohibit an employee from discussing any aspect of a complaint or allegation with his/her attorney or Bargaining Unit representative.

### IX. Internal Affairs Function

- A. The Internal Affairs Function shall be the responsibility of the Office of the Chief of Police.
  - 1. The Professional Standards Division shall be primarily responsible for Internal Affairs investigations.
    - a. Personnel responsible for Internal Affairs Investigations shall receive training in internal affairs and disciplinary procedures.
  - 2. The Professional Standards Division or designee(s) shall have the authority to report directly to the Office of the Chief of Police concerning Internal Affairs investigations.
- B. All Internal Affairs investigations shall be documented on an Employee Misconduct Allegation Record (PD-92).
- C. Referral to District Attorney
  - 1. Any Internal Affairs investigation, sustained allegation of misconduct, or employee action that has established probable cause of a misdemeanor or felony violation of law shall be referred to the District Attorney for review.
  - 2. The Office of the Chief of Police shall make the referral by telephone immediately, and in writing as soon as practicable.
  - 3. The Office of the Chief of Police shall also notify the Mayor and the City Solicitor of the referral.

### X. Administrative Procedures for Complaints, Misconduct Allegations, and Internal Affairs Investigations

- A. Investigative Time Limits
  - 1. Complaints or allegations of misconduct not requiring the Internal Affairs procedure shall be completed, and have final Department action

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taken, within 45 calendar days of their filing, or within 45 calendar days of the date that the Department first knew of the complaint or allegation.

2. Internal Affairs investigations shall be completed and have final Department action taken, within 180 calendar days of their filing, or within 180 calendar days of the date that the Department first knew of the complaint or allegation.
3. The Office of the Chief of Police may grant extensions in cases involving extenuating circumstances.
4. The Department shall not arbitrarily delay any investigation and shall make every effort to resolve the investigation in a timely manner.
5. Supervisors may be subject to disciplinary action for failing to investigate a complaint or allegation in a timely manner.
6. The Professional Standards Division shall track the timelines for all misconduct investigations, and notify the appropriate supervisor of any pending deadlines.

#### B. Use of Scientific, Medical, or other Evidence Collecting Procedures

1. Medical or Laboratory Examinations
  - a. An employee under investigation may request a breath, blood, urine, psychological, polygraph, or medical examination. The examination shall be provided as soon as practicable and at no cost to the employee.
  - b. An employee may be required, based on existing state or federal legal authority, to submit to scientific, medical, or other laboratory examinations.
  - c. Absent any controlling legislation, an employee may request a blood and/or urine test whenever a use of force or alleged use of force application results in death or serious bodily injury.
2. Photographs
  - a. Photographs shall be taken of any injuries sustained by an employee or any other person as a result of any employee action.
  - b. Photographs shall be taken of any injuries, or lack of injuries, in any use of force or injury allegation. The investigating/recording supervisor shall document the refusal of any complainant to be photographed.
  - c. Photographs shall be taken of any property damaged as a result of any employee action.
3. Identification photo line-ups
  - a. Lawfully obtained photos may be utilized to conduct standard investigative (six photo) line-ups to identify an employee accused of misconduct.
  - b. The line-up shall be preserved as evidence.
4. Financial Disclosure Statements-Excluding a court order, an employee's submission of a financial disclosure statement shall be governed by existing legal requirements and/or voluntary agreements.

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### 5. Instruments for the Detection of Deception

- a. An employee's participation in any polygraph or mechanical or electrical detection of deception testing shall be governed by existing legal requirements and/or voluntary agreements.
- b. The questions asked shall be narrow and specific in scope, relating only to an active criminal Internal Affairs investigation.

### C. Relief from Duty

1. When it appears that an immediate suspension of an employee is in the Department's best interest, the highest-ranking on-duty sworn supervisor shall have the authority to impose the suspension. This suspension will be in accordance with Directive 1.3.2 section II.G.
2. If an immediate suspension is imposed, the supervisor shall contact the Office of the Chief of Police as soon as practicable.
3. At the time the immediate suspension is imposed, the employee shall surrender the following items to the supervisor:
  - a. Duty weapon, and any other Department-issued firearms
  - b. Badge
  - c. BPD identification card
  - d. MPOETC identification card (if applicable)
4. The aforementioned surrendered items will be secured in a locker located in the Department armory.
5. Meeting with the Office of the Chief of Police
  - a. The suspended employee shall report to the Office of the Chief of Police at 0900 hours on the next business day, unless otherwise directed.
  - b. The supervisor who recommended the suspension shall also report to the Office of the Chief of Police at 0900 hours on the next business day, unless otherwise directed.
  - c. If the supervisor who recommended the suspension is not in the employee's chain of command, the employee's lieutenant shall also report to the Chief of Police at 0900 hours on the next business day, unless otherwise directed.
6. This suspension shall be with pay until discipline is implemented or other administrative action is taken.

### D. Department Review Pursuant to Allegations of Employee Misconduct

1. The Department shall review the allegations of misconduct in light of Department policies, procedures, rules, and regulations.
2. The Department shall consider any changes in policies, procedures, rules, and regulations that may prevent future allegations of employee misconduct.
3. The Department shall consider the need to modify or expand training as a means to prevent future allegations of employee misconduct.

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- E. Records of Complaints or Allegations of Employee Misconduct
1. Sustained misconduct allegations resulting in formal disciplinary action shall be securely maintained in the employee's Personnel Early Intervention System (PEIS) file and Personnel File.
  2. Sustained misconduct allegations not resulting in formal disciplinary action shall be securely maintained in the employee's Personnel Early Intervention System (PEIS) file.
  3. Not Sustained, Exonerated, or Unfounded Employee Misconduct Allegation Records shall be securely maintained in an administrative file located in the Professional Standards Division's office for a period of three years.
  4. Internal Affairs investigation files shall be securely maintained in the Professional Standards Division office to maintain their confidentiality.
    - a. The log entry of the Internal Affairs investigation will be retained for a period of seven years.
    - b. Sustained Internal Affairs investigation files will be retained for the duration of an employee's service with the Department, and for three additional years after the employee's termination of employment.
    - c. Internal Affairs investigation files with the disposition of Unfounded, Exonerated, or Not Sustained will be retained for a period of three years after the close of the investigation.
  5. If an Internal Affairs investigation requires a criminal offense report, the original report and any accompanying documents shall be forwarded by the Professional Standards Division to the Office of the Chief of Police.
    - a. The Professional Standards Division will generate a report number in the RMS for UCR purposes.
    - b. All original supplement reports and documents shall also be securely maintained in the Professional Standards Division office.
  6. Internal Affairs investigation files and/or any records concerning employee misconduct allegations and any other personnel matters shall remain confidential. Any request for public review or disclosure shall be referred to The Office of the Chief of Police for City Solicitor review.
  7. When an Internal Affairs investigation results in the filing of formal criminal charges, the Office of the Chief of Police shall issue a media release. The release of any other documents related to the Internal Affairs investigation shall be approved by the City Solicitor and the District Attorney.
  8. All Employee Misconduct Allegation Records shall be utilized for annual statistical summary and log entry, and administratively retained for three years unless they are required to be retained for longer periods of time as described in this directive.

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### F. Annual Statistical Summaries

1. The Office of the Chief of Police shall ensure a Complaint and Allegation Log is securely maintained.
  - a. The Complaint and Allegation Log shall be utilized to formulate annual statistical summaries.
  - b. Logs shall be maintained indefinitely.
  - c. Information from all Employee Misconduct Allegation Records shall be utilized to compile log information.
2. The Complaint and Allegation Log shall indicate the following:
  - a. Name, sex, age, and race/ethnicity of complainant
  - b. Date complaint or allegation was received
  - c. How complaint or allegation was received
  - d. Nature of allegation
  - e. Employee involved
  - f. Disposition
3. The Complaint and Allegation Log is a confidential document, and information contained in it shall not be released without authorization from the Office of the Chief of Police.
4. The Office of the Chief of Police shall ensure an annual statistical summary is completed by the Professional Standards Division on all disciplinary actions, citizen complaints, allegations of employee misconduct and Internal Affairs investigations.
  - a. The annual statistical summary shall not indicate the names of employees or complainants.
  - b. The annual summary shall be maintained in the Office of the Chief of Police for six years and, at a minimum, shall indicate the following:
    1. Number of complaints and/or allegations received.
    2. Methods of reporting the complaints or allegations.
    3. Nature of the complaints or allegations.
    4. Complainants' sex, age, and race/ethnicity.
    5. Number of "Sustained" complaints or allegations.
    6. Number of "Not Sustained" complaints or allegations.
    7. Number of "Exonerated" complaints or allegations.
    8. Number of "Unfounded" complaints or allegations.
    9. Number and nature of disciplinary actions taken.

### XI. Mandatory Notifications

- A. BPD Employees-Any BPD employee, sworn and non-sworn, shall notify the Office of the Chief of Police as soon as practicable if they:
  1. Receive a traffic or non-traffic citation.
  2. Becomes the subject of a criminal investigation.
  3. Are arrested by another agency for any offense.



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- B. Outside Agencies-When a law enforcement officer from another agency is cited, detained or arrested by BPD officers for any offense, including traffic a traffic citation, a BPD supervisor shall notify a supervisor from that agency as soon as practicable. The notification shall be documented by e-mail or memo to the Office of the Chief of Police.