

A Review of Municipal Police Websites' Compliance With Internal Affairs Policies & Procedures

POLICE ACCOUNTABILITY PROJECT REVIEW



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I. Introduction

One of the principal mechanisms for restoring faith and partnership between law enforcement and the communities they serve, as well as for promoting officer accountability in New Jersey, is the internal affairs process. Recognizing this, the Attorney General launched a Policing Initiative in 2019¹ and revised the existing internal affairs policies and procedures. In doing so, the Attorney General issued a series of directives that law enforcement officers throughout the State must follow. Some of these directives, which have only been further strengthened in recent years, concern the accessibility of the internal affairs process to the public. A significant change involved standardizing the internal affairs report form that law enforcement agencies statewide must use, and making that standardized form available in 11 languages.

Given the significance of the complaint process to the internal affairs function and increased statewide reliance on e-government, OSC's Police Accountability Project conducted a review of 100 randomly selected municipal police departments' websites for compliance with the current internal affairs policies and procedures. Specifically, OSC reviewed the websites for availability of the standardized internal affairs report form and complaint information sheet, along with other markers of an electronically accessible internal affairs complaint process.

OSC found that the majority of municipal police departments were not following all of the relevant mandates with respect to the information they were making available online about the internal affairs complaint process. Further, OSC found that many of the departments were engaging in practices either intended to discourage complaints or that could have a chilling effect, especially with regard to complaints made by undocumented persons, non-English speakers, and anonymous sources.

As set forth more fully below:

- **80 percent** of police departments failed to provide the mandatory standardized report form in all of the required languages online.
- **60 percent** of police departments did not have any report form available online or did not use the mandatory standardized form.
- **32 percent** of police departments required a sworn statement and/or added warnings online about the potential consequences of false reporting, directly contradicting the Attorney General's policy explicitly prohibiting both.
- **60 percent** of police departments did not establish a system for submitting complaints online – not even through a dedicated internal affairs email address – which, while not required, was a recommendation of the Attorney General for those departments that have a website.

The high degree of non-compliance uncovered by OSC in this review signals a potential statewide issue with law enforcement agencies failing to adhere to Attorney General mandates governing the intake of complaints online. This lack of compliance has the potential to undermine at least one of the overarching goals of the Attorney General's Policing Initiative – building and

¹ See <https://www.njoag.gov/programs/policing-initiative/>.

maintaining public trust in police – and may impede the efficacy of the internal police disciplinary process overall.

In light of its findings, OSC makes three recommendations to ensure compliance with mandatory internal affairs policies and procedures by law enforcement statewide and to encourage reporting of police misconduct from all New Jersey residents.

II. Background

A. The Internal Affairs Unit or Function

Every law enforcement agency in New Jersey is required to establish an internal affairs unit or function.² The purpose of the internal affairs unit or function is “to establish a mechanism for the receipt, investigation, and resolution of officer misconduct complaints.”³ And “[t]he goal of internal affairs is to ensure that the integrity of the agency is maintained through” an internal system of discipline for officer misconduct.⁴ Internal affairs investigations are as important to a law enforcement agency as criminal investigations.⁵

Officer discipline is not the only function of the internal affairs process; it is also “important to document complainants’ concerns, even those that appear to be unfounded or frivolous.”⁶ The Attorney General has recognized that “[i]f such complaints are not documented or handled appropriately, public dissatisfaction will grow, fostering a general impression of agency insensitivity to community concerns.”⁷ Complaints from the public provide “an invaluable source of feedback” because they increase “awareness of both actual and potential problems and the community’s perceptions and attitudes about police practices and procedures.”⁸ Departments should use civilian complaints as one method of measuring “whether the agency is falling short of its intended goals.”⁹

B. Internal Affairs Policies and Procedures (IAPP)

In 1991, the Attorney General issued the *Internal Affairs Policies and Procedures* (IAPP) outlining the role and functions of the internal affairs units within New Jersey’s law enforcement agencies. The purpose of the IAPP “is to assist the State’s law enforcement agencies with investigating and resolving complaints of police misconduct that originate with members of the public or are generated by the supervisors, officers, or employees of a law enforcement agency.”¹⁰ The goals

² Internal Affairs Policies and Procedures (Revised, November 2022) (IAPP), at Section 4.0.1., https://www.nj.gov/oag/iapp/docs/IAPP_November-2022.pdf.

³ IAPP Section 4.1.1.

⁴ *Ibid.*

⁵ IAPP Section 4.1.5.

⁶ IAPP Section 7.0.4.

⁷ *Ibid.*

⁸ IAPP Section 5.0.1.

⁹ *Ibid.*

¹⁰ IAPP Section 1.0.1.

of the IAPP “are to enhance the integrity of the State’s law enforcement agencies, improve the delivery of police services, and assure the people of New Jersey that complaints of police misconduct are properly addressed.”¹¹

In 1996, the Legislature required each law enforcement agency in the State to adopt its own policies consistent with the IAPP.¹²

1. Law Enforcement Directive 2019-5

In December 2019, the Attorney General issued Law Enforcement Directive No. 2019-5, “Directive Strengthening and Supplementing *Internal Affairs Policy and Procedures*.” Directive 2019-5 made substantial revisions to the IAPP as a “significant step forward in our effort to strengthen public confidence and promote public accountability” in policing.¹³ That directive “represented the most significant revision to [IAPP] in its three-decade history.”¹⁴ “To build and maintain public trust” in law enforcement, the Attorney General explained, “law enforcement agencies must implement mechanisms for identifying and investigating allegations of misconduct within their ranks” and “hold officers accountable when they fall short” of the professional and ethical standards to which they are held.¹⁵

Directive 2019-5 summarized the significant revisions to the IAPP, which included standardizing the procedures for accepting reports of alleged misconduct. Law enforcement agencies would now be required to use a standardized internal affairs report form that must be made available in multiple languages at all department offices and on their websites.¹⁶ The IAPP further clarified that agencies must accept complaints from undocumented immigrants and juveniles, and should establish a system for receiving complaints by telephone or email. It also made explicit that “officers are prohibited from affirmatively warning complainants that they may face consequences for filing a false report.”¹⁷

While law enforcement agencies statewide have been on notice since December 2019 that they would be responsible for updating their own policies and procedures to conform to these significant changes, the changes did not go into effect immediately. Directive 2019-5 first mandated that the revisions would go into effect months later, on April 1, 2020. But citing the administrative burdens facing law enforcement during the height of the COVID-19 pandemic, the Attorney General announced an additional grace period, delaying mandatory implementation of the changes until the end of August 2020.¹⁸

¹¹ Ibid.

¹² See N.J.S.A. 40A:14-181.

¹³ Directive 2019-5 at 2.

¹⁴ Attorney General Law Enforcement Directive 2020-7, “Directive Revising *Internal Affairs Policy & Procedures*,” (August 28, 2020) at 1.

¹⁵ Directive 2019-5 at 1.

¹⁶ Directive 2019-5 at 3.

¹⁷ Directive 2019-5 at 3 (emphasis added).

¹⁸ See Directive 2020-7 at 1.

2. Law Enforcement Directive 2020-7

On August 28, 2020, the Attorney General issued Directive 2020-7, along with an updated version of the IAPP. The August 2020 IAPP made only minor edits to the December 2019 IAPP and formalized some other policy changes implemented in the interim. The directive highlighted that these revisions were designed to improve public reporting,¹⁹ and to assist officers in carrying out their responsibilities in an efficient and uniform manner, it included an updated appendix of forms. Among these forms, the directive underscored, was “a new, standardized ‘civilian complaint’ form that all law enforcement agencies must make available to the public online [if the department has a website] and in police department buildings.” To aid the law enforcement community in the implementation of this mandate, the Attorney General made the standardized form available in English, as well as in Arabic, Chinese, Haitian, Hindi, Korean, Polish, Portuguese, Spanish, Tagalog, and Vietnamese.²⁰

The appendix also included a Sample Civilian Complaint Information Sheet intended to provide the public with instructions and information about the internal affairs complaint and investigation process.²¹ Under the IAPP, law enforcement agencies are required to “prepare a fact sheet or brochure that includes information on the agency’s internal affairs process and what role the complainant can expect to play. If feasible, the fact sheet or brochure should be provided to the complainant at the time the complaint is made.”²² A sample information sheet, in all 11 languages mentioned above, is also made available on the Attorney General’s IAPP website.

3. Law Enforcement Directive 2022-14

The most recently revised version of the IAPP, issued in November 2022,²³ includes identical language about accepting reports of officer misconduct,²⁴ mandating, among other things:

- (1) All complaints of officer misconduct shall be accepted from all persons who wish to file a complaint, including from anonymous sources, juveniles, undocumented immigrants, and persons under arrest or in custody.
- (2) Complaints must be accepted from all persons who wish to file a complaint, regardless of the hour or day of the week. At no time should a complainant be told to return at a later time to file the report – any officer, not just internal affairs personnel or a supervisor, may accept a complaint.

¹⁹ Directive 2020-7 at 1.

²⁰ *Ibid.*; see also IAPP Section 5.1.4 (the standardized complaint form is available on the Attorney General’s website and “[a]gencies shall make available to complainants versions of the standardized form in all of those languages in their offices and, if the agency has a website, online.”).

²¹ See IAPP Appendix A.

²² See IAPP Section 5.1.3.

²³ This revision of the IAPP was due, in large part, to policy changes made after the recent New Jersey Supreme Court opinion, *Rivera v. Union County Prosecutor’s Office*, 250 N.J. 124 (2022). See Attorney General Law Enforcement Directive 2022-14, “Transparency in Internal Affairs Investigations,” (November 15, 2022) at 1.

²⁴ Compare August 2020 IAPP Section 5 (“Accepting Reports of Officer Misconduct”) with November 2022 IAPP Section 5 (“Accepting Reports of Officer Misconduct”).

- (3) Agencies must create a fact sheet or brochure that includes information on the agency's internal affairs process and what role the complainant can expect to play. If feasible, this fact sheet or brochure is to be provided at the time of the complaint.
- (4) Agencies shall make available to complainants the standardized statewide internal affairs report form that is appended to the IAPP, and they shall do so in all of the languages already made available on the Attorney General's website. These standardized forms shall be available in their offices, and, if the agency has a website, online.
- (5) Under no circumstances shall it be necessary for a complainant to make a sworn statement to initiate the internal affairs process.
- (6) At no point during the initial intake of a complaint should any officer affirmatively warn a complainant that consequences could potentially result from making misrepresentations or a false report.

The forms that were appended to the August 2020 IAPP remain unaltered, except that an additional appendix item was added about how law enforcement should summarize and report on misconduct findings.

C. Compliance is Mandatory for All Law Enforcement Agencies

Attorney General Directives and the IAPP, in particular, carry the same weight as a statutory mandate for all law enforcement agencies in New Jersey.²⁵ The IAPP makes clear that “[f]or county and municipal law enforcement agencies, “cooperation in internal affairs matters begins with strict adherence to the Attorney General’s policy requirements.”²⁶ While “[i]n some areas, the manner in which these agencies must implement these mandates is a decision that is left to the individual law enforcement agency’s discretion,” the IAPP also “contains mandates that, at the Attorney General’s direction, every law enforcement agency must implement.”²⁷

As set forth by the Attorney General, agency compliance with the IAPP is critical because “[i]ndifference to the internal affairs function will have a negative impact on the administration of criminal justice and the delivery of police services to New Jersey’s residents.”²⁸ If the internal affairs function is not a priority, agencies risk losing the community’s respect and support. “The integrity of individual law enforcement agencies, and the reputation of the State’s criminal justice system, can also suffer if agencies fail to identify and correct officer misconduct.”²⁹ The Attorney General’s recent revisions to the IAPP, as with prior revisions, “reflect[] the need to incorporate

²⁵ See In re Att’y Gen. L. Enft Directive Nos. 2020-5 & 2020-6, 246 N.J. 462, 488 (2021); see also Fraternal Ord. of Police, Newark Lodge No. 12 v. City of Newark, 244 N.J. 75, 100-01 (2020); N. Jersey Media Grp., Inc. v. Township of Lyndhurst, 229 N.J. 541, 565 (2017) (concluding that the Attorney General’s Use of Force Policy has “the force of law for police entities”). Cf. Paff v. Ocean Cnty. Prosecutor’s Off., 235 N.J. 1, 20-21 (2018) (finding that a local police chief’s general order does not carry the force of law, unlike guidelines, directives, and policies issued by the Attorney General).

²⁶ IAPP Section 1.0.5 (emphasis added).

²⁷ IAPP Section 1.0.7; see also N.J.S.A. 52:17B-98 (the Criminal Justice Act of 1970 designates the Attorney General as the State’s chief law enforcement officer).

²⁸ IAPP Section 1.0.11.

²⁹ Ibid.

emerging best practices into the State’s internal affairs system and to ensure that all law enforcement agencies in the State are adhering to those guidelines.”³⁰

Law enforcement agencies can be found civilly liable when they “fail to implement a meaningful and objective internal affairs process.”³¹ In addition, if a law enforcement agency fails to comply with the IAPP, it “may be subject to the same sanctions arising from any other violation of an [Attorney General] Directive, including suppression of an agency’s law enforcement functions by the Attorney General.”³² But the IAPP also explains that if someone alleges an agency has violated an Attorney General directive, that allegation must be handled through the internal affairs process.³³ The IAPP is clear that it does not create substantive rights that are enforceable by third parties. Since members of the public lack the ability to legally challenge non-compliance with the IAPP,³⁴ it is all the more important for departments to voluntarily achieve compliance.

D. Intake of Civilian Complaints Online

To facilitate the complaint process, the current IAPP requires that – if a law enforcement agency has a website – it must make the standardized internal affairs report form available to the public online in all 11 languages.³⁵ In addition, each agency or department is required to develop a fact sheet or brochure to be provided to a complainant, ideally at the time of the making of the complaint, which provides information about the internal affairs investigation process and the role of the complainant in it.³⁶ While not explicitly required, ostensibly, the fact sheet or brochure would also be made available online, along with the mandatory internal affairs report form. The Appendix to the current IAPP includes the standardized internal affairs report form and a sample civilian complaint information sheet, in all required languages, to be used and adapted by the departments and agencies.³⁷

The required standardized Sample Internal Affairs Report Form, Appendix B to the IAPP, requests limited personal identifying information from the complainant to initiate an investigation – full name, address, phone, email, and date of birth – and it makes clear to the complainant that providing personal identifying information is “Optional, But Helpful.”³⁸ If the complainant wishes to remain anonymous for any reason, personal identifying information is not required to initiate the complaint.³⁹ The standardized report form also requests information about the officer subject to the allegation and indicates the person making the complaint can provide whatever information

³⁰ IAPP Section 1.0.4. This same language also appears in Section 1.0.4 in the December 2019 and August 2020 versions of the IAPP.

³¹ Ibid.

³² IAPP Section 1.0.14.

³³ Directive 2019-5 at 3.

³⁴ Directive 2022-14 at 13 (“Non-enforceability by third parties”).

³⁵ IAPP Section 5.1.4; see also <https://www.njoag.gov/programs/policing-initiative/> (“In 2019, the Attorney General implemented a suite of improvements to the statewide policy governing the police disciplinary process. . . . those improvements included establishing a standardized civilian complaint form[.]”).

³⁶ IAPP Section 5.1.3.

³⁷ IAPP Appendix A and IAPP Appendix B.

³⁸ IAPP Appendix B.

³⁹ Ibid.

is known.⁴⁰ The standardized report form requests other information, including: how the complaint was reported; any physical evidence submitted with the report; and whether the incident was previously reported. Finally, the standardized report form calls for the officer receiving the complaint and the supervisor reviewing the complaint to sign and date the form.⁴¹

The Sample Civilian Complaint Information Sheet, Appendix A to the IAPP, explains the Internal Affairs Investigation Process to any person making a complaint about the performance of an officer. In terms of the complaint intake, the sample information sheet uses plain language to explain to a potential complainant that reports or complaints of officer misconduct will be accepted from any person, at any time, and that complaints are to be accepted regardless of age, race, ethnicity, religion, gender, sexual orientation, disability, immigration status, or preference for anonymity.⁴² Among other things, the information sheet indicates that internal affairs investigations are confidential and disciplinary hearings are typically closed to the public.⁴³

In terms of the investigative process, the sample information sheet explains that the complaint will be forwarded to “a superior officer or a specially trained internal affairs officer who will conduct a thorough and objective investigation.”⁴⁴ The complainant is “kept informed of the status of the investigation and its ultimate outcome,” if requested and contact information was provided by the complainant.⁴⁵

The sample information sheet also informs the complainant that they might be asked to give a detailed statement about what happened or to provide additional information and they might be called upon to testify in court, if a crime has been committed, or to testify in a departmental hearing, if an officer is charged with a disciplinary infraction.⁴⁶ But under no circumstances can sworn testimony be required by a department to initiate an internal affairs complaint.⁴⁷ In addition, an officer may not affirmatively warn a complainant that “consequences could potentially result from making misrepresentations or a false report” unless the officer is “specifically asked about this” topic.⁴⁸ Officers should avoid any “[l]anguage that would serve to dissuade or intimidate a member of the public from coming forward[.]”⁴⁹

As discussed above, the IAPP also requires departments to provide access to translations of the standardized report form in 10 languages in addition to English.⁵⁰ In doing so, it would be reasonable to assume that the information sheet should also be made available in the same languages (already provided by the Attorney General). New Jersey is home to nearly 2 million immigrants and refugees.⁵¹ According to the US Census Bureau, roughly 32 percent of residents

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² IAPP Appendix A.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ IAPP Section 5.1.2.

⁴⁸ IAPP Section 5.1.5.

⁴⁹ Ibid.

⁵⁰ See Directive 2020-7 at 2.

⁵¹ See <https://www.nj.gov/health/ommh/resources/language-access/>.

age 5 and older in New Jersey speak a language other than English and about 12 percent of New Jersey residents speak English “less than very well.”⁵² Translations of the report form and information sheet are essential to providing meaningful and equitable access to the internal affairs process for all of New Jersey’s residents.⁵³

E. Benefits of Online Intake for Civilian Complaints

Websites are the “front door” to local and state government for many New Jersey residents.⁵⁴ Municipal websites, in particular, can be important tools to inform and engage with the public “and create efficiencies in the provision of public services.”⁵⁵ They can also be “vehicles to increase public sector transparency . . . and increase public trust in government.”⁵⁶ Policing is a crucial public service and increasing accessibility to the internal affairs complaint process online aligns with the growing prevalence of e-government at the State and local level.

As discussed above, departments are encouraged – though not required – by the IAPP to create systems for intake of complaints by email. The benefits of creating an efficient system for the intake of internal affairs complaints online are significant. They include increased compliance with the IAPP by providing a mechanism for acceptance of complaints at any time of the day and from any source, and encouraging complaints from undocumented persons, non-English speakers, anonymous sources, or anyone else who might feel distrustful or intimidated by the process. Public trust is “gained by providing the public with better access to government information and services[.]”⁵⁷

III. Methodology

OSC conducted a review of the websites of 100 municipal police departments.⁵⁸ The review principally focused on compliance with relevant Attorney General Law Enforcement Directives and the IAPP. Specifically, OSC reviewed availability of the standardized internal affairs report

⁵² Brett Johnson, “N.J. government agencies would have to use these 15 languages under new plan,” NJ Advanced Media (April 4, 2022), <https://www.nj.com/politics/2022/04/nj-speaks-many-languages-this-would-require-government-agencies-to-use-these-15.html>; see also <https://data.census.gov/profile?g=040XX00US34>.

⁵³ *Ibid.*

⁵⁴ Kurt Schindler, “Government website is now an essential and expected,” MSU Extension (May 24, 2016).

⁵⁵ Monmouth University Polling Institute: New Jersey E-Government Best Practices for Municipal Websites (Mar. 2013), https://www.monmouth.edu/polling-institute/reports/MonmouthPoll_NJGOV_032013/.

⁵⁶ *Ibid.*; see also Jean Damascene and Annika Andersson, *The public value of E-Government – A literature review*, Government Information Quarterly, April 2019, at 171 (explaining how the value of e-government has many dimensions including “public engagement, well-informedness, the sharing of databases, skills and resources – hence, capacity building and empowerment,” as well as “improving trust and confidence in government” through increasing transparency and participation by members of the public).

⁵⁷ Jean Damascene and Annika Andersson, *The public value of E-Government – A literature review*, Government Information Quarterly, April 2019, at 171.

⁵⁸ The 100 departments reviewed are included in Appendix A to this Review.

form and complaint information sheet in all 11 languages, as well as other markers of an accessible internal affairs complaint process online.

The 100 municipal police departments were randomly selected from all of the departments statewide. All of New Jersey's 21 counties were represented in the sample.⁵⁹ The data for the municipal police departments were collected as of January 31, 2023, and do not account for any subsequent updates or changes made by the departments.

OSC provided notice of its findings to all 100 municipal police departments.⁶⁰ The response was overwhelmingly positive. Almost immediately, over half of the departments reached out to inform OSC that they had already updated or were in the process of updating their websites to come into full compliance with the IAPP's mandates.

IV. Findings

A. Internal Affairs Report Forms

1. 60 Percent of Departments Either Did Not Have A Report Form Available Online At All or Failed to Use the Mandatory Standardized Form

OSC's review revealed that, out of the 100 departments reviewed, 31 did not have any report form available online. Of the 69 departments that had a report form available, only 40 departments were utilizing the required standardized Internal Affairs Report Form, IAPP Appendix B.

In total, 60 percent of departments were noncompliant by either not providing a form at all or by using an alternate or outdated report form.

This is an important and basic mandate of the IAPP – make the standardized internal affairs report form available to the public online, if the department has a website – yet OSC discovered substantial noncompliance among the departments reviewed.

⁵⁹ The population of the review is all municipal police departments in the State of New Jersey identified through the Attorney General's Police Recruiting dataset with the understanding that some municipal police departments serve multiple municipalities and some municipalities are served by the New Jersey State Police. From this population, a sample of 100 municipal police departments was randomly selected.

⁶⁰ Each municipal police department was provided a checklist to inform the department of OSC's findings based on a review of its website. A sample checklist is included at Appendix B to this Review.

2. 80 Percent of Departments Were Noncompliant in Making the Standardized Report Form Available in All Required Languages

OSC's review revealed that only 20⁶¹ out of 100 departments were providing the standardized report form in all 11 required languages – Arabic, Chinese, English, Haitian, Hindi, Korean, Polish, Portuguese, Spanish, Tagalog, and Vietnamese – languages likely selected by the Attorney General as a reflection of the population demographics in New Jersey. In other words, 80 percent of departments reviewed by OSC were noncompliant in this regard. A handful of departments had some, but not all of the required languages of the form available online. While that is certainly a positive step towards improving accessibility to the complaint process for non-English speakers, it is not full compliance.

Generally, the departments providing the form in multiple languages either uploaded the document in each of the translations on the department's website itself or linked to the specific IAPP page on the Attorney General's website, which provides the report forms and information sheets in all required languages. OSC considered both methods to be compliant for the purpose of this review. However, OSC did not consider it to be compliant if a department merely: (1) provided a link to the 69-page IAPP, which does not contain the appendices or any translations; or (2) uploaded the entire IAPP without directing the reader where to look to find the form in the required languages.

Based on these findings, it is likely that noncompliance is consistent across the State with municipal police departments failing to make a report form available to the public online at all, not utilizing the standardized form, or failing to make the form available in the translations required by the IAPP.

3. At least 29 Police Departments Used Problematic or Outdated Report Forms

OSC found that 29 departments were utilizing non-standardized forms at the time of the review, and these alternative forms raised a number of concerns. There were 27 departments that did not notify the complainant that personal identifying information was optional on their report form. As discussed above, the standardized report form, IAPP Appendix B, alerts the complainant that personal identifying information is "Optional, But Helpful."⁶² Seemingly, this language is intended to encourage reporting by those complainants who may wish to remain anonymous for any reason.

⁶¹ The 20 departments compliant with this basic requirement include Bedminster Township, Bloomingdale Borough, Collingswood Borough, Edgewater Borough, Elk Township, Englewood Cliffs Borough, Garfield City, Hackettstown Town, Hazlet Township, Hoboken City, Howell Township, Little Silver Borough, Middlesex Borough, Monroe Township (Gloucester), Neptune City, Newton Town, Oceanport Borough, Spring Lake Borough, Waldwick Borough, and Woodbridge Township. Notably, however, 15 of these 20 municipal departments still failed to comply with one or more of the IAPP's other mandates or best practices.

⁶² While some departments did indicate in other areas, such on their information sheet or website itself that an anonymous complaint would be accepted, OSC did not consider this compliant for the purposes of this review. The IAPP requires that the standardized internal affairs form, IAPP Appendix B, be utilized by all departments.

At least 26 departments utilized report forms requesting additional personal identifying information. These included requests for complainants' social security numbers, aliases, sex, race, age, and employer/school, among other information. The requests for the complainants' social security numbers were particularly concerning given the plain language of the IAPP, which makes clear that complaints must be accepted from anyone, including undocumented persons. The standardized report form that is required under the IAPP does not request this information. From those departments requesting additional personal identifying information, 23 were utilizing report forms that failed to advise the complainant that personal identifying information was optional.

As discussed below under Section C, some departments also included warnings on their report forms and/or improperly required complainants to sign a certification of truthfulness on the report form itself. Any one of these practices – and certainly a combination of them – could serve to dissuade potential complainants and undermine the larger purposes of the Attorney General's Policing Initiative. Because the review was based solely on information publicly available online, OSC did not ascertain whether a department would initiate an investigation even if the report form was submitted without (what appeared to be) required information.⁶³

B. Civilian Complaint Information Sheets or Brochures

1. 42 Percent of Departments Did Not Have Complaint Information Sheets Available Online

OSC's review revealed that, out of the 100 municipal police departments reviewed, 42 did not have an information sheet, brochure, or similar information available online. As discussed above, each department must prepare a "fact sheet or brochure that includes information on the agency's internal affairs process and what role the complainant can expect to play" and, if feasible, that information sheet is to be provided to the complainant at the time the complaint is made.⁶⁴ Yet, nearly half of the departments reviewed did not make an information sheet or brochure available to the public online. If a complaint can be filed without contact between an officer or department and the complainant, then providing this information online is a logical way to comply with the IAPP.

It was also problematic that, in the absence of a required format for the information sheet, the presentation of this information by the departments varied greatly. Some departments included information about the internal affairs process directly on their websites, while others utilized alternative or outdated versions of the sample information sheet, as discussed below. For the purpose of this review, OSC considered departments to be compliant if they included information about both the "internal affairs process" and "what role the complainant can expect to play" in that process.⁶⁵ But OSC did not consider a department to be compliant if it either: (1) provided only a blurb on its website about the existence or intent of its internal affairs unit or (2) provided the department's full internal affairs policy, which is often lengthy and requires a certain level of expertise to be understood. When report forms are made available online, but information sheets

⁶³ See <https://www.njoag.gov/programs/policing-initiative/>.

⁶⁴ IAPP Section 5.1.3.

⁶⁵ *Ibid.*

are not similarly made available, complainants are deprived of essential information about the internal affairs process.⁶⁶

2. Only 18 Departments Made an Information Sheet Available in All 11 Languages

OSC's review revealed that, only 18 out of the 100 departments provided the English version, as well as translations of the information sheet in the required languages for report forms.⁶⁷ Providing translations of the report form alone, without a translated information sheet or brochure, does not provide meaningful and equitable access to the internal affairs process for non-English speakers. Some departments achieved compliance with this Attorney General recommendation by either uploading each translated information sheet to their website or providing a link to the Attorney General's IAPP webpage, where translated information sheets are already available, as discussed below under Section F.

3. 28 Departments Used Problematic Alternative Information Sheets or Brochures

OSC's review also uncovered that, out of the 58 departments that made an information sheet or similar brochure available online, 28 departments did not utilize the sample information sheet, IAPP Appendix A. OSC's review of the information sheets and brochures for those 28 departments raised additional concerns.

One recurring issue that OSC uncovered was with departments utilizing what appeared to be an outdated information sheet. An example of the text from an outdated information sheet is below along with the text of the current sample information, IAPP Appendix A.

CITIZEN COMPLAINT INFORMATION SHEET

The members of the [REDACTED] Police Department are committed to providing law enforcement services that are fair, effective and impartially applied. It is in the best interests of everyone that your complaint about the performance of an individual officer is resolved fairly and promptly. The police department has formal procedures for investigating your complaint. These procedures ensure fairness and protect the rights of both citizens and law enforcement officers.

- *Your complaint will be sent to a superior officer or a specially trained internal affairs officer who will conduct a thorough and objective investigation.*
- *You might be asked to help the investigation by giving a detailed statement about what happened or providing other important information.*
- *All complaints against law enforcement officers are thoroughly investigated. You will be advised in writing of the outcome of the investigation.*
- *If our investigation shows that a crime might have been committed, the county prosecutor will be notified. You might be asked to testify in court.*
- *If our investigation results in an officer being charged with a violation of department rules, you might be asked to testify in a departmental hearing.*
- *If our investigation shows that the complaint is unfounded or that the officer acted properly, the matter will be closed.*
- *All disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.*
- *It is unlawful to provide information in this matter, which you do not believe to be true*
- *You may call the Internal Affairs Unit at [REDACTED] with any additional information or questions about the case.*

⁶⁶ Ibid.

⁶⁷ One department provided the information sheet in all languages but English.

Appendix A

Sample Civilian Complaint Information Sheet

The members of the (INSERT NAME) Police Department are committed to providing law enforcement services that are fair, effective, and impartially applied. It is in the best interests of everyone that your complaint about the performance of an individual officer is resolved fairly and promptly. The Police Department has formal procedures for investigating your complaint. These procedures are designed to ensure fairness and protect the rights of both citizens and law enforcement officers:

1. Reports or Complaints of officer/employee misconduct must be accepted from any person, including anonymous sources, at any time.
2. Complaints shall be accepted regardless of age, race, ethnicity, religion, gender, sexual orientation, disability, or immigration status of the complaining party.
3. Your complaint will be sent to a superior officer or a specially trained internal affairs officer who will conduct a thorough and objective investigation.
4. You might be asked to help in the investigation by giving a detailed statement about what happened or providing other important information or documents.
5. All complaints against law enforcement officers are thoroughly investigated. You will be kept informed of the status of the investigation and its ultimate outcome, if requested, and you provide contact information. The exact discipline imposed is confidential, but you will be advised of the ultimate finding, namely :
 - a. Sustained: A preponderance of the evidence shows an officer violated any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standing operating procedure; rule; or training.
 - b. Unfounded: A preponderance of the evidence shows that the alleged misconduct did not occur.
 - c. Exonerated: A preponderance of the evidence shows the alleged conduct did occur, but did not violate any law; regulation; directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor; agency protocol; standing operating procedure; rule; or training.
 - d. Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
6. If our investigation shows that a crime might have been committed, the county prosecutor will be notified. You might be asked to testify in court.
7. If our investigation results in an officer being charged with a violation of department rules, you might be asked to testify in a departmental hearing.
8. If our investigation shows that the complaint is unfounded or that the officer acted properly, the matter will be closed.
9. Internal affairs investigations are confidential and all disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.
10. You may call the (INSERT INTERNAL AFFAIRS INVESTIGATOR) at (INSERT PHONE NUMBER) with any additional information or any questions about the case.

There were some key differences between the outdated information sheet and the current sample information sheet in the IAPP. The outdated information sheet did not include numbers one and two from the current sample information sheet, which provide essential information about acceptance of complaints from all sources, including anonymous complaints. In addition, the outdated information sheet includes a warning to complainants that “[i]t is unlawful to provide information in this matter, which you do not believe to be true[.]” One department even went a step further by requiring the complainant to sign and date under that warning on its information sheet. Specific issues with warnings are discussed below under Section C. The outdated complaint information sheet also does not advise the complainant of the possible “ultimate findings” after an investigation is completed.

In general, departments supplying very limited information to the public about the internal affairs process also created issues. For example, some websites provided a link to the entire IAPP, a 69-page document, not including appendices, without any further direction to the complainant as to where to locate the sample information sheet. OSC did not consider this compliant for the purposes of this review.

OSC also found that some departments were providing inaccurate or misleading information on their alternative information sheets or websites. At least one department requested on its

brochure that a parent or guardian accompany a minor making an internal affairs complaint. This is not actually required under the IAPP for a juvenile to make a complaint.⁶⁸ Another department's information sheet indicated that complainants are asked to complete a report form "which includes a sworn statement of facts known to the person at the time." As discussed above, under no circumstances may a sworn statement be required to initiate an internal affairs complaint.⁶⁹ Finally, OSC found that a few departments were discouraging anonymous complaints by indicating that making an anonymous complaint may result in a less than thorough investigation. An example of this language is below.

- While it is discouraged, citizens may make the report anonymously. When this occurs, it makes it very difficult for the Internal Affairs Officer to ask follow up questions or obtain further information. This may result in your complaint not being thoroughly investigated.

In summary, OSC's review of the alternative information sheets revealed a number of issues, including outdated, incomplete, misleading, and inaccurate information being provided to the public online. Notably, departments can utilize the sample information sheet, as shown above, by simply inputting the name of their department and the contact information for their internal affairs unit. However, no particular format is required under the IAPP.

C. Improper Warnings and Sworn Statement Requirements

1. 32 Departments Improperly Warned Complainants of the Consequences of False Reporting

OSC's review revealed that 32 of the 100 departments had warnings on their report forms, information sheets, and/or on their websites regarding the possible consequences of providing false information during an internal affairs investigation.⁷⁰ Warnings ranged in severity from "it is unlawful to provide information in this matter which you do not believe to be true[.]" to requiring complainants to acknowledge that they would be prosecuted to the "fullest extent of the law[.]" and/or held civilly liable.

The practice of including these types warnings, especially online, is concerning for a number of reasons. First, the standardized report form does not include a warning and, when departments utilize an alternative report form that includes a warning, they become noncompliant with the IAPP.

⁶⁸ IAPP Section 5.1.1.

⁶⁹ IAPP Section 5.1.2.

⁷⁰ The 32 police departments were Atlantic City, Bay Head Borough, Bridgewater Township, Boonton Town, Berkeley Township, Denville Township, Egg Harbor Township, East Brunswick Township, Elk Township, Elmwood Park Borough, Fair Haven Borough, Galloway Township, Hamilton Township, Hazlet Township, Long Hill Township, Mendham Borough, Middlesex Borough, Millville City, Montville Township, Mount Holly Township, Moorestown Township, Newton Town, Rockaway Borough, Rockaway Township, Sea Isle City, Somerdale, Spotswood Borough, Toms River Township, Vineland City, Warren Township, West Orange City, and Woodbridge Township.

Second, this practice appears contrary to IAPP Section 5.1.5 which prohibits any officer from warning a complainant about the “consequences” that could “potentially result from making misrepresentations or a false report” unless affirmatively asked. Presenting the consequences of false reporting online does not give the complainant the opportunity to request that information during the “initial intake,” in case they choose to print and mail the report form or submit it electronically online. Some departments gave the complainant the opportunity to click on a link if they desired more information about the risks of filing an internal affairs complaint, before providing that information, but others did not.

Finally, IAPP Section 5.1.5 states that any language serving to “dissuade or intimidate a member of the public from coming forward should be avoided.” Disclaimers regarding bringing criminal charges, filing civil lawsuits, and other ramifications could serve to dissuade a complainant or intimidate a member of the public. This is especially concerning when the complainant is reading the information online and there is no officer present to answer their questions, provide context, or alleviate lingering concerns.

Examples of the types of warnings uncovered by OSC during the review are below. Some departments even included multiple warnings on their report forms, information sheets, and/or the websites themselves.

	<p><u>WARNING - False reports to a law enforcement agency.</u></p>
	<p>Anyone who makes a fictitious report to a law enforcement agency of an offense or incident knowing it did not occur, is a Disorderly Person and can be charged under 2C:28-4b1 of the New Jersey Criminal Justice Code.</p>

<p>CONTRIVED / MALICIOUS COMPLAINTS</p>
<p>Although there are complaints against officers that are legitimate and based on facts, there are others that are contrived and maliciously pursued, often with the intent to mitigate or neutralize legal action taken against a complainant by an officer. The matter will be fully and impartially investigated. In any case where a complaint has been fabricated or a complainant has intentionally misrepresented material facts of officer misconduct, the matter may be criminally prosecuted.</p>

Is there any risk in making a complaint against a member?

No. But if a person deliberately makes a false complaint and statement against a member, that person may be criminally prosecuted or held civilly liable.

N.J.S. 2C:28-3 Unsworn Falsification to Authorities states, " A person commits a crime of the fourth degree if he makes a written false statement which he does not believe to be true, on or pursuant to a form bearing notice, authorized by law, to the affect that false statements made therein are punishable." Those who provide false information to members of the Office of Professional Standards will be prosecuted to the fullest extent of the law.

Fabricated / Maliciously Pursued Complaints

We take your complaint seriously. However, if it is determined that a complaint was fabricated or maliciously pursued, the complainant may be subject to criminal prosecution and/or civil proceedings.

Some departments went a step further by requiring complainants to acknowledge that they would be criminally prosecuted for false reporting. Some examples of that type of warning are below.

Signature of Complainant: _____ Date: _____

My signature signifies that the information provided in this citizen complaint is true and that I understand that filing a false Police Report is an offense under N.J.S.A. 2C:28-2 False Swearing, 2C:28-3 Unsworn Falsification to Authorities, and 2C:28-4 False Reports to Law Enforcement Authorities, and is punishable by fine and/or punishment.

Providing false information, written or verbal to authorities is a crime. I understand that if I provide false information to authorities I will be prosecuted. _____ (initial)

These severe warnings have the potential to dissuade or intimidate potential complainants, especially when conveyed online.

2. 8 Departments Required A Sworn Statement to Initiate an Internal Affairs Complaint

OSC’s review revealed that eight departments required complainants to swear to or certify the information they provided on the report form.⁷¹ This practice is noncompliant with the IAPP and

⁷¹ The eight police departments were Bridgewater Township, Collingswood Borough, Egg Harbor Township, Galloway Township, Lawrence Township, Somerdale Borough, West Orange Township, and Westville Borough police departments.

by phone or email. If a department has an online presence, setting up an email address to receive complaints, or providing another way for the report form to be submitted electronically directly through the website, would be an effective way to receive the report forms. This Attorney General recommendation increases accessibility to the complaint process, especially for those complainants who are non-English speaking, wish to remain anonymous, or fear any kind of retaliation or collateral consequences for making a complaint.

OSC did not consider a general anonymous “tip line” or general fillable “contact us” form to be compliant unless the department specifically instructed the complainant that this was an appropriate way to file an internal affairs complaint.

In summary, OSC’s review revealed that out of the 100 randomly selected municipal police departments, only five were compliant with all the Attorney General’s directives and the IAPP and following best practices regarding online accessibility of the internal affairs complaint process. Given the size of the random sample, OSC’s findings related to the 100 municipal police departments reviewed suggest there is a likelihood of significant statewide irregularities.

Few Municipal Police Department Websites Complied With Key Requirements and Best Practices

● 80 not in compliance ● 15 in partial compliance* ● 5 in full compliance



*Some police departments fulfilled a basic requirement, but did not comply in another way, such as by requiring a sworn statement from the complainant (prohibited) or by not providing a way to submit the complaint electronically (best practice).

E. Compliant Departments and Implementation of the Attorney General’s Recommendations

While noncompliance in the areas OSC reviewed was widespread, some departments were compliant, encouraged reporting from all sources, and promoted accessibility to the internal affairs process online.

The Hoboken Police Department’s website serves as an example of how an information sheet can be provided to the complainant at the time of the complaint, even when the complainant is filling out the form online. This department uploaded the information sheet and the standardized report form in all 11 languages. Clicking on the link for the form in the selected language leads you to both the department’s information sheet, which is similar to the sample information sheet, and a fillable version of the standardized report form. Once the form is completed, it appeared that the complainant would be able to submit it electronically to the department or choose to save the form and print a copy. The complainant was offered several avenues for making a complaint including by phone, in person, or anonymously, and at any time with the online fillable form.

The Neptune City Police Department’s website went even a step further in making the process accessible to non-English speakers. This department provided the links to its information sheet and the standardized report form in all required languages and even translates the links into the required language. A portion of the department’s website is below.

 صحيفة معلومات شكوى الشؤون الداخلية باللغة العربية (Arabic language Internal Affairs Complaint Information Sheet)	15.78 KB
 نموذج تقرير الشؤون الداخلية باللغة العربية (Arabic Language Internal Affairs Report Form)	145.51 KB
 中文内务投诉信息表 (Chinese Language Internal Affairs Complaint Information Sheet)	15.14 KB
 中国内政报告书 (Chinese Language Internal Affairs Report Form)	95.48 KB
 Fèy Enfòmasyon sou Plent sou Zafè Entèn Lang Ayisyen an (Haitian Language Internal Affairs Complaint Information Sheet)	17.21 KB
 Fòm Rapò Afè Entèn Lang Ayisyen an (Haitian Language Internal Affairs Report Form)	59.94 KB
 हिंदी भाषा आंतरिक मामलों की शिकायत सूचना पत्र (Hindi Language Internal Affairs Complaint Information Sheet)	16.19 KB
 हिंदी भाषा आंतरिक मामलों की रिपोर्ट प्रपत्र (Hindi Language Internal Affairs Report Form)	150.78 KB

This department also had an online fillable report form and indicated that complaints could be filed in person, by telephone, by letter, by online form, or by email.⁷²

⁷² In addition to the Hoboken and Neptune City Police Departments, the Oceanport Borough, Monroe Township (Gloucester County), and Spring Lake Borough Police Departments were also found to be in compliance with all mandates and best practices based on the review.

OSC also found that, although some departments did not achieve full compliance with the reviewed areas, they were utilizing language encouraging complaints and were taking significant steps to make the internal affairs process more accessible. One department indicated that they would accept complaints from “Anyone, Any Way, Any Time, Anything,” even on a “napkin.” Other departments included information about ways in which complaints serve the department overall, including: by allowing it to “identify and correct unclear and inappropriate agency procedures;” by “highlight[ing] organizational conditions that may contribute to any misconduct such as poor selection and recruitment procedures or inadequate training and supervision of officers;” and by “ensuring fairness and due process protection to citizens and officers alike.”

Finally, a general issue OSC noticed while collecting the data for this review was the level of difficulty a member of the public would encounter to simply locate a report form or any information about making a complaint on most departments’ websites. It would require a basic understanding of the English language and certainly some knowledge of the structure of a police department to navigate through the multiple links, drop-down menus, and search functions hiding some of them. OSC limited its review to data that could be obtained directly through the websites and did not utilize additional search engines to gather the data. Because, as discussed above, these websites are the “front door” to their police departments for many residents, providing a link simply labeled “how do I make a complaint” or “need to discuss an officer’s conduct? Click here” on the front page of the department’s website, would make the process much more accessible.

V. Recommendations

Given OSC’s findings that the majority of municipal police departments reviewed are not complying with some or all of the mandates of the IAPP that are intended to encourage submission of complaints of police misconduct, OSC makes the following recommendations:

1. OSC recommends that all local departments and law enforcement agencies review the information they make available to the public online. Specifically, they should ensure that the information is updated to be compliant with the most recent version of the IAPP and, if possible, implement the Attorney General recommendations. As discussed above, some departments were able to achieve full compliance with simple and effective mechanisms.
2. OSC recommends that the Attorney General conduct a full review of compliance with the IAPP with regard to acceptance of complaints to ensure that the internal affairs complaint process remains as accessible as possible.
3. OSC recommends that the Attorney General and/or County Prosecutors investigate police departments in their jurisdiction that do not comply with the basic mandates of the IAPP discussed in this report. Violations of the IAPP, like any other Attorney General Directive, are to be investigated through the internal affairs process. If law enforcement agencies cannot or refuse to comply with the mandates of the IAPP, the reasons for their noncompliance should be investigated.

APPENDIX A

Below is a list of the 100 municipal police departments that were randomly selected to be part of a statewide review conducted by the Office of the State Comptroller (OSC). OSC reviewed information publicly available on police department websites for compliance with certain provisions of Internal Affairs Policies and Procedures (IAPP) and relevant Attorney General Directives. The data for police department websites were collected as of January 31, 2023, and do not account for any subsequent updates or changes made by the departments.

1. Atlantic City
2. Bay Head Borough
3. Bedminster Township
4. Berkeley Heights Township
5. Berkeley Township
6. Bloomfield Township
7. Bloomingdale Borough
8. Boonton Town
9. Bridgewater Township
10. Burlington City
11. Cherry Hill Township
12. Cliffside Park Borough
13. Collingswood Borough
14. Cranford Township
15. Deal Borough
16. Denville Township
17. Dover Town
18. East Brunswick Township
19. East Rutherford Borough
20. Edgewater Borough
21. Egg Harbor Township
22. Elizabeth City
23. Elk Township
24. Elmwood Park Borough
25. Englewood Cliffs Borough
26. Fair Haven Borough
27. Franklin Township (Hunterdon County)
28. Galloway Township
29. Garfield City
30. Gibbsboro Borough
31. Gloucester City
32. Greenwich Township
33. Hackensack City
34. Hackettstown Town
35. Haledon Borough
36. Hamilton Township (Atlantic County)
37. Hardyston Township
38. Harrison Town
39. Haworth Borough
40. Hazlet Township
41. Hillsdale Borough
42. Hoboken City
43. Howell Township
44. Independence Township
45. Lawrence Township
46. Lindenwold Borough
47. Little Silver Borough
48. Long Hill Township
49. Margate City
50. Medford Township
51. Mendham Borough
52. Middlesex Borough
53. Millville City
54. Monroe Township (Gloucester County)
55. Monroe Township (Middlesex County)
56. Montclair Township
57. Montville Township
58. Moorestown Township
59. Morris Township
60. Mount Holly Township
61. Neptune City
62. Newton Town
63. North Caldwell Borough
64. Oaklyn Borough
65. Oceanport Borough
66. Orange City
67. Palmyra Borough
68. Pemberton Borough

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69. Penns Grove Borough
70. Perth Amboy City
71. Pompton Lakes Borough
72. Rahway City
73. Ramsey Borough
74. River Vale Township
75. Rochelle Park Township
76. Rockaway Borough
77. Rockaway Township
78. Roseland Borough
79. Salem City
80. Sea Isle City
81. Somerdale Borough
82. South Amboy City
83. Spotswood Borough
84. Spring Lake Borough
85. Stone Harbor Borough
86. Stratford Borough
87. Summit City
88. Toms River Township
89. Tuckerton Borough
90. Upper Saddle River Borough
91. Vineland City
92. Waldwick Borough
93. Warren Township
94. West Orange Township
95. Westampton Township
96. Westville Borough
97. Woodbridge Township
98. Woodbury Heights Borough
99. Woodlynne Borough
100. Wyckoff Township



Internal Affairs Complaints

The Police Accountability Project has reviewed your department's website on the criteria noted below which are based on the Internal Affairs Policies and Procedures (IAPP) and relevant Attorney General Law Enforcement Directives. Based on the review, OSC made the following observations:

Complaint Form

- Available
- Available in all eleven languages (IAPP)
- Standard (Appendix B IAPP)
- Indicates personal information optional
- Requests additional personal information
- Has a warning
- Requires sworn statement/verification of truth

Information Sheet

- Available
- Available in all eleven languages (IAPP)
- Standard (Appendix A IAPP)
- Indicates personal information is optional
- Explains IA process and complainant's role
- Has a warning
- Requires sworn statement/verification of truth

Electronic Submission (email or E-form)

- Available
- Not available

Other

-

