



*State of New Jersey*

PHILIP D. MURPHY  
*Governor*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
PO BOX 080  
TRENTON, NJ 08625-0080

ANDREW J. BRUCK  
*Attorney General*

SHEILA Y. OLIVER  
*Lt. Governor*

**ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2021-13**

**TO:** All Law Enforcement Chief Executives

**FROM:** Andrew J. Bruck, Acting Attorney General

**DATE:** December 21, 2021

**SUBJECT: Directive Respecting Confidentiality of Internal Affairs Investigations**

The Internal Affairs Policy & Procedures (IAPP) has long focused on ensuring that critical information in internal affairs investigations is not disclosed in ways that would interfere with ongoing investigations. Among other things, that focus ensures that witnesses and suspects do not have inappropriate foreknowledge about the nature and circumstances of an investigation prior to an interview. To that end, IAPP has for years provided a model form, Appendix I, that requires every witness to acknowledge both the confidentiality of an internal affairs investigation and the obligation not to disclose any information discussed during an interview.

But witnesses in interviews may also be accompanied by their representatives, who must not make disclosures that interfere with any investigations, including in cases where the representatives are representing multiple individuals. Given that representatives present in internal affairs interviews have a similar duty to avoid disclosure of information pertaining to internal affairs investigations, this Directive amends the IAPP to require any representatives present at an interview to sign and adhere to a similar non-disclosure agreement. This approach will help protect the integrity of investigations through the same mechanism that has been applied to witnesses. The new representative non-disclosure agreement is included as Appendix N to the IAPP.

For the reasons stated in this Directive, and pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the state in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the state, I hereby direct all law enforcement and prosecuting agencies operating under the authority of the laws of the state of New Jersey to implement and comply with IAPP as revised by this Directive,



and to take any additional measures necessary to update their guidelines consistent with IAPP, as required by N.J.S.A 40A:14-181.

**I. Revision to Internal Affairs Policy & Procedures**

A. ***Confidentiality of internal affairs investigations.*** IAPP Section 4.2.5 is amended as follows:

4.2.5 Law enforcement executives shall not assign to the internal affairs function any person responsible for representing members of a collective bargaining unit. The conflict of interest arising from such an assignment would be detrimental to the internal affairs function, the subject officer, the person so assigned, the bargaining unit and the agency as a whole. ~~Also, a bargaining unit representative should not be permitted to represent more than one witness or subject in a single investigation, in part to avoid potential conflicts of interest. Although a witness/subject is entitled to a representative, he/she is not necessarily entitled to a particular representative.~~ **In order to maintain the integrity and confidentiality of investigations, any witness and representative present at an interview shall be required to sign and adhere to a non-disclosure agreement. Witnesses shall be required to sign the form attached as Appendix I. Representatives shall be required to sign the form attached as Appendix N.**

**II. Other Provisions**

A. ***Non-enforceability by third parties.*** This Directive is issued pursuant to the Attorney General's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the State. This Directive imposes limitations on law enforcement agencies and officials that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.

B. ***Severability.*** The provisions of this Directive and IAPP shall be severable. If any phrase, clause, sentence or provision of either this Directive or IAPP is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of either document shall not be affected.

- C. **Questions.** Any questions concerning the interpretation or implementation of this Directive, the Major Discipline Directive, or IAPP shall be addressed to the Executive Director of OPIA, or their designee.
- D. **Effective date.** This Directive shall take effect immediately and remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Attorney General. Accompanying this Directive is an updated version of IAPP and Appendix L that reflects the changes made by this Directive.



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Andrew J. Bruck  
Acting Attorney General

ATTEST:



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Jennifer Davenport  
First Assistant Attorney General

Dated: December 21, 2021