



**NOTIFICATION OF ALLEGATIONS AND EMPLOYEES RIGHTS**

PD 339-121 (01-25) DRAFT

**NOTE:** The purpose of this form is to NOTIFY a SUBJECT MEMBER OF THE SERVICE of their employee rights and the allegations made against them, OR to notify a WITNESS MEMBER OF THE SERVICE of the allegations alleged in an incident they may be a witness to, in an official Department investigation.

<input type="checkbox"/> Subject	Rank/Title	Shield	Tax Registry No.
<input type="checkbox"/> Witness			

**EMPLOYEE RIGHTS**

**I. Representation:**

All members of the service who are the subject of an official investigation or are a witness in an official investigation, are to be given a reasonable period of time to obtain and confer with counsel prior to questioning. In determining what is a reasonable period of time, consideration is given to the nature of the investigation, the need for the Department to have the information possessed by the member in a timely manner, and the stage the investigation is at when the need to question the member has been determined. In all cases the determination as to what is a reasonable time will be made by the captain, or higher ranking officer, in charge of the investigation.

**II. Notification of Allegations:**

All members are to be advised of the following prior to Departmental interrogation/interview:

1. Whether the MOS is the subject or witness in the investigation (if known).
2. The nature of the accusation.
3. Identities of witnesses or complainants, except those of confidential sources.

**III. Interrogations/Interviews:**

Interrogations/interviews are to be conducted at a reasonable hour, preferably when a MOS is on duty during daytime hours. Interrogations/interviews may be conducted before or after charges and specifications have been served. An interrogation/interview conducted after service of charges must be completed at least ten days prior to the date of Department trial, except as directed by the Deputy Commissioner, Trials.

Questions and answers are to be specifically directed and narrowly related to the performance of your duties or related to conduct prejudicial to good order, efficiency, or discipline of the Department. No questions or answers are to be considered, "off the record," and there should be no offensive language or threats used during the questioning. Additionally, there are to be no promises or rewards for answering questions during the interrogation/interview.

During Departmental interrogations/interviews members of the service must answer all questions posed to them. Failure to answer these questions will result in suspension and additional disciplinary charges.

Members of the service may view their own Body-Worn Camera recording(s) related to the incident under investigation/ review at a time and place deemed appropriate by the supervisor in charge of the investigation, prior to questioning.

**IV. Recordings of Interrogation/Interviews:**

**CRIMINAL INVESTIGATIONS**

If a member of the service (uniformed or civilian) is under arrest, is the subject of a criminal investigation or there is a likelihood that criminal charges may result from the investigation, the MOS is entitled to all the rights and privileges guaranteed by the laws of the State of NY, the Constitution of the State of NY and the United States Constitution.

The questions and answers resulting from Departmental interrogations are considered compelled statements and therefore cannot be used against the member of service in criminal proceedings. They may however be used against a member of the service during Departmental proceedings.

**FALSE OR MISLEADING STATEMENTS**

Intentionally making a false official statement regarding a material matter will result in separation from the Department, absent extraordinary circumstances. Extraordinary circumstances will be determined by the Police Commissioner on a case-by-case basis.

Circumstances in which false or misleading official statements are made include, but are not limited to:

- Verbal statements made pursuant to a statutory or procedural requirement, or under oath during a civil, administrative, or criminal proceeding;
- Written statements made in sworn documents, including affirmations made in Department and non-Department forms.

**FALSE OR MISLEADING STATEMENTS (continued)**

Clerical errors are not considered inaccurate statements when the statement error is so minor that it has little, or no effect, on the overall intent of the statement. Erroneous statements, lacking in willful intent, and not so unreasonable as to be considered negligence, are not a basis for finding of misconduct. An error will be considered to be an inaccurate statement when a member of the service does not intend to deceive, but causes a material variation. Members of the service have an obligation to review documents before signing, or otherwise verifying, their accuracy.

An investigation is considered impeded when a member of the service makes false, misleading, and/or inaccurate statements, or engages in impeding actions (e.g., failure to produce records as requested by a competent authority, etc.). A member of the service who impedes, or attempts to impede, an official investigation will face disciplinary action for conduct prejudicial to the good order, efficiency, or discipline of the Department.

Additionally, please refer to *Administrative Guide 304-10, "False and Misleading Statements,"* and *Administrative Guide 318-11, "Interrogations of Members of the Service"* for additional information.

**CONFIDENTIALITY**

Questions and answers resulting from the interrogation conducted pursuant to this procedure are confidential. They are not to be revealed nor released to any person or agency outside the department without prior written approval of the Deputy Commissioner, Legal Matters.

---

---

**Accordingly, you are advised of the following allegations:**

(Members of the service should be advised that these allegations are subject to change during the course of the investigation)

---

**ALLEGATIONS: (Please provide a brief description of the event(s) which resulted in this investigation, including the time, date and location of the event(s). If the member of the service is being served with charges and specifications, a copy of the charges and specification will serve as notice of the allegations.)**

---

I hereby acknowledge the allegations relevant to this interview and understand my employee rights.

Rank/Title	Name (printed)	Signature	Date
------------	----------------	-----------	------

---

**DISTRIBUTION: ORIGINAL** Investigator's Case file      **COPY** Subject/Witness Member of the Service