



# Rockland County Sheriff's Office Police Division

## GENERAL ORDER #501

**Ref: #**  
REPLACES ALL PREVIOUS

**Subject:** **Complaint Filing Against Officers**

**NYSLEAS: 25.1**

**Effective Date:** 03.27.2007

**Reissue Date:** 09.01.2020

**Review date:** *Annually*

**Other:**

**Revised on:** 08.28.2020

**Approved by:** *Sheriff L Falco / Chief W. Barbera*

### PURPOSE

To specify the activities of the internal affairs function and outline the procedure for the handling and investigating of complaints filed against Division personnel, the resultant dispositions and the maintenance of records

### POLICY

The Division encourages citizens to bring forward legitimate grievances regarding misconduct by employees. Division members shall receive all complaints courteously and shall handle them efficiently. All officers are obligated to explain complaint procedures to inquiring citizens.

The Division is committed to the concept of Procedural Justice which concerns the fairness and the transparency of the processes by which decisions are made. It focuses on the manner in which law enforcement interacts with the public and how these interactions shape the public's trust.

### PROCEDURES

**A. GENERAL:**

The Division's image and reputation depend on the personal integrity and discipline of all employees. To a large degree, the public image of the department is determined by a professional response to allegations of misconduct against its employees. The department recognizes that its personnel are often subject to intense pressures in the discharge of their duties. Hence it is to the advantage of all employees to have a procedure for the investigation of the allegations and the underlying circumstances, so that the complaints can be resolved in light of the complicated pressures of law-enforcement work.

**B. HOW TO MAKE A COMPLAINT:**

A copy of "How to Make a Complaint" is found in the appendix to this order. This copy will be posted in the public areas of the Division, on the website and provided to media representatives, if requested. It will be given to any citizen requesting information on how to make a complaint. Copies will be made available in multiple languages.

**C. RECEIPT OF COMPLAINTS**

1. All complaints, regardless of nature, can be lodged in person, by mail, or by phone at any time. Persons making complaints by mail or phone shall normally be interviewed and a signed complaint form as found in the appendix to this order, will be prepared. 1

2. An employee who receives a citizen's complaint through U.S. mail shall place the correspondence and envelope in a sealed envelope and forward it to the first line supervisor, who shall determine investigative responsibility.
3. Complaints received by telephone by dispatchers or other employees shall be courteously and promptly referred to the first line supervisor. If the supervisor is not available the employee shall record the name and telephone number of the complainant and state that the Patrol Lieutenant or, if unavailable, the sergeant shall call back as soon as practical.
4. Anonymous complaints shall be followed up to the extent possible. In case of an anonymous complaint, the officer or other person who receives the anonymous complaint shall complete the form in the appendix to the extent possible.
5. Every effort shall be made to facilitate the convenient, courteous, and prompt receipt and processing of citizen complaints. An employee of the department, who interferes with, discourages, or delays the making of complaints shall be subject to disciplinary action.
6. If the first-line supervisor or other investigators determine that the complainant is apparently under the influence of an intoxicant or drug, or apparently suffers from a mental disorder, or displays any other trait or condition bearing on his or her credibility, the supervisor or investigator shall note these conditions on the reverse side of the complaint form. Any visible marks or injuries relative to the allegation shall be noted and photographed.
7. Prisoners or arrestees also may make complaints, although circumstances may require a department representative to meet the complainant at a jail or prison for an interview. If appropriate, the representative will have photographs taken of prisoners' injuries
8. The above procedure may also be used when department employees desire to enter a complaint against any other employee governed by this order.

#### D. COMPLAINT HANDLING PROCEDURES AND RESPONSIBILITIES

1. Normally, a citizen with a complaint shall be referred to the first line supervisor who shall assist the citizen in recording pertinent information. The first line supervisor for purposes of this order shall be of the rank of a Sergeant.
2. A supervisory officer who receives a complaint direct or has been summoned to receive a complaint, shall explain the procedure/policy to the complainant. If, after the investigation, conciliation is completed, the complainant is satisfied and the matter is resolved, no further action is necessary, but the matter will be documented.
3. Complaints regarding law-enforcement operations or services or failure to provide a service, or improper attitudes or behavior including but not limited to tardiness, rudeness or insubordination will be handled through the chain of command, beginning with the first-line supervisor. The first-line supervisor shall at least conduct a preliminary investigation.
4. The preliminary investigation consists of questioning the officer, complainants, or witnesses, and securing evidence.

5. Upon completion of the preliminary investigation, the following documents shall be prepared and forwarded through the chain of command.
  - i. A report of the alleged violation; any documents and evidence pertinent to the investigation.
  - ii. Recommendations for further investigation by internal affairs or other agency.
6. Serious categories of complaints which include, but are not limited to corruption, brutality, death or serious injury, criminal misconduct or misconduct involving several personnel or supervisory personnel shall be investigated by a Lieutenant. The findings will be reported to the Captain, who has been designated by the Chief of Police to administer, direct and be responsible for the internal affairs components of the Police Division.
7. The District Attorney's office or other outside agency upon request of the Chief/Sheriff may be involved in the investigation to maintain public confidence in the internal affairs function. The Detective Lieutenant will maintain a close liaison with the District Attorney's Office in investigations alleging criminal conduct, by seeking a legal advice or by routine notification.

**E. INVESTIGATIVE PROCEDURES**

1. Investigations may be of two types; administrative or criminal. They may be conducted simultaneously, but investigators assigned to either investigation may not collaborate or share information. Different rules govern interviews of employees in each case. Any interviews shall take place at a reasonable time and place as designated by the investigating officer, preferably when the officer under investigation is on duty. Before any interview, the employee under investigation will be given notice of the complaint, which will include a copy of the original complaint. The officer shall also be informed of:
  - i. The nature of the investigation.
  - ii. The officer's rights and responsibilities. (See Para G below)
2. Confidentiality of the interview/investigation and its records will be maintained.
3. Close liaison with the County Attorney or Counsel to the Sheriff, will be maintained where liability is at issue. Sheriffs should maintain contact with the person who provides legal advice to their agency.
4. Similarly when investigating alleged criminal conduct, liaison with the District Attorney will be maintained.

**F. ASSISTANCE OF LEGAL COUNSEL:**

Employees are permitted to have an attorney, supervisor, or union representative with them in the room during any interview regarding allegations of misconduct.

**G. INTERVIEW FOR ADMINISTRATIVE PURPOSES: GARRITY WARNING**

1. The Garrity warning is an advisement of rights usually administered by investigators to their employees who may be the subject of an internal investigation. The Garrity warning advises subjects of their criminal and administrative liability for any statements they may make, but also advises subjects of their right to remain silent on any issues that tend to implicate them in a crime.

2. It was promulgated by the Supreme Court of the United States in *Garrity v. New Jersey* (1967). In that case, a police officer was compelled to make a statement or be fired, and then criminally prosecuted for his statement. The Supreme Court found that the officer had been deprived of his Fifth Amendment right to silence.
3. If the Chief/Sheriff wishes to compel an employee to answer questions directly related to his or her official duties and the Chief/Sheriff is willing to forego the use of any answers in a criminal prosecution, the Chief/Sheriff or another interviewer shall advise the employee that the purpose of the interview is to obtain information to determine whether disciplinary action is warranted.
4. All questions specifically related to employment must be fully and truthfully answered. Refusal to answer may result in disciplinary action.
5. Neither answers given nor any information obtained by reason of such statements are admissible against the employee in any criminal proceeding. The employee will be given the following notice:

*I advise you that you are being questioned as part of an official investigation of the department. You are entitled to know the allegations lodged by the complainant. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges that could result in your dismissal from the department. If you do answer, neither your statements nor any information or evidence, which is gained by reason of such statements, can be used against you in any subsequent criminal proceeding. The answers given by you do not constitute a waiver of your privilege against self-incrimination as related to criminal matters. However, these statements may be used against you in relation to subsequent departmental charges. "*

6. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension, or dismissal.
7. In an interview for administrative purpose, no Miranda rights are required. Further, the foregoing rules are inconsistent with Miranda in that employees' statements cannot be used as evidence.

#### H. INTERVIEWS FOR CRIMINAL INVESTIGATIVE PURPOSES

If the Chief/Sheriff believes that criminal prosecutions are possible and wishes to use statements against the employee in a criminal proceeding, or at least wishes to maintain the option of their use, the employee will be given Miranda rights by the interviewer, and advised that:

1. If the employee asserts his right not to answer questions, no adverse administrative action will be taken based upon the refusal.
2. If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceedings.

3. **Note** that the Miranda admonition includes the provision that a lawyer may be present at an interview. Although technically the employee has no right to counsel until the employee has been criminally charged or his or her freedom of action has been deprived, the department wishes the employee to have the option. The department wishes no possibility to arise in which its actions might be construed as coercive.

I. ADJUDICATION OF COMPLAINTS

The Chief/Sheriff will classify completed investigations as:

1. Unfounded - no truth to allegations.
2. Exonerated - allegations true, but are a result of adherence to proper and appropriate procedures and techniques.
3. Not sustained - unable to verify the truth of the matters under investigation.
4. Sustained - allegations true.

J. Completed investigations classified as unfounded, exonerated or not sustained will be maintained in legal files of the Chief/Sheriff/Counsel's office as appropriate. Sustained complaints shall be filed in the individual employee's personnel file

K. Disciplinary action taken shall be determined by the seriousness of the violation or the extent of the injury to the victim. It shall be commensurate with the circumstances surrounding the incident and in consideration of the employee's service record and prior sustained complaints.

1. The department shall maintain a log of all complaints.
2. The complaints and internal investigative files shall be kept secure and shall be maintained as long as state archival policy dictates.
3. The Chief/Sheriff shall direct a periodic audit of complaints to ascertain a need for training or a revision of policy.

L. DISPOSITION OF COMPLAINTS

1. The Chief/Sheriff will notify the complainant that the complaint against the agency or its employees has been received and will be investigated and handled administratively.
2. Written notice of case progress if prolonged will be provided to citizens who initiate the complaint.
3. The adjudication results (as in Para I above) will be communicated to the complainant.

**Note:** All procedures listed above will be subject to all applicable laws and the Collective Bargaining Agreement. With the repeal of §50a of the Civil Rights Law, in 2020, previous protections afforded to any employee are no longer available.

## HOW TO MAKE A COMPLAINT

1. If you wish to make a complaint about the actions of an officer or about any aspect of law-enforcement operations, please:
  - a. Come to the department and tell any employee that you want to make a complaint; or
  - b. Call the department office and tell the person answering the phone that you want to make a complaint; or
  - c. Write your complaint and mail it to:

Chief of Police /Sheriff  
Rockland County Sheriff's Police Division  
55 New Hempstead Rd.  
New City, N.Y. 10956

2. A Supervisor will assist you in filling out a complaint form. This form asks you to identify yourself and then to give specific details about your complaint.
3. Your complaint will then be investigated. You may be contacted and asked additional questions about your complaint.
4. If it is going to take a long time to investigate your complaint, you will receive a letter telling you approximately when you may expect a reply.
5. When your complaint has been investigated, the Chief /Sheriff will review the investigation and will write you a letter explaining what has been found out about the matter.



**Rockland County Sheriff's Office  
Police Division**

***Civilian Complaint Form***

(Refers GO 501) – 08.28.2020

***CONFIDENTIAL***

Name of complainant: \_\_\_\_\_

Contact address? \_\_\_\_\_

Phone number? Residence: \_\_\_\_\_ Work: \_\_\_\_\_

Date and time of incident: \_\_\_\_\_

Location of incident: \_\_\_\_\_

Name of officer(s) or employee(s) against whom complaint is being filed, or other identifying marks (car number, badge number, etc.)

Rank: \_\_\_\_\_ Name: \_\_\_\_\_

Badge # \_\_\_\_\_ Vehicle #: \_\_\_\_\_

Vehicle: \_\_\_\_\_

Name(s)/address/phone number or other identifying information concerning any witnesses, if applicable:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Statement of allegation: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If further space is needed use reverse side of sheet)

I understand that this statement of complaint will be submitted to the Rockland County Sheriff's Office and may be the basis for an investigation. Further, I sincerely and truly declare and affirm that the facts contained herein are complete, accurate, and true to the best of my knowledge and belief. Further, I declare and affirm that my statement has been made by me voluntarily without persuasion, coercion, or promise of any kind.

I understand that, under the regulations of the department, the employee against whom this complaint is filed may be entitled to request a hearing before a board of inquiry. By signing and filing this complaint, I hereby agree to appear before a board of inquiry if requested by the employee and to testify under oath concerning all matters relevant to this complaint.

**The filing of a false statement is a class A misdemeanor in the State of New York. [NYS Penal Law Sect. 175.30]**

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Date

Refused to sign \_\_\_\_\_

\_\_\_\_\_  
Signature of Person Receiving Complaint

\_\_\_\_\_  
Date and Time Received

Incident # \_\_\_\_\_