

**GREECE POLICE DEPARTMENT**  
*GREECE, NEW YORK*

<b>GENERAL ORDER</b>	<b>ISSUE DATE</b> 4/9/2015	<b>EFFECTIVE DATE</b> 4/9/2015	<b>NUMBER</b> 301G
<b>SUBJECT:</b>		<b>N.Y.S. ACCRED. STD.</b> 2.9, 14.4, 16.1	<b>RESCINDS</b> 301F
<b>DISCIPLINARY PROCESS AND COUNSELING MEMOS</b>			

\*\*\* INDICATES SECTION MODIFIED

**I. INTRODUCTION**

Discipline within an organization requires compliance to standards of performance supported by a system of authoritative guidelines such as rules, regulations, general orders and other policies and procedures. Discipline is a necessary element in the maintenance and growth of any person or organization. The goal of the Greece Police Department is to conform to self discipline.

**II. PURPOSE**

To define the authority and responsibility delegated to departmental supervisors for the maintenance of discipline.

**III. POLICY**

- A. All members are responsible for adherence to the standards and ethics of the Greece Police Department and have a responsibility to notify a supervisor when a violation occurs.
- B. Supervisors are responsible for ensuring that department personnel perform their duties according to the policies, procedures, rules, regulations and authoritative instructions of the department.
- C. Supervisors are responsible for initiating action(s) in response to the acts of commission or omission of personnel who are:
  - 1. Assigned to their command or under their supervision for even a brief period of time.
  - 2. Brought to their attention
  - 3. Observed committing acts, violations of law or department policy, regardless of assignment. This applies whether the Supervisor and/or the employee is on or off duty. Reporting may initially be verbal but must be in writing as soon as possible to the Chief of Police
- D. Supervisors are responsible for correcting unacceptable acts of commission or omission through training, counseling or instituting disciplinary action against the employee. All supervisory corrective actions should be documented.

- E. Supervisors are encouraged to document positive performance of their employees a Performance Incident Report (P.I.R.) as described in section IV B(1) of this order or on an Awards Nomination form as described in G.O. 255 (Awards).

#### IV. PROCEDURES/DOCUMENTATION

- A. Supervisors are required to initiate corrective measures to assure compliance with department rules, regulations policies and procedures and document the actions taken.
- B. Supervisors are expected to initiate action when employees under their direction perform a duty in a manner in need of training, counseling or disciplinary action.
- C. A supervisor has several options available to him/her in order to document when a violation of procedures, Rules and Regulations or General Order has occurred. Those options include:

- \*\*\* 1. A Performance Incident Report (P.I.R.) – A P.I.R. is designed for supervisors to document a positive performance by an officer that on its face may not meet the requirements for an award, none the less the positive actions taken by the officer needs to be memorialized in some fashion to formally praise the officer. Original copy of the P.I.R. will be issued to the employee, one copy will remain on the platoon level for the employee's rating period and one copy of the P.I.R. will be forwarded through the chain of command to the Chief of Police and added to the employee's personnel file. (NOTE: P.I.R.s were previously used to also document negative actions taken by officers, when in reality there was no difference between a negative PIR and counseling memo. As they both served to memorialize actions taken by supervisors to correct errant actions taken by employees. P.I.R.s are now for positive documentation only.)
- 2. A Counseling Memorandum (Letter of Training) - is formal way of documenting a counseling or training session and the corrective actions taken. Training is an important part of the disciplinary process. The Counseling Memorandum is designed to counsel or train employees and to clarify department expectations. A Counseling Memorandum is not considered discipline. The original Counseling Memorandum will be issued to the employee. A copy of the Counseling Memorandum will be signed by the issuing supervisor and a witnessing supervisor (the signature of the employee is not required). The supervisors' copy of the Counseling Memorandum will be forwarded through the chain of command to the Chief of Police for review and retention. A Counseling Memorandum issued by a supervisor does not preclude the Chief of Police from taking disciplinary action against the employee. The employee may respond to a Counseling Memorandum in writing and have the response filed in his/her personnel file. The Counseling Memorandum will be retained in the employees file for a period of one year (or time period negotiated by current labor agreement).
- \*\*\* 3. Sick Frequencies - Employees, civilian or sworn, that have four frequencies of sick time during their current annual evaluation rating period will be required to have a meeting with the command officer of their unit or

department head. (IE., a platoon lieutenant or director of staff service.) The purpose of this meeting is to discuss the frequencies and determine if there is a cause or concern over the number of frequencies. At the conclusion of this meeting it will be that command officer's responsibility to determine if a counseling memo needs to be issued or write a memo to their command officer justifying the frequencies.

**Consideration to this process:** When an employee can produce a doctor's note that encompasses a single frequency or documents a chronic illness/injury, which may periodically force an employee to use a sick frequency that is beyond their control, the supervisor will take into consideration the doctor's note to determine whether the frequency is to be part of the sick time audit. The shift/unit Command officer is responsible for ensuring the aforementioned procedure is followed.

\*\*\*This portion of this policy is to take effect starting at the beginning of the employee's next evaluation period following the issuance of this order.

\*\*\* 4. Internal Investigations- On occasion, a supervisor may see the need for an internal investigation. Internal Investigations are outlined in G.O. 310. The decision to recommend an internal investigation may be made as a result of:

- i. An incident or a series of incidents that occur on a platoon level.
- ii. The platoon supervisor feels the incident needs to be addressed at a higher level.
- iii. A crime has been or is believed to have been committed.

An internal investigation may be initiated at any time at the request of the Chief of Police or any Division supervisor. If a supervisor feels a crime has been or is believed to have been committed by an employee, the Chief of Police will be notified immediately through the chain of command. At the conclusion of the internal investigation, if warranted, the Chief of Police and the Town of Greece Personnel Department will determine the type of discipline imposed (e.g. Letter or Reprimand, suspension, demotion, termination). The disciplinary process will follow all current negotiated contracts.

3. Excusing Officer from Duty

If a supervisor feels that an officer is unfit for duty (for medical, psychological or other reasons), he will excuse that officer for the remainder of their tour of duty.

- i. When it is indicated that the possession of a firearm or other equipment by a Police Officer is dangerous to himself/herself or others, said equipment will be secured from the officer, generally by the officer's supervisor. However, under extreme circumstances where the officer's mental state is such that, in the observer's opinion, the officer is in imminent danger of seriously injuring himself/herself or others nearby, any officer may secure such equipment.

- ii. The supervisor shall advise the Chief of Police through the chain of command immediately of the incident. The supervisor shall submit a written explanation on intra-departmental correspondence through the chain of command to the Chief of Police.

The Chief of Police, if he deems necessary, may:

- i. Order the employee to a physician for evaluation prior to his return to duty.
- ii. Order a fitness for duty evaluation.
- iii. Suspend the officer from duty.
- iv. Order an internal investigation.

BY ORDER OF:

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PATRICK D. PHELAN  
CHIEF OF POLICE

**GREECE POLICE DEPARTMENT**  
**GREECE, NEW YORK**

<b>GENERAL ORDER</b>	<b>ISSUE DATE</b> 11/17/10	<b>EFFECTIVE DATE</b> 11/18/10	<b>NUMBER</b> 310F
<b>SUBJECT:</b>  <b>INTERNAL AFFAIRS/CITIZEN COMPLAINTS</b>		<b>N.Y.S. ACCRED. STD.</b> 14.4, 14.7, 16.1, 21.1, 21.2, 25.1, 25.2, 25.6, 25.8	<b>RESCINDS</b> 310E
		<b>DISTRIBUTION</b> CODE C	

\*\*\* ENTIRE ORDER WAS MODIFIED\*\*\*

**Purpose:** To define the policy and procedure for reporting and investigating alleged acts of misconduct by employees and to define the responsibilities of the Inspectional Services Bureau. The policy and procedures are to ensure the integrity of the Greece Police Department and to provide a system for citizens to pursue grievances or complaints with the Greece Police Department and its personnel.

To ensure the protection of all employees through conscientious investigation and ultimate disposition of each allegation.

**I. DEFINITIONS:**

Misconduct- A violation of law, General Order, Rules and Regulations, or administrative procedures.

Complaint- An accusation by another to bring attention to any action or inaction by a member of the Greece Police Department (sworn or non-sworn) that is considered to be improper, contrary to law, against Rules and Regulations or General Orders.

Unfounded- The alleged act did not occur. No basis for allegation.

Unsubstantiated- There is not enough evidence to prove or disprove allegation.

Sustained- The alleged act of misconduct and/or violation of internal orders or procedures did occur as alleged.

Exonerated- The incident occurred, but the employee's actions were lawful, justified, and proper.

Policy Review- The allegation is true. The action of the employee was consistent with departmental policy and procedure; however, this indicates the departmental policy should be changed.

Supervisor- A sworn member of the Greece Police Department holding the rank of sergeant or above (includes Acting Sergeant's).

QSI- Quality of Service Investigation, OEC dispatch code for complaint. QSI's that are not deemed complaints will also be referred to as a "QSI" (see section III 3 a)

## II. POLICY

1. The Inspectional Services Bureau will have the overall responsibility for the internal affairs functions of the Greece Police Department. The investigative functions of the ISB may be delegated as necessary to any supervisor at the discretion of the ISB supervisor. The ISB supervisor will report directly to the Chief of Police.
2. The Greece Police Department will investigate all complaints and allegations of misconduct thoroughly, promptly and impartially.
3. The Greece Police Department will take appropriate action in all cases where an investigation substantiates misconduct by a Greece Police Department Employee.

## III. RECEIVING OF COMPLAINTS

1. Every employee of the Greece Police Department has the responsibility of reporting violations, infractions, or acts of misconduct by any other employee. Employees who become aware of a complaint or misconduct will immediately notify a supervisor.
2. Any person wishing to make a complaint against an employee of the Greece Police Department will be allowed to do so. The complaint may be taken by any supervisor within the Greece Police Department.
3. A supervisor that has been made aware of alleged employee misconduct or who has been assigned a complaint or QSI will:
  - a. If the complaint is procedural or a policy issue, explain the procedure or policy to the complainant. If, after the investigation and explanation is completed, and the complainant is satisfied the matter is resolved, no report is necessary. The supervisor will code out the QSI via the Mobile Data Terminal and will list the IBM of the employee who was the subject of the QSI. This section does not include complaints that are in violation of Greece Police Department's General Orders or violations of the Greece Police Departments Rules and Regulations.
  - b. If the complaint fits the criteria in the above subdivision the supervisor will document the incident on a platoon level QSI log. The QSI log will be maintained by each platoon lieutenant and reviewed on a regular basis. QSI logs will be maintained on a platoon level for a period of 3 years (per guidelines published by NYS Department of Education M-1 guidelines)
  - c. If the complaint is not a procedural or policy issue, the incident will be documented and forwarded directly to the ISB supervisor. A complaint will be documented and forwarded to ISB even if the complainant does not wish to file a written formal complaint.

#### 4. RECORDING AND DOCUMENTING COMPLAINTS

- a. When recording a complaint, every effort will be made to have the person filing the complaint appear in person at the Greece Police Department to discuss the complaint and to sign the complaint form. A signature is not required to file a complaint. The supervisor receiving the complaint will attempt to take a statement from the complainant on a statement of fact and have the complainant sign the form under the penalty of perjury (NYSPL 210.45). The statement will be attached to the complaint form. The complaint form should be a synopsis of the complaint. The statement should be written in first person. If the complainant will not appear in person at the police department, arrangements to take the complaint at another location can be made. If the complainant requests a copy of the complaint form or their statement, it will be provided to them.
- b. If the complainant wishes to remain anonymous, the supervisor will take the complaint and complete the complaint form.
- c. All violations of Greece Police Department General Orders, Rules and Regulations or directives will be documented on a complaint form even if the complainant does not wish to file a formal complaint. All allegations of misconduct will be investigated by the Greece Police Department.
- d. Complaint forms will contain the original CR number, complaint CR number, complainant's name, address and contact phone numbers, witness information, and alleged allegations against the employee.
- e. Complaints shall be kept in strict confidence. Complainants will be advised by the supervisor taking the complaint that the matter will be handled administratively. All questions regarding the follow up procedures will be referred to the Inspectional Services Bureau.
- f. If the complaint requires immediate evidence gathering, the supervisor receiving the complaint will conduct the initial investigation. Such investigation includes gathering evidence, conducting interviews, gathering witness information and conducting witness interviews.
- g. In certain complaints, an immediate notify to the ISB should be made. These cases include allegations of criminal activity by an employee, allegations of civil rights violations by an employee, there is reason for the supervisor to believe that excessive force was used by an employee, there are allegations that an employee was involved in a domestic violence incident (as defined by NYSPL), there are allegations by one employee against another employee, discharge of a departmental firearm, or any other situation in which the supervisor deems the notification necessary.
- h. The original complaints will be sent directly to the ISB supervisor. The supervisor taking a complaint will notify ISB supervisor through voice mail or email, that a complaint has been taken and forwarded to ISB.

## 5. PLATOON LEVEL QSI LOGS

- a. All complaints that are handled in a manner as explained in section III (3) and coded out without a complaint form will be monitored by the Platoon Lieutenant. The QSI log will contain the name of the supervisor receiving the complaint, complainant information, officer involved, the nature of the policy or procedural issue and the resolution.
- b. The QSI platoon level log should be available for inspection by the ISB or the Chief of Police at any time.

## IV. SCREENING OF COMPLAINTS

1. Completed complaint forms will be forwarded directly to the ISB. The ISB will review all complaint forms and decide on the best course of action for the follow up investigation. A summary of the complaints will be provided to the Chief of Police and the head of each Bureau.
2. Certain cases may be referred back to the platoon Lieutenant or first line supervisor. These cases include driving complaints, demeanor complaints or other minor infractions. All investigative steps taken should be documented on an addendum to the complaint form. Once resolved, the results will be forwarded to the ISB.
3. ISB will investigate the use of excessive force, violations of civil rights, criminal conduct, employees making allegations against other employees, domestic violence involving employees (as defined by NYSPL), the discharge of a departmental firearm, or any other allegation that the Chief of Police or ISB supervisor deems subject to an internal investigation. The ISB will investigate these types of allegations.
4. Platoon Lieutenants will report any patterns (poor demeanor, poor driving habits, excessive sick time, tardiness, etc.) observed on a platoon level to the ISB for review. In turn, if the ISB notices a pattern, ISB will notify the platoon Lieutenant.

## V. PROCESS FOR INTERNAL AFFAIR INVESTIGATIONS/DEPOSITIONS

1. Internal Investigations will be conducted in accordance with contractual agreements between the Town of Greece and the union representing the employee who is the subject of the complaint.
2. Once a decision is made that an Internal Investigation is going to be conducted, the ISB unit, or whoever is responsible for the complaint, will notify the accused employee that they are the subject of an investigation. The notification will include the allegations and may initially be made orally, but will be put in written form as soon as possible. Notification may be delayed if it would compromise the investigation and it is in the best interest of the department. The notification will be made whenever it is deemed appropriate by the ISB supervisor or the Chief of Police.



3. The officer/employee will be afforded their rights in accordance with negotiated contracts. Statements made by an employee during an administrative investigation may not be used against them in a criminal proceeding unless "Garrity" protection is waived in writing by the employee.
4. The ISB will notify the complainant that the complaint was received (in writing) and the matter is under investigation. If the matter is being referred back to a first or second line supervisor the complainant will be advised in the notification.
5. Additional interviews conducted by the ISB shall be recorded whenever possible. This includes the member, witnesses, the complainant, or other involved employees.
6. All investigations will be completed within (21) days. An extension of the 21 day time investigative period must be approved by the supervisor of the ISB or the Chief of Police. An extension of 30 days may be granted by the ISB supervisor or the Chief of Police. Each additional 30 day period needs approval of the ISB supervisor or the Chief of Police.
7. Cases that involve criminal conduct may be referred to the District Attorney's Office for prosecution. The Chief of Police will be the liaison with the District Attorney's office in cases alleging employee criminal conduct. The Chief of Police may delegate this duty to ISB. If after consultation with the District Attorney's Office there is a consensus that the internal investigation should not be commenced immediately, appropriate measures will be taken by the ISB supervisor to ensure that the internal interest in the case is timely pursued, consistent with the desires of the district attorney and the discipline needs of the police department.
8. All notice of intents or civil actions against the town due to the actions of a department member(s) will be reviewed by the ISB (even if no complaint was ever filed) to determine if an internal investigation is necessary. If the allegations constitute possible misconduct and no internal complaint was previously investigated, a personnel complaint will be initiated and investigated by ISB. The ISB supervisor will also consult with the town attorney and provide whatever assistance the town needs to gather documents or relevant evidence in the case.

## VI. DISPOSITION OF INTERNAL INVESTIGATIONS

1. The ISB will review the complaint investigation upon its completion. The ISB supervisor will then make recommendations to the Chief of Police. The recommendations will be "Sustained," "Exonerated," "Unfounded," "Unsubstantiated," or "Policy Review" as previously defined in this order. The Chief of Police will determine what actions, if any, will be taken (e.g. training, discipline, departmental charges, etc). The Chief of Police determines the disposition of each case.

## VII. INTERNAL INVESTIGATION AND PERSONNEL COMPLAINT FILES

1. All files will be maintained by the ISB in a secure, confidential location or file.

2. Internal Affairs and complaint files will be kept in accordance with legal requirements. The Greece Police Department will maintain all "Sustained" complaints for the length of the employee's employment with the department. When the employee's employment with the town ends, the "Sustained" complaints will then be forwarded to the Town of Greece Personnel Department for retention. All Internal Investigation cases that are classified as "Unfounded," "Unsubstantiated", "Exonerated", or "Policy Review" will be kept for the current year plus five years. (Example: A case that is taken in November of 2005 will be destroyed in January of 2011).
3. Internal Affairs files will not be kept in the Town of Greece personnel file and will only be maintained by the ISB unit. If an ISB investigation results in discipline, the record of discipline will be recorded in the employees personnel file for permanent retention. The files will be subject to inspection by the Chief of Police at any time.

BY ORDER OF:

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TODD BAXTER  
CHIEF OF POLICE