



# Rochester Police Department General Order



EFFECTIVE DATE: <b>June 5, 2013</b>	SUBJECT: <b>CITIZEN COMPLAINTS; PROFESSIONAL STANDARDS SECTION</b>	ORDER# <b>310</b>
RESCINDS: G.O. 310 (4/21/05)	REFERENCE STANDARD(S):  <b>NYS: 14.4;21.1,,2 25.1,,2,,6</b>	PAGE  1 of 7
ATTACHMENT(S): Personnel Complaint Form, RPD 1253 (10/01)		

## I. **POLICY**

A. The Rochester Police Department (RPD) will:

1. Conduct a prompt, thorough and impartial investigation of alleged misconduct by employees of the Department. In the event that any portion of this General Order is in conflict with an employee's respective current collective bargaining unit agreement, the bargaining agreement will prevail.
2. Take appropriate action in all cases where an investigation substantiates a preponderance of evidence that a violation of statute or directive of the RPD has occurred.
3. Seek appropriate redress for false allegations.
4. Through the Professional Standards Section (PSS), investigate, under the authority of the Chief of Police, all complaints relative to the conduct or performance of Departmental personnel. PSS will:
  - a) Monitor the number and types of complaints and cumulative sustained incidents;
  - b) Regularly advise the Chief of Police of complaints against the Department or employees, to include the type of complaints, periodic status and conclusion of fact.
5. Not remove or commence disciplinary proceedings against any member more than eighteen (18) months after the occurrence of the alleged incompetence or misconduct complained of in the disciplinary charges, except that such limitations shall not apply where the incompetence or

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misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction, constitute a crime.

6. Not discipline any non-sworn employee, except for fraud or any felony where the statute of limitations has not expired, for acts which occurred more than ninety (90) calendar days prior to the imposition of the discipline unless discovered more than ninety (90) days after its occurrence, in which case discipline may be imposed within sixty (60) days of such discovery.

## II. DUTIES AND RESPONSIBILITIES OF EMPLOYEES

- A. Members below the rank of Sergeant or non-sworn employees who are made aware of a personnel complaint or Quality of Service Inquiry (QSI) alleging employee misconduct will immediately notify a supervisor.
- B. A supervisor (sworn or non-sworn) who is made aware of alleged employee misconduct or who has been summoned to receive a complaint or QSI will:
  1. Respond to the complainant's location within 30 minutes of the complaint call if the complaint involves an allegation of excessive force, injury, or a potentially criminal act by an employee. If the response time will be in excess of 30 minutes in such cases, it will be the supervisor's responsibility to contact the complainant and explain the delay.
    - a) For other types of complaints, the supervisor may make initial contact with the complainant by telephone.
  2. Provide for any appropriate medical treatment or medical examination as may be required.
  3. **If the complaint is procedural or a policy issue, explain the procedure or policy to the complainant. If, after the investigation and explanation or conciliation is completed, the complainant is satisfied and the matter resolved, no report is necessary. However, the supervisor is required to properly code out the Quality of Service Inquiry**

assignment, or QSIA, via the Mobile Data Terminal as follows:

- a) Enter the employees name or ID# who was the subject of the QSIA.
  - b) Enter a description of the QSIA into the comments portion.
  - c) Utilize the appropriate action / found codes.
4. If the matter is not resolved, complete a Personnel Complaint Form, RPD 1253 (attachment), and:
- a) Immediately initiate, conduct, and document a preliminary investigation including:
    - (1) Interviewing the complainant.
    - (2) Locating and interviewing available witnesses.
    - (3) Identifying all Department employees involved.
    - (4) Collecting any evidence pertinent to the complaint.
    - (5) Photographing the scene and the complainant as appropriate.
    - (6) Upon request, providing a photocopy of RPD 1253 to the complainant, either by the supervisor making such copy at the time of the report or by the supervisor requesting that PSS mail a copy to the complainant.
    - (7) Submit the completed RPD 1253 form(s) and all other investigative documentation through the chain of command at the conclusion of the tour of duty to the Commanding Officer of PSS. If the preliminary investigation is not completed at the end of that tour, a copy of RPD 1253 and completed documentation must be forwarded at the end of the tour with the

indication that further documentation is to follow.

5. In the event that the complainant will not cooperate with the supervisor in the preliminary investigation, the supervisor will fully document his attempt to complete the investigation on RPD 1253. This documentation, along with any information obtained by the supervisor, will be forwarded through the chain of command at the conclusion of the tour of duty to the Commanding Officer of PSS.

### III. DUTIES AND RESPONSIBILITIES OF PSS

#### A. The Commanding Officer of PSS will:

1. Upon receipt of a complaint/investigation, identify the assignment as:
  - a) Fleet Vehicle Accident - which may or may not require further investigation.
  - b) Departmental Investigation - generally requiring further investigation by the employee's assigned section/unit or PSS.
  - c) Civil Claim - which may or may not require follow-up investigation by PSS, generally at the request of the Law Department.
  - d) Incident Review - documents a **citizen's** contact, which did not result in the initiation of an investigation.
  - e) Citizen Complaint - requiring an investigation by the employee's assigned section/unit or PSS.
  - f) Conciliation - no further investigation is required if the conciliation is successful.
2. Maintain a central register of all complaints and investigations.
3. Ensure that a verification of receipt is sent to the complainant indicating that the complaint has been received for processing.

4. Monitor and direct the processing and timely handling of all assignments registered in PSS.
  5. Conduct an investigation into incidents which allege (by any employee):
    - a) Improper use of force.
    - b) Violation of civil rights, to include bias based profiling.
    - c) Misconduct equating to criminal conduct as directed by the Chief of Police.
    - d) Any other assignment deemed appropriate by the Chief of Police.
  6. Evaluate employee allegations against other employees and conduct and appropriate investigation.
  7. Provide staff control over investigations delegated (farmouts) to other levels of command within the Department.
  8. Offer a conciliation process through the Center for Dispute Settlement (CDS) as allowed per current directives and maintain a register of same.
  9. File all memoranda in employee PSS files.
  10. Provide a secure location for all PSS investigative case files.
  11. Retain disciplinary records in accordance with the current New York State Records Retention and Disposition Schedule MU-1. The Commanding Officer of PSS may establish retention periods longer than those established by the records retention schedule.
- B. PSS members will:
1. Request that the complainant, witnesses, and employees allow their stenographic statement(s) to be videotaped for later viewing by the Civilian Review Board (CRB). The videotaping will be voluntary.

2. Complete assignments within directed time frames or receive approval for extension from the PSS Commanding Officer based on guidelines established by the Chief of Police.
3. Contact and document all information sources relating to an assignment. If sources of witnesses prove to be unavailable, all efforts to contact them will be documented and made part of the investigative case file.
4. Obtain all available and pertinent information relating to an assignment and prepare an investigative file.
5. Prepare a written summary containing:
  - a) An outline of the alleged conduct.
  - b) A description of any evidence which tends to support or refute the enumerated allegations.
  - c) Specific violations, if any are shown by the evidence.
  - d) Ancillary issues developed during the investigation.
  - e) A conclusion with a recommendation finding for each allegation as follows:
    - (1) SUSTAINED - alleged conduct apparently occurred and amounts to misconduct.
    - (2) UNPROVABLE - insufficient evidence exists to clearly prove or disprove the allegation.
    - (3) UNFOUNDED - alleged act apparently did not occur.
    - (4) EXONERATED - personnel's conduct was lawful, justified, and proper.
    - (5) OFFICE INVESTIGATION - complainant failed to cooperate with the investigation and there is not enough evidence available to draw a fair conclusion and apply a finding.

#### IV. PSS FOLLOW-UP REQUIREMENTS IN CASES OF CITIZEN COMPLAINT

- A. Upon receipt of completed RPD 1253 forms and preliminary investigative documents, the assignment will be appropriately logged and either retained for a PSS investigation, referred to the employee's section/unit per Section III.A.7 of this Order, or forwarded to the CDS for possible conciliation in accordance with current directives.
- B. PSS will send written notices at the beginning of each month to citizens who initiated formal complaints against Department personnel and to the involved employee, and also to the initiating supervisor, if applicable, advising them of case progress/status as follows:
1. If after thirty (30) days from the time the case was initiated while the matter is still pending in PSS.
  2. Written notice will be sent or personal contact made to the complainant in those cases where investigation has led to the contemplation of charges. This notice will advise the recipient that they may be needed to provide testimony in possible subsequent Departmental action and that they may petition the Chief of Police for a civilian hearing board member.
  3. Written notice will be sent to the complainant when the action initiated by the investigation has been completed. The Department's notice will include the finding for each listed allegation and the action taken as a result of sustained allegations.
- C. **Where allegations contained in the complaint are determined to be grossly or blatantly false and evidence exists of intentional misrepresentation or the filing of false statements, the investigating section supervisor or the PSS Commanding Officer will make a recommendation to the Chief of Police to pursue criminal action against the complainant.**



# Rochester Police Department General Order



EFFECTIVE DATE: <b>June 14, 2004</b>	SUBJECT: <b>CONCILIATION PROCESS</b>	ORDER# <b>315</b>
RESCINDS: G.O. 315 (05/15/93)	REFERENCE STANDARD(S): <b>CALEA: 26.1.4,.8; 52.1.9 NYS: 14.4</b>	PAGE 1 of 2
ATTACHMENT(S):		

## I. POLICY

The Rochester Police Department (RPD) will attempt to resolve selected complaints by a conciliation process administered by the Center for Dispute Settlement (CDS), when such process is selected by the member, the complainant, and the Chief of Police.

## II. PROCEDURE

- A. Complaints against officers taken at the CDS will be forwarded to the Professional Standards Section (PSS) for investigation. However, complaints may also be eligible for a conciliation process through the Center following procedures outlined in this Order.
1. To be eligible, the complaint must concern matters that if proved would be procedural in nature and would not constitute a crime.
  2. The Chief of Police or his designee shall be contacted prior to the offer of conciliation. With the Chief's approval, the PSS may offer the conciliation process to the citizen and the officer involved. The complainant, police officer, and Chief of Police must all agree to the conciliation process.
- B. One of two findings will result:
1. Resolved; or
  2. Not resolved.
- C. In those cases where conciliation does not resolve the complaint, it will be forwarded to the PSS and the complainant will be instructed to contact the PSS if a formal investigation is desired.



- D. The Commanding Officer of the PSS will:
1. Designate a liaison between the CDS and the RPD for the purpose of implementing this procedure.
  2. Maintain, in conjunction, with the CDS only such records as may be necessary to record the number and type of complaints involved in this process.
- E. The liaison from the PSS will contact the officer(s) involved and offer the conciliation process. If the officer elects to participate, he will be referred to the representative from the CDS.
- F. Discipline
1. Complaints resolved through the conciliation process will not lead to any discipline. Information obtained in conciliation will not be made available to the PSS even if the matter is not resolved and later referred to them for investigation.
  2. If the complaint is then investigated by the PSS and found to be "SUSTAINED", the officer will then be subject to the disciplinary process.



# Rochester Police Department General Order



<b>EFFECTIVE DATE:</b> April 20, 2015	<b>SUBJECT:</b> <p style="text-align: center;"><b>CONCILIATION PROCESS</b></p>	<b>ORDER#</b> 315
<b>RESCINDS:</b> G.O. 315 (06/14/04)	<b>REFERENCE STANDARD(S):</b> <p style="text-align: center;"><b>NYS: 14.4</b></p>	<b>PAGE</b> 1 of 2
<b>ATTACHMENT(S):</b>		
<b>Chief's Signature:</b> <i>Michael L. Ciminelli</i>		

## I. DEFINITIONS

No definitions listed.

## II. POLICY

The Rochester Police Department (RPD) will attempt to resolve selected complaints by a conciliation process administered by the Center for Dispute Settlement (CDS), when such process is selected by the member, the complainant, and the Chief of Police.

## III. PROCEDURE

A. Complaints against officers taken at the CDS will be forwarded to the Professional Standards Section (PSS) for investigation. However, complaints may also be eligible for a conciliation process through the Center following procedures outlined in this Order.

1. To be eligible, the complaint must concern matters that if proved would be procedural in nature and would not constitute a crime.
2. The Chief of Police or his designee shall be contacted prior to the offer of conciliation. With the Chief's approval, PSS may offer the conciliation process to the citizen and the officer involved. The complainant, police officer, and Chief of Police must all agree to the conciliation process.

B. One of two findings will result:

1. Resolved; or

2. Not resolved.
- C. In those cases where conciliation does not resolve the complaint, it will be forwarded to PSS and the complainant will be instructed to contact PSS if a formal investigation is desired.
- D. The Commanding Officer of PSS will:
1. Designate a liaison between CDS and RPD for the purpose of implementing this procedure.
  2. Maintain, in conjunction with CDS, only such records as may be necessary to record the number and type of complaints involved in this process.
- E. The liaison from PSS will contact the officer(s) involved and offer the conciliation process. If the officer elects to participate, he will be referred to the representative from CDS.
- F. Discipline
1. Complaints resolved through the conciliation process will not lead to any discipline. Information obtained in conciliation will not be made available to the PSS even if the matter is not resolved and later referred to them for investigation.
  2. If the complaint is then investigated by PSS and found to be "SUSTAINED", the officer will then be subject to the disciplinary process.



# Rochester Police Department General Order



<b>EFFECTIVE DATE:</b> April 21, 2005	<b>SUBJECT:</b> CITIZEN COMPLAINTS; PROFESSIONAL STANDARDS SECTION	<b>ORDER#</b> 310
<b>RESCINDS:</b> G.O. 310 (07/21/03)	<b>REFERENCE STANDARD(S):</b> CALEA: 1.3.7; 26.1.3,4,5,8;35.1.15;52.1.1-.5,9-10; 82.2.1-.5 NYS: 14.4;21.1,2 25.1,2,6	<b>PAGE</b> 1 of 7
<b>ATTACHMENT(S):</b> Personnel Complaint Form, RPD 1253 (10/01)		

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