



# ROCKFORD POLICE DEPARTMENT

## GENERAL ORDER

**NUMBER: 3.02**

**TITLE: INTERNAL INVESTIGATIONS**

**SERIES NUMBER: 3 - PER**

**SERIES TITLE: PERSONNEL**

**TOPICS / REFERENCE: CITIZENS COMPLAINTS, INTERNAL COMPLAINTS, INTERNAL INVESTIGATIONS, OFFICE OF PROFESSIONAL STANDARDS**

**APPENDICES: A, B, C, D, E**

**ORIGINAL EFFECTIVE / ISSUE DATE: JUNE 30, 1975**

**DATE OF LAST REVISION: FEBRUARY 2, 2020**

**THIS ORDER REMAINS IN EFFECT UNTIL REVISED OR RESCINDED**

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### **POLICY:**

It is the policy of the Rockford Police Department that violations of any Federal, State, or City statutes or ordinances and/or City of Rockford, Rockford Police Department (RPD), Board of Fire and Police Commission rules, regulations, or orders will be investigated as soon as possible after the Department becomes aware of the existence of the alleged violation(s). Investigations will be performed in a manner that will assure the community of prompt corrective action when Department members conduct themselves improperly and to protect the Rockford Police Department and its' members from unwarranted criticism pursuant to the discharge of their official duties.

### **PURPOSE:**

The purpose of this Order is to establish procedures for investigating externally and internally generated complaints against any employee of the Rockford Police Department.

The provisions of the Uniform Peace Officers' Disciplinary Act, [50 ILCS 725/1](#) et seq., shall apply to all disciplinary investigations of officer conduct except to the extent the provisions of the Collective Bargaining Agreement between Unit Six of the Police Benevolent and Protective Association of Illinois and the City of Rockford, Illinois provide specifically to the contrary.

These guidelines are not meant to be all-inclusive, since each incident must be dealt with on an individual basis, but are intended as broad guidelines to assist the employees and supervisors involved.

**This Order is comprised of the following numbered section:**

- I. DEFINITIONS
- II. COMPLAINT INTAKE PROCEDURES
- III. GENERAL PROCEDURES
- IV. FORMAL INVESTIGATIONS
- V. INFORMAL INQUIRIES
- VI. INVESTIGATIVE STANDARDS
- VII. DETERMINING WHERE A COMPLAINT IS RESOLVED
- VIII. DETERMINATION OF FINDING(S)
- IX. RECORD KEEPING

APPENDICES:

- A. [COMPLAINT AGAINST DEPARTMENT MEMBER](#)
- B. [SWORN AFFIDAVIT](#)
- C. [INTERNAL INVESTIGATION ADVISORY FORM](#)
- D. [OFFICER'S REPORT ORDER TO RESPOND FORM WITH GARRITY ADVISORY](#)
- E. [COMPEL INTERROGATION ORDER FORM WITH GARRITY ADVISORY](#)

I. DEFINITIONS:

- A. **Officer:** means any peace officer, as defined by [Section 2-13 of the criminal code of 1961](#), as now or hereafter amended, who is employed by any unit of local government or a State college or university, including supervisory.
- B. **Informal Inquiry:** means a meeting by supervisory or command personnel with an officer upon whom an allegation of misconduct has come to the attention of such supervisory or command personnel. The purpose of which meeting is to mediate a citizen complaint or discuss the facts to determine whether a formal investigation should be commenced.
- C. **Formal Investigation:** an investigation conducted by the Office of Professional Standards or an outside agency at the direction of the RPD Chief of Police or his designee, during which an officer is questioned regarding alleged misconduct, which may be the basis for disciplinary action including removal, discharge or suspension.
- D. **Interrogation:** means the questioning of an officer pursuant to the formal investigation procedures of the Office of Professional Standards (OPS) in connection with an alleged violation of RPD Rules and Regulations which may be the basis for filing charges seeking his or her suspension, removal, or discharge. The term does not include questioning as part of an informal inquiry or relating to minor infractions of RPD Rules and Regulations which may be noted on the officer's record but which may not

in themselves result in removal, discharge or suspension in excess of 3 days.

- E. Valid complaint:** an allegation that would amount to employee misconduct.
- F. Misconduct:** is an act or omission by an employee either on-duty or off-duty which, if proven to be true, would normally result in some form of discipline, sanction, or remediation. Misconduct includes commission of a criminal act, neglect of duty, violation of a Department policy, procedure, Rule or Regulation, values, training standard, or conduct which reflects unfavorably upon the employee or the Department.
- G. Suspension:** A disciplinary action in which the employee is suspended from duty and may forfeit salary for a period of one to 30 days per incident for misconduct considered to be serious or part of a continuing pattern of behavior involving repeated instances of misconduct:
  - 1. Notices of suspension will be maintained in the employee's permanent personnel file following the provisions contained in the labor agreement between the City of Rockford and the bargaining unit representing the employee. If the employee is not represented by a bargaining unit then provisions set forth in the rules and regulations of the City of Rockford regarding written reprimands shall be followed.
- H. Dismissal:** This is the act of discharge from employment and the permanent loss of all privileges of employment. Records of all dismissals will remain in the employee's permanent personnel file and are not subject to removal:
  - 1. Employees dismissed shall be provided with the following information:
    - a. A written statement citing the reason for dismissal;
    - b. The effective date of the dismissal; and
    - c. A written statement of the status of employment and retirement benefits.
  - 2. The above **Section I., H., 1., a.** does not apply to entry-level probationary employees.
- I. V.A.L.U.E.S.:**
  - 1. **V**igilance: We are ever watchful.
  - 2. **A**ccountability: We will always be responsible in our duties.
  - 3. **L**oyalty: We are devoted to the community, organization, profession.
  - 4. **U**nity: We stand as one with all we serve.
  - 5. **E**thics: We will do what is right without compromise.
  - 6. **S**ervice: We are dedicated to giving of ourselves.

## II. COMPLAINT INTAKE PROCEDURES:

**A. Responsibilities of Department Personnel:**

1. All Department members shall:
  - a. Take complaints from anyone;
  - b. Not discourage or deter complainants from exercising their right to complain to the Department and shall accept any complaint lodged against the Department or any personnel in a professional and courteous manner;
  - c. Take care to maintain the confidentiality of the OPS and investigative records, and maintain all related material in a secure area. The Commander of OPS shall be responsible for the safe keeping of all physical investigative records and the maintenance of all related material in a secure area. It is also incumbent, of all members of the department to keep internal matters confidential;
  - d. Once becoming aware of a person who wishes to file a complaint shall immediately:
    1. Bring such person to a supervisor;
    2. Summon a supervisor; or
    3. Bring such person to the Office of Professional Standards.
  - e. In the event the complainant refuses to travel to a supervisor or to OPS, or he/she refuses or is unable to wait for a supervisor to respond, the Department member shall make all reasonable attempts to obtain the following information from the complainant or witness:
    1. Complainant and/or witness' identification information;
    2. Complainant and/or witness' current address and contact number(s);
    3. The name of the alleged offending personnel and any identifying information (e.g., description of the member or employee, badge number, vehicle number, etc.);
    4. Nature of the complaint;
    5. This information shall immediately, or as soon as practical, be forwarded to his/her supervisor, or in his/her absence, the on-duty Officer In Charge; and
    6. The approximately date, time, and location of the alleged offense that took place.
  - f. Any officer who has observed or otherwise learned of possible misconduct committed by another officer, including use of unnecessary force, shall report the same directly to a supervisor in the reporting officer's chain of command. The reporting officer may be required to complete an officer's report regarding the alleged misconduct. The officer should be entitled to seek advice from an attorney or Union Official if they believe they may be sued by the

officer they reported or possibly become subject to an investigation as a result of their having brought forth the complaint.

1. Failure to report misconduct committed by another officer can result in disciplinary action.

**B. Responsibilities of Department Supervision:**

1. When misconduct is observed or complaints of misconduct are received by a supervisor, that person shall immediately initiate a preliminary investigation into the matter;
2. Each supervisor shall assume the duties and obligations of their rank in the investigation of complaints against Department members. Supervisors shall continually examine all areas of Department action under their purview in an effort to discover misconduct in its earliest stages;
3. Supervisors shall not look to higher authority to initiate investigations when subjects complained of are within the scope of their own authority and responsibility, except when the complexity of the case or the nature of the alleged conduct justifies assistance from the OPS. A supervisor shall not be disciplined for asking someone of higher authority whether said alleged conduct justifies assistance from the OPS;
4. Supervisors shall complete a thorough investigation when directed to do so by the OPS;
5. Supervisors shall complete a thorough investigation of procedural and minor misconduct complaints. Investigation results and/or recommendations for discipline shall be forwarded to OPS. The Chief of Police shall make the final determination of discipline;
6. Supervisors, conducting internal investigations shall maintain the confidentiality and security of all such internal investigations and records; and
7. OPS shall apprise the Chief of Police or designee of the existence, progress, and final outcome of each internal investigation.

**III. GENERAL PROCEDURES:**

**A.** The Chief of Police is charged with the responsibility and has the authority to maintain discipline within the Department. The Chief of Police may initiate any informal inquiry or formal investigation he deems appropriate. Any supervisor or commander performing an informal inquiry or formal investigation shall notify the Chief of Police or his designee in writing at the onset of the inquiry or investigation. The Chief of Police can assign anyone within or outside the Department investigations relating to internal discipline.

**B.** Acceptance of complaints:

1. OPS shall be a command rank position(s) and report directly to the Deputy Chief of Police. The commander of the OPS is delegated the authority by the Chief of Police to conduct and direct formal investigations of misconduct;
  2. OPS or a member of the Department's command staff under the direction of OPS shall conduct all formal investigations. This does not prevent a Department member of a lower rank from assisting with formal investigations when it is deemed necessary and has been approved by the Chief of Police;
  3. Department members assigned to assist with formal investigations shall maintain all information in strict confidence relative to the formal investigation;
  4. All Department members shall assist and cooperate with any member of the Department assigned to conduct an informal inquiry or formal investigation. Any Department member who has or is alleged to have knowledge relating to an informal inquiry or formal investigation shall submit a written or verbal response if directed. The response shall include all known facts and circumstances pertaining to the informal inquiry or formal investigation;
  5. Supervisory or command personnel conducting informal inquiries or formal investigations originating either from citizen or internal complaints shall forward all completed informal inquiries or formal investigations against sworn and non-sworn personnel to the Office of Professional Standards. This forwarding procedure is part of the Personnel Early Intervention System (**General Order 3.06**); and
  6. OPS shall maintain a record of all complaints against sworn and non-sworn personnel. This record shall be used to compile statistical data to improve training, policies, and procedures. The statistical data shall also be used to identify trends and lessen civil liability.
- C. The Department shall record, investigate, and adjudicate all complaints (including anonymous) from any source against the agency or employee of the agency alleging misconduct or regarding an improper policy, procedure, practice, service level or legal standard of the Department. In the event personnel receive an anonymous complaint, the person receiving the complaint shall ask for corroborating evidence.
- D. Upon receipt of a written complaint the Commander of the Office of Professional Standards or their designee shall provide the complainant with a document verifying the complaint was received:
1. This does not apply to the anonymous complaints or complaints initiated within the department.
- E. The Commander of the Office of Professional Standards or their designee shall provide the complainant of a written complaint with a contact number. The complainant may use this number to check on the status of the investigation.

- F. A complainant will be informed of the final disposition of his/her complaint in writing, within seven (7) business days of the final disposition:
  - 1. An exception to this will be if a reasonable effort to reach the complainant has failed.
- G. Upon receipt of an internal discipline complaint form and affidavit the employee will receive an [Internal Investigation Advisory Form \(Appendix C\)](#) stating the allegations against them. The employee shall receive documentation concerning the employee's rights and responsibilities related to the investigation.
- H. A Department member may be relieved of duty pending the outcome of an investigation involving allegations of serious misconduct or criminal conduct, if such an action is in the best interest of the Rockford Police Department and the public. Relief from duty may involve transfer from field duties to administrative leave with pay:
  - 1. The relief of duty of any employee must follow the employees' current collective bargaining agreement, with the employees' respective bargaining unit, whether it be the PBPA Unit 6 or ASFCME Council 31, Local 1058.
- I. A Department member who is the focus of a formal investigation shall receive notification from OPS regarding the final disposition of the formal investigation, as indicated in Section 15.9 of the CBA.

#### **IV. FORMAL INVESTIGATIONS:**

- A. All non-criminal formal investigations against a Department member shall be documented on the [Complaint Against Department Member Form \(Appendix A\)](#). A sworn affidavit shall accompany the complaint form.
- B. The non-criminal formal investigation process shall follow the provisions of the Illinois Uniform Peace Officers' Disciplinary Act, [50 ILCS 725//et.seq.](#) and the provisions of the current Collective Bargaining Agreement between the City of Rockford and the PBPA Unit 6 or in the case of a non-sworn employee the provisions of the applicable collective bargaining agreement and/or the City of Rockford's Rules and Regulations.
- C. The OPS shall complete and forward the appropriate forms to the focus officer when an officer is the focus of a formal investigation as set forth in the Illinois Uniform Peace Officers' Disciplinary Act and the provisions of the current Collective Bargaining Agreement between the City of Rockford and the PBPA Unit 6.
  - 1. These forms may be forwarded to the officer via his or her commander or supervisor. Any commander or supervisor serving this form shall sign and date the form. The commander or supervisor shall then return the required receipt of acceptance and service to OPS within five (5) business days;
  - 2. A Department member who is not the focus of the formal investigation shall complete an Officer's Report and/or submit to an interview if

requested. The Officer's Report and/or interview will be a complete truthful disclosure of all information known to the Department member about the matter under investigation;

3. Any compelled interrogation or Officer's Report shall be a complete truthful disclosure of all information known to the Department member about the matter under investigation. The Department member shall not copy or "cut and paste" an existing police report; and
4. Officer's Reports shall be returned to OPS no later than 5:00 p.m. (1700 hours) of the seventh business day after actual service of the request. Extensions may be granted with the approval of the OPS commander.

#### **V. INFORMAL INQUIRIES:**

- A. All complaints, including those resolved at the supervisory level, shall be documented as a part of the Personnel Early Intervention System (**General Order 3.06**) and forwarded to the OPS:
  1. Complaints shall be accepted by any Commander, Shift Commander, Supervisor or OPS;
  2. The Commander or Supervisor conducting the informal inquiry shall advise the OPS all information developed in the inquiry and the status of the inquiry; and
  3. All informal complaints will be immediately logged into the Blue Team logging data base.
- B. Pursuant to the current Collective Bargaining Agreement the supervisor conducting the informal inquiry shall inform the officer he/she has the right to have a Union Representative present at any investigatory meeting which the employee who is the focus of the informal inquiry reasonably believes may result in disciplinary action.
- C. When a Commander or Supervisor is conducting an informal inquiry, if the Commander or Supervisor believes there are sufficient facts to determine a formal investigation should commence, the Commander or Supervisor should stop the informal inquiry immediately and forward the inquiry to the OPS.

#### **VI. INVESTIGATIVE STANDARDS:**

- A. All investigations will be conducted in a courteous and professional manner:
  1. All informal inquires and all formal investigations shall be conducted as provided in the Illinois Uniform Peace Officers' Disciplinary Act [50 ILCS 725/1](#) et seq. and the provisions of the current Collective Bargaining Agreement between the City of Rockford and the PBPA Unit 6;



2. A Department member who is the focus of a formal investigation may be required to submit to and/or cooperate with one or more of the following:
    - a. Medical and/or laboratory examinations provided the complainant signs a sworn affidavit in connection with making his or her complaint and said medical and/or laboratory examinations are specifically and narrowly related to a particular formal investigation being conducted against a Department member;
    - b. Any medical and/or laboratory examinations taken by a Department member in connection with a formal internal disciplinary investigation shall not be used against the Department member in any subsequent criminal proceeding as set forth in [Garrity v. New Jersey, 385 U.S. 493 \(1967\)](#);
    - c. Taking a current photograph of the Department member; and
    - d. Submission of a financial disclosure statement(s) if said financial disclosure statement(s) is in connection with alleged violations of reasonable employer rules, statutes, ordinances or the current collective bargaining agreement between the City of Rockford and PBPA, Unit 6.
  3. No “off the record” questioning will be allowed in any investigation;
  4. The person being investigated, if a sworn officer, will be advised of his/her Garrity rights prior to the start of a compelled interrogation; and
  5. Whenever possible, all interviews and/or questioning will be conducted at the Police Department Headquarters or at a location designated by OPS.
- B.** Employees must comply with the items listed in **Section VI., A., 2., a-d.** Refusal to submit can result in disciplinary action. If criminal prosecution of the employee is contemplated the employee shall be entitled to counsel or other representation present when provided for by law or collective bargaining agreement.

## **VII. DETERMINING WHERE A COMPLAINT IS RESOLVED:**

- A.** When a citizen voices a complaint against a Department member, the first step is to ask: if what this person is saying was proven to be true, would that behavior amount to employee misconduct.
- B.** A valid complaint means the Department needs to address the allegation through the complaint process.
- C.** Complaints that do not meet the definition of a valid complaint shall be documented as a part of the Personnel Early Intervention System (**General Order 3.06**) and forwarded to the Office of Professional Standards.
- D.** Generally, situations such as a disagreement about whether a traffic citation or a parking ticket should have been issued would not constitute a

complaint amenable to an informal inquiry or formal investigation. These concerns should be addressed, but not through the Department complaint process. Alleged false arrest, whether a parking ticket or traffic ticket should have been issued and disagreements over probable cause or the legality of a search generally should be left to the judicial setting. However, these situations should be closely scrutinized before deciding not to open an informal inquiry or formal investigation.

- E.** Initially the Department must determine, to the best of its ability, the veracity of the allegation within the complaint. This step requires a thoughtful look. This look involves knowledge, not belief. Blended into this step is the seriousness of the allegation. Even a serious allegation must have some evidence to support it. The credibility of the Department's complaint process truly starts at this point.
- F.** The decision to elevate a complaint to the formal investigation process depends on the known facts of an incident and/or the severity of the allegation.
- G.** The severity of an allegation could be determined by the fact that if the allegation was proven to be true, the consequences for the employee would be substantial. The severity of an allegation could also be related to a substantial liability issue for the Department. The severity may be increased due to the possibility of conduct unbecoming for the employee or any action or conduct which impedes the Department's efforts to achieve its goals or which brings discredit on the Department.
- H.** A complaint may be elevated to a formal investigation due to the complexity involved. For example, if a complaint involved several employees and/or many people, it may be cumbersome at the operational level and therefore shifted to OPS and the formal process. Other examples in which a complaint should be handled by OPS would involve situations that require an interpreter or situations involving persons with disabilities. Still another example might involve a very sensitive or volatile type of issue in which the officer or public's best interest would be served by handling the incident through a formal investigation from the onset. The process of moving a complaint to a formal investigation status may involve balancing one or more of these or other possible factors.
- I.** The right of employees to have a union representative at investigatory interviews in which the employee reasonably believes might result in disciplinary action is commonly referred to as the Weingarten Right. This right was granted by the United States Supreme Court in a 1975 case. The current Collective Bargaining Agreement between the City of Rockford and the PBPA Unit 6 goes beyond the standards in Weingarten. The current Collective Bargaining Agreement requires the supervisor to notify the employee of his Weingarten Rights, i.e. the right to have a Union Representative present during administrative, non-criminal investigatory interviews which the employee reasonably believes may result in disciplinary action.

- J. All complainants will receive a regular and certified mail letter indicating the results of either the informal and or formal inquiry. The disposition letters will be drafted by either OPS and or the specific supervisor/ commander of the direct report.
- K. All informal inquires will be completed within 65 days with a 10 day update. The final disposition will be forwarded to the specific Bureau Commander prior to the 65 days. Drafts and consultations will be within the 65 day period. Exceptions outside the 65 day deadline are to be made with the Chief of Police and/or his designee.
- L. A complaint can be withdrawn if a complainant withdraws the complaint or fails to complete the necessary complaint steps. If the complaint is withdrawn, the complaint file must demonstrate a good faith effort to communicate with the complainant. The complainant's request to withdraw a complaint or failure to cooperate in an investigation does not require that the complaint be dismissed.

#### VIII. DETERMINATION OF FINDING(S):

- A. Once the investigation is completed, each allegation against the Department member is classified as one of the following and the findings of fact will be reported as one or more of the following classifications:
  - 1. **Sustained**: The allegation is supported by a preponderance of the evidence to justify disciplinary action;
  - 2. **Sustained – Not Based on the Original Complaint**: As a result of the investigation a preponderance of the evidence exists to justify disciplinary action not based on the original allegation;
  - 3. **Not Sustained**: Insufficient evidence to either prove or disprove the allegation;
  - 4. **Exonerated**: The incident occurred, but actions of the accused were lawful and proper; and
  - 5. **Unfounded**: The allegation is false or not factual.
- B. The Commander of OPS shall compile in annual statistical summary, based upon records of Internal Affairs Investigations, which are made available to the public and agency employees.

#### IX. RECORD KEEPING:

- A. OPS shall maintain all records and reports pertaining to informal inquiries and formal investigations for five years.
- B. No copies of OPS records and reports shall be released under court order or subpoena without knowledge of the Chief of Police and the City of Rockford Legal Department.
- C. Letters of reprimand or suspension will be placed into the Department member's personnel file in accordance with the current Collective

Bargaining Agreement between the City of Rockford and Unit 6 of the Police Benevolent and Protective Association of Illinois:

1. The Department member will receive written notification of the finding and duration of placement, as is covered by the CBA.
- D. A person may review information in his/her personnel file or information pertaining to the allegations and findings of an informal inquiry or formal investigation:
1. A written request must be forwarded to the Chief of Police or designee, who will arrange a viewing time and place; and
  2. The Commander of OPS or designee shall remain in the room with the person who is viewing his/her allegations and findings of an informal inquiry or formal investigation. Nothing shall be allowed to be added, removed, or copied from a personnel file, informal inquiry or formal investigation.

ALL GENERAL ORDERS REMAIN IN EFFECT UNTIL REVISED OR RESCINDED.

ANY MEMBER OF THE DEPARTMENT MAY, BY VIRTUE OF EXPERTISE OR POSITION OF FUNCTION, BE DESIGNATED TO AUTHOR OR PROVIDE SOURCE MATERIAL FOR A WRITTEN DIRECTIVE. THE OVERALL AUTHORITY TO ISSUE, MODIFY OR APPROVE WRITTEN DIRECTIVES IS DESIGNATED TO THE CHIEF OF POLICE. HOWEVER, AUTHORITY AND RESPONSIBILITY TO ISSUE DIRECTIVES IS DELEGATED TO THE FOLLOWING.

ALL GENERAL ORDERS ARE SCHEDULED TO BE REVIEWED ANNUALLY BY THE GENERAL ORDER REVIEW COMMITTEE AND WHEN NECESSARY, REVISED OR CANCELED IN ACCORDANCE WITH THE PROCEDURES FOR REVIEWING WRITTEN DIRECTIVES ESTABLISHED IN GENERAL ORDER 1.10 – WRITTEN DIRECTIVES.

ALL NEW AND REVISED GENERAL ORDERS SHALL BE APPROVED BY THE CHIEF OF POLICE BEFORE ISSUE/REISSUE.

ANY EMPLOYEE WITH SUGGESTIONS FOR REVISIONS AND/OR IMPROVEMENTS TO THIS ORDER ARE ENCOURAGED TO SUBMIT THEIR IDEAS TO THEIR RESPECTIVE DISTRICT COMMANDER OR BUREAU CHIEF.

**BY ORDER OF**

\_\_\_\_\_ **02/02/2020**

**Daniel G. O'Shea**

**Chief of Police**