

## **1.2.1 Limits of Authority-Statutory Authorization**

### **I. POLICY**

A Johnstown Police Officer shall conscientiously strive to enforce the laws of the United States of America, Commonwealth of Pennsylvania, the laws and/or ordinances of the City of Johnstown, all other states of the United States, foreign countries and any political subdivisions of the United States. The Officer will render service to all citizens and shall be held responsible for the proper performance of all duties assigned to him/her and for strict adherence to the rules, regulations, manuals and directives promulgated by the Commonwealth of Pennsylvania and the Johnstown Police Department. The Officer shall not consider ignorance of the rules, regulations and directives as an excuse or justification for any violation. The officer shall be responsible for his/her own acts and he/she shall not attempt to shift the burden of responsibility for executing or failing to execute a lawful order of police duty.

### **II. PURPOSE**

The purpose of this policy is to define the legally mandated authority for the enforcement of laws, to establish procedures for ensuring compliance with constitutional requirements during criminal investigations, to set forth guidelines concerning the use of discretion by officers, and to define the authority, guidelines and circumstances when officers should exercise alternatives to arrests and pretrial confinement.

### **III. PROCEDURES – General**

#### **A. Law-enforcement authority**

1. PA Consolidated Statutes Title 18 authorizes any locality to organize a police force and invests the police force of the locality with authority to prevent detect crime, apprehend criminals, safeguard life and property, preserve peace, and enforce state and local laws and ordinances.

### 1.2.1 continued

2. PA Act 120 requires that all officers, before performing their duties be certified under the Municipal Police Officers Education and Training Commission. He/she is required to take an Oath of Office shall include, at a minimum, the language required by Article VI, Section 3 of the Constitution of the Commonwealth of Pennsylvania, which states an oath whereby they swear to support the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania.

## IV. PROBABLE CAUSE AND REASONABLE SUSPICION

### A. Probable Cause

Searches (with the few important exceptions outlined in this order) and all arrests are based on the police officer's perception of probable cause. According to the U.S. Supreme Court, "Probable cause exists where the facts and circumstances within their [the arresting officers'] knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a man and/or woman reasonable caution in the belief that an offense has been or is being committed."

1. An officer must have probable cause to undertake a search or make an arrest.
2. When an officer has appropriate probable cause, he or she may undertake a complete body search (not including a body-cavity search), record the suspect's fingerprints, take the suspect's photograph, and jail him/or her after filing a criminal complaint. The aim of probable cause to **make a formal charge**.

### B. Elements of probable cause

1. Probable cause may be established through investigation and observations, witnesses, confidential informants, or through anonymous sources provided that the information is corroborated by investigation.
2. Unnamed informants may be used in an affidavit for a search warrant if the informant has first-hand knowledge of the investigation and information is included about why the informant is credible and reliable.

### 1.2.1 continued

#### C. Reasonable suspicion

Reasonable suspicion involves a standard less than probable cause, generally defined by the courts as a circumstance or collection of circumstances that would lead a trained, experienced officer to believe that criminal activity may be afoot.

1. An officer must have reasonable suspicion to temporarily detain a citizen
2. When an officer has reasonable suspicion, he or she may undertake a pat down of the suspect's outer clothing for weapons and record the circumstances of the encounter. The aim of reasonable suspicion is to **resolve an ambiguous situation.**

#### V. **Limitations on-law enforcement authority**

Limitations on law enforcement authority are derived from statutes, federal, state, and local judicial interpretation of laws, opinions of the attorney general and commonwealth's attorney, departmental policies/rules and regulations and township administrative decisions.

##### A. Statutory Limitations These limitations include, but are not limited to:

1. Enforcement of laws outside of the town limits. County Mutual Aid Agreement grants authority to enforce state criminal and vehicle laws beyond the boundaries of the city and/or township except as specified.
2. The city has the authority to enforce laws and local ordinances on city owned property outside of its boundaries. Examples: golf course, park

##### B. Judicial limitations

1. Courts constantly interpret laws that place limitations on the authority of law-enforcement officers. The more common limitations address *Miranda* rights/warnings, rulings on search and seizure, eyewitness identification, and lineups. The department shall provide policy guidance concerning these decisions, as appropriate.

## 1.2.1 continued

### VI. Off-Duty Conduct: Powers of Arrest

#### A. Liability Protection

Officers of this department have liability protection for the on- and off-duty performance of official duties. This protection does not extend to acts intended to cause injury or damage, or to those actions that the police officer knew, or reasonably should have known, were in conflict with the law or the established policies of this department.

#### B. Definition: Personally involved

An officer is deemed personally involved where the off-duty officer, a family member or a friend becomes engaged in a dispute or incident involving a personal matter with the person to be arrested or any other person connected with the incident. This does not apply to situations where the police officer is a victim of a crime.

#### C. Off-Duty Responsibilities

1. While off-duty, the police officer is responsible for immediately reporting any suspected or observed criminal activities to on-duty authorities.
2. Except as allowed by this policy, off-duty officers should not enforce minor violations such as harassment, disorderly conduct, or other nuisance offenses. On-duty personnel shall be contacted to respond to the situation where an off-duty officer becomes aware of such violations.
3. Where an arrest is necessary, the off-duty arresting officer shall abide by all departmental policies and procedures.

#### D. Permitted Off-Duty Arrests

When off-duty and within the legal jurisdiction of this law enforcement agency, an officer may make an arrest only when

1. The arresting officer is not personally involved in the incident underlying the arrest.
2. There is an immediate need to prevent a crime or apprehend a suspect.
3. The crime would require a full custodial arrest.
4. The arresting officer possesses appropriate police identification.

### **1.2.1 continued**

#### **E. Prohibited Off-Duty Arrests**

Officers of this department may not make an arrest off-duty:

1. When the arresting officer is personally involved in the incident underlying the arrest
2. When engaged in off-duty employment of a non-police nature, and the officers' actions are only in furtherance of the interests of the private employer.

## **VII. FIREARMS**

### **A. Use of Firearms**

The use of handling of a firearm by a member in a careless or imprudent manner is strictly prohibited. The use of a firearm in the performance of duty shall be in accordance with the Departmental Use of Force policy.

### **B. Carrying of Firearms**

A member will carry the issued firearm when on active duty and in uniform.

1. A member shall carry an approved firearm when on active duty and in civilian clothes.
2. During off duty hours, when in public and within the Commonwealth, a member should endeavor to carry a firearm.

Effective:

Date: March 22, 2006

By Order Of:

Craig Foust  
Chief Of Police