

## **2.3.1 Internal Affairs**

### **I. POLICY**

It is the policy of the Johnstown Police Department to investigate all complaints of employee misconduct and/or violations of departmental policy or state/federal statutes, to equitably determine whether the allegations are valid or invalid and to take appropriate action.

### **II. PURPOSE**

The integrity of the Johnstown Police Department depends on the personal integrity and discipline of all department personnel. The police department must thoroughly and professionally investigate all citizen complaints and internal complaints against its members. In addition, the department must respond to the results of the investigation by clearing the involved officer if the complaint is determined to be unfounded, or by providing discipline and/or training if the complaint is sustained. This general order will outline procedures for handling complaints against department officers, investigating complaints and disposition of the complaints.

### **III. PROCEDURES**

#### **A. Professional Standards Function**

1. The function of professional standards is to ensure that the integrity of the Johnstown Police Department is maintained through an internal system where objectivity, fairness and justice are assured by intensive and impartial investigations to clear the innocent, establish guilt of wrongdoers and facilitate fair, suitable and consistent disciplinary action.
2. Internal Affairs investigations are coordinated by the Chief of Police for all officers of the police department except when the complaint is directed at, or involves the Chief of Police. In this situation the City Manager or his/her designee will assume the responsibility to coordinate the investigation.

#### **B. General Provisions**

1. The police department encourages citizens to bring forward legitimate grievances regarding misconduct by officers. Officers shall

### 2.3.1 continued

receive complaints courteously and shall handle them efficiently.

Officers will inform the citizen to either respond to the:

- a. Captain of Police /or
- b. City Manager's office at City Hall to file a "Citizen Complaint Form".

#### C. Due Process

1. The department seeks to observe due process of law in the philosophy of the 14<sup>th</sup> Amendment in any disciplinary proceeding.
2. The department recognizes that all officers enjoy the rights and protections provided by laws and the Constitution of the United States and the Commonwealth of Pennsylvania. In addition, sworn and non-sworn members may receive other rights and privileges under their labor contract or agreement.

#### D. Types of Complaints

A complaint is any allegation or question by an individual regarding an officers' conduct, behavior or action toward them or any other person. Included will be illegal, immoral or improper behavior whether verbal, in writing or by action toward any individual. It will not include routine inquiries or questions that do not involve officers actions.

The following types of complaints will be investigated:

1. Serious Complaints
  - a. A serious complaint will include allegations of gross misconduct, violation[s] of law and/or brutality. Normally a formal investigation will be conducted for serious complaints.
  - b. The investigation of serious complaints shall be coordinated by the Chief of Police and conducted by the Captain of Police or the chief's designee.
  - c. Generally, all complaints will require a report or statement from the officer[s] who is subject to the complaint or who may have information that is pertinent to the complaint.
2. Less Serious Complaints
  - a. A less serious complaint will include, allegations of failure to take proper action, poor demeanor and/or failure to follow policy, etc., that do not rise to the level of serious complaint. Normally, an informal investigation will be conducted for less serious complaints. These

### 2.3.1 continued

complaints shall also be coordinated by the Chief of Police and conducted by the Captain of Police or the chiefs designee.

- b. During an informal investigation, the investigator has the option to obtain statements or reports from involved officer[s] or personally interview the officer[s] accused regarding the allegations.
  - c. All complaints will be documented as per this general order and submitted to the Chief of Police.
  - d. All findings will be given to the City Manager.
  - e. There is nothing to prevent an informal investigation from becoming a formal investigation should information warrant the same.
3. Inquires:
- a. Are questions that involve an officer's actions, department procedures, federal or state law and/or rules of criminal procedure that do not allege misconduct. The Captain of Police will usually handle them. Since inquires do not allege misconduct, they do not require a "Citizen Complaint Form" to be completed. There is nothing to prevent an alleged police complaint from becoming an inquiry when facts are presented to a complainant that explains away his/her concerns. In this case the inquiry will be documented and submitted to the Chief of Police.

#### E. Receipt of Complaints

1. Complaints, regardless of nature can be logged in person, by mail or by phone. As part of the follow-up investigative activity, person making complaints by mail or phone shall be interviewed and a written signed "Citizen Complaint Form" will be prepared and given to the Office of the City Manager. Anonymous complaints will not be followed up.
2. The "Citizen Complaint Form" can be obtained in person at the Office of the City Manager or from [www.cityofjohnstown.net](http://www.cityofjohnstown.net).
3. "Citizen Complaint Form's" will be forwarded from the Office of the City Manager to the Chief of Police who then assigns the complaint to the Captain of Police or his/her designee.
4. Every effort shall be made to facilitate the convenient, courteous and prompt receipt and processing of citizen complaints. Any officer of the department, who interferes with, discourages or delays the making of such complaints, will be subject to disciplinary action.
5. If the Captain determines 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

### 2.3.1 continued

credibility, the captain shall note such condition in the report. However, the captain will document and attempt to investigate the complaint regardless of the complainant's condition. Any visible marks or injuries relative to the allegation shall be noted and photographed.

6. Prisoners or defendants may also file complaints, although circumstances may require the Captain of Police to meet the complainant at a jail or prison for an interview. If appropriate photographs will be taken of the prisoner's injuries. Prisoners will complete a "Citizen Complaint Form".
7. Any officer receiving a citizen complaint through the U.S. mail shall forward the mail to the next in command, which is then given to the Captain of Police. Documentation and investigation shall be the same as complaints received by phone and in person.
8. Complaints received by phone will be courteously and promptly referred to the Captain of Police or the Chief's designee. Documentation and investigation shall be the same as complaints received through the mail and in person.
9. Again a "Citizen Complaint Form" will be filled out, filed at the City Manager's office before an official investigation begins.
  - a. Unless it is an inquiry only.

#### F. Use of "Citizen Complaint Form"

1. Upon receiving a complaint the officer will inform the complainant to file a "Citizen Complaint Form" at the Office of the City Manager or the option to speak with the Captain of Police.
2. When the complaint is of an urgent or serious nature requiring immediate attention, the supervisor receiving the complaint will immediately notify his/her next in command.

#### G. Complaint Investigation.

1. Upon receipt of the "Citizen Complaint Form" the Chief of Police will have the complaint investigated by the Captain of Police or his/her designee.
2. After completion of all investigation, the Captain of Police or the Chief's designee shall forward to the Chief of Police a full report containing a synopsis, any evidence and recommendations for disposition of the case.
3. The Chief of Police will forward the completed investigation to the Office of the City Manager.

### **2.3.1 continued**

4. The police departments Advisory Board will be given a brief summary of complaints received at the regularly scheduled meetings.

#### **H. Complaint Disposition**

The Chief of Police or his/her designee shall make the disposition of serious cases as follows:

1. Sustained: evidence sufficient to prove allegations.
2. Not sustained: insufficient evidence to either prove or disprove allegations. This will include incidents where the complaint was not sustained, but the officer's conduct fell short of the prescribed norm.
3. Exonerated: incident occurred, but was lawful or proper.
4. Unfounded: allegation is false or not factual.
5. Policy failure; flaw in policy or training caused the incident.

When the investigation shows that an officer has violated the Code of Conduct, the Chief of Police will determine the appropriate corrective action, as per General Order 1.8.

1. Formal Documentation
  - a. If it is determined that an officer violated the Code of Conduct, this shall be documented in the officer's personnel file. The violation[s] shall be documented, along with any disciplinary action and/or training. This will be purged at the reckoning period. The internal affairs investigation does not go into the officer's file.
  - b. All internal affairs investigation paperwork, no matter what the finding, will be maintained in an internal affairs file in the Office of the Captain of Police. Internal affairs records, including complaints and all subsequent investigation files and documents shall be confidential.
  - c. Officers will be notified of a complaint filed against them and the disposition. Officers do not have access to the confidential internal affairs investigation files.

#### **I. Notifying Complainants**

The City Manager, Chief of Police, or his/her designee, will notify all complainants who make allegations of misconduct, of the outcome of the investigation. In longer investigations, the Chief of Police or his/her

### **2.3.1 continued**

designee shall update the complainant with the progress of the investigation.

#### **J. Internal Complaints**

Police personnel knowing of other officers or employees violating department general orders, policies and procedures or sanctioned laws, shall convey the information in writing to the Chief of Police, via the chain of command. If the complaint is of such gravity, the chain of command may be bypassed. The investigation, disposition and documentation of an internal complaint shall be the same as a citizen complaint.

In less serious complaints, officers should try to resolve any and all complaints at the lowest level of the chain of command. An exception would be an alleged misconduct that is of a serious nature.

Effective Date:

Date: March 15, 2007

By Order Of:

Craig Foust  
Chief Of Police