

1.8.3. DISCIPLINE

POLICY

It is the policy of this department that members shall conduct themselves in a manner that does not damage or has the probable expectations of damaging or bring the Johnstown Police Department's public image and integrity into disrepute. Any employee is subject to disciplinary action if he/she fails to conduct him/herself as prescribed by Federal, State and Third Class City laws; and by the rules and policies of this department.

PURPOSE

Effective discipline is a positive process when its purpose is to train or develop by instruction. Many programs have an impact on discipline, such as: selection, training, direction, supervision and accountability. These elements are interdependent and a weakness in any one area is damaging to effective discipline. It is important to correct unacceptable behavior in such a manner as to insure the behavior is not repeated, while keeping the well being of the community, department and employee in mind.

- A. Command Function: Discipline is a function of command and positive discipline shall be the policy of the Johnstown Police Department. A well-trained force that voluntarily and enthusiastically conforms to the department policies is well disciplined.
- B. Responsibility: An officer accused of an action that is contrary to statutory requirements or the policies of the Johnstown Police Department shall be treated fairly and justly. Therefore, all allegations of wrongdoing must be documented or otherwise capable of being shown to have been not based on arbitrariness, supposition, unfounded or non-provable complaints, or personal bias or prejudice. It is expected that supervisory and command personnel will exercise their responsibility in processing disciplinary cases promptly and unhesitatingly without favor or prejudice.
- C. Noninterference: In order to insure the fairness and impartiality of the disciplinary system, no officer shall interfere with the process as established by this policy, nor shall he/she exert or attempt to exert any influence on any participants in the disciplinary process except as permitted by the provisions of this policy. The acceptance of the process, integrity of the procedures and the concept of fairness with which procedures are applied are absolutely essential to the maintenance of an effective disciplinary system. Initiating officers, approval officers and any other officer involved in the process shall

not be reprimanded because of any decision which is made in good faith even though it is altered reversed.

AUTHORITY AND RESPONSIBILITY

The very nature of police work requires that supervisory personnel pay particular attention to and actively participate in the disciplinary process. Supervisory personnel are accountable for the proper handling of cases involving actual or alleged violations of statutes and policies regardless of how these are brought to their attention.

- A. Captain of Police: The initial authority for discipline is the immediate supervisor. Captains of police and other supervisors are responsible for the discipline of members under their supervision. They shall have authority to discipline subordinates pursuant to the provisions set forth in this policy.
 - i. Captains of police are responsible for the discipline of all officers under their command. They shall have authority to discipline officers pursuant to the provisions of this policy.
 - ii. They shall also have the responsibility and authority to conduct investigations relating to violations of statutes and policy committed by officers pursuant to the provisions of this policy.
- B. Sergeants/Shift Supervisor: Sergeants or shift supervisors are responsible for the conduct and discipline of officers under their immediate command. They shall have the authority to discipline officers pursuant to the provisions of this policy.
- C. Chief of Police: The Chief of Police has the ultimate responsibility for the conduct and discipline of officers of the Johnstown Police Department and therefore has the authority to discipline officers pursuant to the provision of this policy.

DEFINITIONS

For the purpose of this policy, the following definitions are applicable.

- A. **Commissioned Officer:** All officers who has attained the rank of Chief of Police, Captain of Police, **or Lieutenant.**
- B. **Enlisted Officer:** All officers who hold the rank from patrol officer to sergeant.
- C. **Probationary Officer:** A probationary officer is an officer holding the rank of patrol officer who has not completed the probationary period of one [1] year.
- D. **Disciplinary Action Report: [DAR]** A disciplinary Action Report is a formal written report of disciplinary action. The submission of a DAR is the first step in formal disciplinary procedure.
- E. **Initiating Officer:** The officer who submits a Disciplinary Action Report.
- F. **Approval Officer:** A commissioned officer that may approve, dismiss or amend any proposed punishment for First Level cases.

In Second Level cases, after contacting the Chief of Police and the affected officer, the approval officer prescribes the proposed penalty.

In Third Level cases the approval officer may recommend processing as though the case were Second Level, or submit it at the Third Level. The approval officer may also recommend the processing of an action as a "De minimis" violation.

The minimum position of an approval officer shall be that of Captain of Police, however, in those instances where the initiating officer is a Captain of Police the approval officer shall be the Chief of Police.

- G. **Department Disciplinary Official:** The Chief of Police shall perform the functions of this position. His/her primary duties shall be:
 - i. Coordinate, evaluate and process all Disciplinary Actions Reports submitted. Evaluation, as used in this context shall include the careful examination of all reports to insure that reasonable adequate facts are contained therein, which substantiate and justify the proposed disciplinary action.
 - ii. Maintain records relative to all action taken on Disciplinary Action Reports. To insure basic

uniformity of punishment throughout the department for similar violations and to preclude arbitrary, biased or favored treatment within the disciplinary process.

- iii. Schedule all hearings; notify all officers who are needed at hearings and other related matters.
- iv. The Chief of Police will conduct hearings and administer all discipline in matters that constitute First Level and Second Level actions.
- v. In matters of Third Level actions, the Chief of Police shall conduct a hearing and if he/she determines that suspension is an adequate disciplinary action, he/she may suspend without pay in accordance with this policy.
- vi. In matters of Third Level actions, if the Chief of Police determines that reduction in rank or dismissal is appropriate, he/she shall then forward all findings and recommendations to the City Manager.
- vii. The City Manager shall then conduct a hearing to determine the appropriate disciplinary action to be taken.

A. Rights of the Officer

1. Informing the Officer: An officer who is formally accused of violating any department policy shall be fully informed of the nature of the allegation and the name of the person making the accusation. Specific rights for each level of disciplinary action are provided on an officer's copy of the Disciplinary Action Report, which shall be given to the officer. If the officer is to be questioned in regard to the allegation he/she must be given the name, rank and/or position of every one present during the questioning. The use of threats, offensive language, promise of reward, denial of rights, imposition of punishment not in accordance with the provisions of this policy are strictly prohibited.

Nothing contained in the policy shall be construed to require that an officer be advised of accusations and/or charges amounting to violations of the criminal laws of the United States, and/or this Commonwealth, or violations of the policies this Department prior to the institution of formal criminal and/or disciplinary proceedings.

2. Criminal Violations: Whenever an officer appears to have violated a department policy which is correspondingly a violation of the

criminal statutes of the United States, this Commonwealth or another state, officers engaged in investigating any such matters shall contact the involved officer's Captain of Police prior to any questioning of the officer.

3. Probationary Officer: A probationary officer shall be given all the rights contained in this policy, except that he/she may be dismissed at the discretion of the Chief of Police. A probationary officer shall be given the same hearing as any other officer to determine if he/she did violate any provisions.
4. Appeals: Appeals shall be handled as follows:
 - i. All appeals must be in writing and filed within five [5] working days of the final decision to the Chief of Police.
 - ii. An appeal from a First or Second Level action shall be conducted before the City Manager.
 - iii. All appeals from a Third Level action or subsequent appeal beyond the City Manager shall be conducted according the City Of Johnstown Charter or laws of this Commonwealth.
5. Temporary Removal from Duty

When the Chief of Police reasonably believes that an officer has violated any policy and determines that it is necessary to deactivate the officer pending an investigation, he/she may immediately do either of the following.

- i. Relieve the officer of duty and place him/her in a status of suspension with pay pending further action/information.
- ii. Place the officer on restricted status. While on restricted status the officer may be assigned to perform duties, which in the opinion of the Chief of Police are appropriate while, charges are pending.
- iii. When the charges pending/filed against the officer are serious enough, the Chief of Police may suspend without pay.
- iv. When an officer has been placed on any status, active, suspended with pay, restricted or suspended without pay, the officer shall abide with all policies regarding suspended period and shall not interfere and shall actively cooperate with the investigation into the alleged misconduct.

B. Disciplinary Actions

The following defines penalties, which may be imposed upon an officer who has committed violations as set forth in this policy. In order to insure uniform punishment throughout the department, when a violation of a particular policy is alleged, the level of punishment as shown in this policy shall be utilized. The only discretion permitted on the part of the Chief of Police or City Manager is that allowed below.

1. First Level: The punishment imposed at this level is limited to either of the following:
 - i. Written Reprimand – An officer shall be presented with a detailed written statement by his/her Captain of Police describing the infraction for which the accused is being admonished.
 - ii. Disciplinary Training – for a period of not less than five [5] nor more than twenty [20] duty days, a supervisor shall be assigned to provide supervision and guidance to the officer in the performance of his/her duties, especially in the correction of those deficiencies which resulted in the imposition of the penalty.
2. Second Level: The only disciplinary action, which may be imposed at this level, is a suspension without pay. The period of suspension is not less than one [1] or more than ten [10] duty days without pay, for each infraction and can be imposed by the Chief of Police.
3. Third Level: The disciplinary action that may be imposed at this level is either reduction in rank, dismissal or suspension without pay for a period of up to thirty [30] days. If the action to be taken is anything other than suspension, it must be done by the City Manager.
4. Repeated Violations: A member who is punished for repeated violations is subject to being disciplined at a higher level that specified after acquiring a certain number of disciplinary actions at any level within a two [2] year period. The subsequent violation need not be a violation of the same policy.
 - i. After two [2] actions at the First or Second Level, subsequent First Level actions is automatically raised to Second Level action at a maximum of ten [10] days suspension.
 - ii. After two [2] actions at the Second Level, third and subsequent violations are automatically raised to Third Level actions.

- a. Any second violation at the Third Level, the discipline shall be the next most severe. [First violation brought a thirty [30] day suspension, the next violation has to be either reduction in rank or dismissal or if the first violation brought reduction in rank the next has to be dismissal.]

C. Procedures

The following procedures will be followed when a Disciplinary Action Report has been submitted on any officer.

1. The Disciplinary Action Report shall be prepared and the appropriate action taken by the Initiating Officer, Approval Officer and the Chief of Police. The Chief of Police shall conduct an informal hearing at which time the Initiating Officer and accused officer shall be present and they shall have reasonable opportunity to present facts, witnesses or other relevant information which either believes should be considered by the Chief of Police. If the accused officer is dissatisfied with the decision of the Chief of Police the officer may appeal the decision by signing the appropriate block of the DAR within the prescribed time period.
2. The rights of the officer and the department at the hearing [enumerated on the member's copy of the DAR], are:
 - i. The right to confront all witnesses and/or evidence presented against the officer or the department.
 - ii. The right to reasonable cross-examines any witnesses.
 - iii. The right to introduce any reasonably relevant evidence in support of the defense or prosecution.
 - iv. The right to make a final comment on the charges and/or evidence.
 - v. The right to record the hearing proceedings.
 - vi. The right to have benefit of counsel or other department representative during the hearing. In the case of the accused officer, such counsel/representative shall be retained at the personal expense of the officer and shall not be permitted to actively participate in the hearing proceedings, but shall be confined to the role of advisor/consultant. An accused officer shall be given

reasonable opportunity during the hearing proceedings to consult with such counsel/representative as circumstances may require. The Chief of Police may in his/her discretion allow minor exceptions to this policy in unusual circumstance.

It shall be the responsibility of the charged officer to insure that the counsel/representative is available for the scheduled hearing and that such counsel conducts himself/herself in a proper manner.

- vii. The right to have the decision of the Chief of Police based solely on the evidence produced at the hearing.
- viii. When the Chief of Police determines that his/her contact with the case would/could influence his/her decision, the Chief of Police may delegate his/her position to the City Manager.

D. General Provisions

1. Multiple Infractions – in the event multiple infractions occur stemming from the same set of circumstances, all infractions shall be listed on a single DAR, additional pages maybe used. For the purposes of determining the level at which repeat violations shall be handled, multiple level infractions that resulted from a single incident, shall be treated as one occurrence at the highest level for which discipline is imposed.
2. Imposing punishment – in the event an officer is adjudged guilty of multiple infractions at a particular level, the sentencing authority shall impose a discipline for each infraction. The sentences may be imposed:
 - i. Consecutively – one punishment follows another, such as one infraction five [5] days suspension, second infraction five [5] days suspension, total of ten [10] days suspension.
 - ii. Concurrently – All discipline of a like nature is imposed and/or served at the same time.

E. Disciplinary Action Report

1. The Disciplinary Action Report [DAR] shall be submitted when a recommendation for disciplinary action is warranted. An officer's supervisor or anyone in the chain of command above the accused member shall initiate the report. The form shall not be used for any other purpose. The DAR shall be completed in its entirety and additional blank pages may be used when required to supplement the DAR.
2. The accused officer must be provided a copy and sign that he/she has received it.
3. A copy of the DAR shall be submitted to the Chief of Police with any and all attachments including reports of any/all investigations

F. Disciplinary Action Table

<u>Charge</u>	<u>Level of Discipline</u>
Unbecoming Conduct	3
Act = to Summary Violation	2
Act = to Misdemeanor Violation	3
Act = to Felony Violation	3
Loyalty to the Department	2
Dissemination of Information	3
Seeking Publicity	1
Solicitation	3
Personal and/or Financial Gain	2
Benefit of Others	2
Rewards/remuneration	2
Preferential Treatment	1
Use of "Johnstown Police"	1
Display of Identification	1
Associations	2
Visiting Prohibited Establishments	2
Joining Organization:	2
Having the purpose to overthrow or interfere with any lawful government of the U.S., or having knowledge of such and not reporting	3
Having an objective or aim to unlawfully interfere with the administration, discipline, operations or control of the department and/or officers, or having knowledge of such and not reporting it	2
Politics: Involved in religious or political arguments on duty	1
Making political use of official position	2
Signing or circulating a petition in official capacity as a Johnstown Police Officer	2

Running for or holding office in a political party, soliciting contributions or services for any political party	assessments 3
Use of outside influence	2
Holding office in liquor establishment	2
Required Address & Phone	1
Reporting Information	2
Interference with cases assigned to other officers	1
Intervention in arrest or prosecution	2
Interference with discipline	3
Alcoholic beverage/illegal drugs in police station	2
Use of Alcohol:	
Off duty	2
On duty	3
Use of drugs	3
Payment of debts	2
Internal investigations	3
Carrying of firearms:	
Failure to carry firearm when required	3
Carrying unauthorized firearm	2
Misuse of firearm	3
Careless operation of vehicles	2
Quarreling or fighting with officers	2
Drawing or lifting a weapon, strike, etc.	3
Gambling	2
False enlistment	3
Failure to submit to medical or psychiatric exam	2
Failure to submit to polygraph exam	3

Surrender of equipment during suspension	3
Prohibited acts during suspension	3
Performance of duty	3
Lawful orders	3
Conflicting orders	2
Competency	3
On duty time restricted to police work	2
Carrying of unauthorized articles	1
Reading on duty	1
Reporting for duty	1
Conditions of absence	2
Notification of illness or injury	1
Fictitious illness or injury reports or deception	2
Personal appearance	1
Uniform appearance	1
Hair style	1
Beards and mustaches	1
Courtesy	1
Addressing the public	1
Cooperation with other agencies	1
Requests for assistance	1
Suggestions pertaining to services	1
Department reports:	
Submitting late or inaccurate reports	2
Knowingly misrepresenting facts or reports or submitting false reports	3
Altering notices	1

Subject to call; off duty	1
Cheating on examinations	3
Protection of evidence	3
Use of official vehicles	1
Use of department equipment:	
Improper Use	2
Damage or loss under \$100	1
\$100 or over	2
Gross or willful neglect under \$500	2
\$500 or over	3
Police action: off duty	2
Loitering	1
Meals	1
Use of tobacco in uniform	1
Sleeping on duty	2

G. Military Courtesy

Military courtesy consists of formal and precise attitudes, acts and expression developed through special forms of politeness and respect, which officers must be familiar with and practice. Courtesy will be shown to all; subordinates as well as superiors. Therefore, it is essential to the positive discipline of the department that all officers adhere to and enforce the provisions of this policy.

1. Military Courtesy and Etiquette

When in uniform, an officer shall address a commissioned and non-commissioned officer by his/her rank. A superior officer addressing an officer shall refer to him/her by the title of his/her rank.

Proper military courtesy and etiquette shall be observed in appropriate situations.

2. Honors to the Colors and the National Anthem

- a. The National Anthem: when an officer is in uniform and the National Anthem is played, if the officer is not in formation or in a vehicle, the officer will come to attention at the first note, face the flag and render the hand salute. The salute is held until the last note of the music is sounded. If officers are in a vehicle, the vehicle shall be stopped. The driver and passengers shall remain seated in the vehicle at the position of attention, but they do not salute.
- b. Position: if the flag is not flying, the officer shall face toward the music and salute.
- c. Indoors: When the National Anthem is played indoors, officers will stand at attention, face toward the music or flag, if one is present and salute.
- d. Not in Uniform: If an officer is in civilian clothes, the headdress is removed with the right hand and placed and held against the left shoulder. If not wearing the headdress, the officer will stand at attention.

Effective Date: November 6, 2017

By Order Of:

A handwritten signature in black ink, appearing to read "Robert F. Johnson". The signature is written in a cursive style with a large, prominent initial "R".

Robert F. Johnson
Chief of Police