



CHESWOLD POLICE DEPARTMENT

SECTION XVIII

CODE OF CONDUCT MANUAL

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Christopher Workman
Chief of Police

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GENERAL CONDUCT

SECTION I

1.1 ADMINISTRATION / GENERAL PROVISIONS

Police administration involves the efficient and economic management of an organization which performs its functions through the acts of its employees. Departmental functions involve the interaction of people, not only within its ranks, but in all personal contact between its employees and members of the public. Department administration is, therefore, occupied

to a large extent, with improving the ability of its employees to properly perform the police task and with strengthening the relationships which exist between all employees and the public they serve. Thus, recognition of the human factor is an administrative challenge in the Department's effort to the community's law enforcement needs.

Departmental personnel are required to make decisions involving the public and other employees' responses to both administrative and operational problems. The decision process involves more than loyalty; it requires an insight into the objectives and purposes of the Department, its duty under the law and to the people, and the manner and means by which the task is to be performed and the objectives achieved. The decision must be a balance of involved interests, considering what is best for the public, the Department, and any individual involved. That decision must then result in effective action directed toward the accomplishment of the Department's objectives: The requirement that such insight be exercised is implicit in all decision making and it is the thread which binds the complex and difficult law enforcement task into a coordinated and effective force.

1.2 TELEPHONE COMMUNICATIONS WITH THE PUBLIC

The telephone is a method by which the services of the Department are requested. All incoming telephone calls must be answered as promptly as possible to determine if a need for police service exists and, if so, to provide the required service.

Incoming and outgoing telephone calls are recorded on designated telephones and are saved to a digital computer system which has the capability to play back, preserve and save calls to a disc when deemed necessary for evidentiary and/or investigative reasons.

1.3 TELEPHONE COURTESY

In answering telephone calls, employees should courteously greet the caller, identifying their units and themselves, and ask to be of assistance. Employees should make every reasonable attempt to either supply requested information and assistance or to promptly refer the party to the proper public or private agency for assistance.

1.4 INTER-DEPARTMENTAL COMMUNICATIONS

The Department maintains and constantly strives to improve its interdepartmental communication network to provide for rapid and efficient police response and to facilitate management control. All departmental communication, including radio, telephone and teletype, and mail are reserved for official business and are not to be used for personal purposes.

1.5 RESPONSIBILITY OF ON-DUTY OFFICERS

On-duty officers within the Town or County, after considering the tactical situation, are to take all steps reasonably necessary and consistent with their assignment to effect the enforcement of laws of the Town, County, State and Nation, and to protect life and property.

1.6 RESPONSIBILITY OF OFF-DUTY OFFICERS

Under Delaware law, both on and off-duty officers have peace officer authority as to any public offense committed for which there is probable cause to believe a crime has been committed in his/her presence and with respect to if or when there is immediate danger to persons or property, to the escape of the perpetrator of such offense. However, on-duty officers outside the Town who are not acting within the scope of employment as Cheswold Police Officers on matters of direct concern to the Town and off-duty officers both inside and outside the Town are to give first consideration to causing the appropriate action to be effected by the responsible law enforcement agency. Such officers should then act only after consideration of the tactical situation and of their possible liability and that of the Town of Cheswold.

1.7 PROTECTION OF LIFE

The purpose of deploying officers at the scene of an anticipated crime is to arrest the perpetrator of the attempted or consummated crime; however, since that objective is subordinate to the protection of life, officers should not subject themselves or other innocent persons to unreasonable risks.

1.8 CONDUCT OF UNDERCOVER OFFICERS

In order to obtain information and evidence regarding criminal activities, it may be necessary that the Department utilize undercover operators. Such operator shall not become "Agents Provocateurs" or engage in entrapment. The officers shall not commit any act or omit to perform any duty imposed by law which constitutes a crime except in performance of official police duty.

1.9 UNDERCOVER OFFICERS POSING AS MEMBERS OF THE NEWS MEDIA

The use of a news media cover by an officer to obtain intelligence information is not an acceptable form of undercover activity. Once a police officer is discovered in such a role, particularly in a crowd control situation, legitimate members of the media become suspect and could possibly be exposed to danger. In addition, such undercover activity does damage to the trust which would exist between members of a free society and the news media which serves them.

1.10 ALIAS IDENTIFICATION

Upon request by their commanding officer, and approval by the Chief of Police, members working under color of law may obtain credentials providing an assumed name and other information that would be consistent with the furthering of a police purpose. Members so working under an assumed name, etc., shall not use such credentials for any private purpose. Each member is responsible for notifying the Chief of Police of all particulars concerning the assumed identity. Once the police purpose has ended or color of law no longer exists, the officer shall return all credentials mentioned herein to the issuing authority and notify the Chief of Police in writing of their return.

1.11 VICE ENFORCEMENT

The people, through their elected representatives, have decided that criminal sanctions should be imposed against certain behavior which has been traditionally labeled as “vice”. The Department is charged with the enforcement of all criminal statutes including those defining vice offenses. Where vice conditions are allowed to continue, they are soon exploited by organized crime and the money thus obtained is often used to finance other criminal ventures or attempts to corrupt public officials.

1.12 STANDARD OF CONDUCT

The law enforcement code of ethics is adopted as a general standard of conduct for officers of the Cheswold Police Department.

LAW ENFORCEMENT CODE OF ETHICS: “As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all citizens to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint, and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life. I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or whatever is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. I will tolerate no compromise for crime and will relentlessly pursue prosecution of criminals.

I will enforce the law courteously and appropriately without fear of favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession... law enforcement.”

1.13 CONDUCT UNBECOMING AN OFFICER

A police officer is the most conspicuous representative of government, and to the majority of the people, he/she is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized, and when his/her actions are found to be excessive, unwarranted, or unjustified, they are criticized far more severely than comparable conduct of persons in other walks of life. Since the conduct of officers, on or off duty, may reflect directly upon the Department, officers must at all times conduct themselves in a manner which does not bring discredit to themselves, the Department or to the Town.

1.14 REFUSAL TO WORK

The alternative to law and its enforcement is anarchy and its resulting devastation. An officer's commitment to public service and professional ethics precludes his engaging in strikes or similar concerted activities. For these reasons, police officers do not have the right to strike or to engage in any work stoppage or slowdown. It is the policy of the Department to seek the removal from office of any officer who plans or engages in any such strike, work stoppage or slowdown.

1.15 FINANCIAL OBLIGATIONS

Public employees have stable incomes upon which they may forecast future earnings. For this reason and because of the public confidence in their responsibilities, it is relatively easy for Division employees to contract financial obligations which, if not controlled, may become an impossible burden. Such financial distress may impair the individual's effectiveness and tends to bring discredit upon the Department. Employees should avoid incurring financial obligations which are beyond their ability to reasonably satisfy from their anticipated Departmental earnings.

1.16 ATTENTION TO DUTY

As most police work is necessarily performed without close supervision, the responsibility for the proper performance of an officer's duty lies primarily with the officer himself/herself. Officers carry with them a responsibility for the safety of the community and their fellow officers. They discharge that responsibility by the faithful and diligent performance of their assigned duties. Anything less violates the trust place in them by the people and nothing less qualifies as professional conduct.

1.17 USE OF INTOXICANTS

There is an immediate lowering of esteem and suspicion of ineffectiveness when there is a public contact by a Department of Police employee evidencing the use of intoxicants. Additionally, the stresses of law enforcement require the employee to be mentally alert and physically responsive. Except as necessary in the performance of an official assignment, the consumption of intoxicants is prohibited while an employee is on duty. Nor are officers to consume intoxicants to such a degree that it impairs their on-duty performance.

1.18 COMPLIANCE WITH LAWFUL ORDERS

The Department of Police is an organization with a clearly defined hierarchy of authority. This is necessary because unquestioned obedience of a superior's lawful command is essential for the safe and prompt performance of law enforcement operations. The most desirable means of obtaining compliance are recognition and regard of proper performance and the positive encouragement of a willingness to serve. However, discipline may be necessary where there is a willful disregard of lawful orders, commands, or general orders.

1.19 COURTESY

Effective law enforcement depends on a high degree of cooperation between the Department of Police and the public it serves. The practice of courtesy in all public contacts encourages understanding and appreciation; discourtesy breeds contempt and resistance. The majority of the public are law-abiding citizens who rightfully expect fair and courteous treatment by Department of Police employees. While the urgency of a situation might preclude the ordinary social amenities, discourtesy under any circumstances is indefensible. The practice of courtesy by an officer is not a manifestation of weakness; it is on the contrary, entirely consistent with the firmness and impartiality that characterizes a professional police officer.

1.20 INTEGRITY

The public demands that the integrity of its law enforcement officers be above reproach, and the dishonesty of a single officer may impair public confidence and cast suspicion upon the entire department. Succumbing to even minor temptation can be the genesis of a malignancy which may ultimately destroy an individual's effectiveness, and may contribute to the corruption of countless others. Officers must scrupulously avoid any conduct which might compromise the integrity of themselves, their fellow officers, or the Department.

1.21 INDIVIDUAL DIGNITY

A recognition of individual dignity is vital in a free system of law. Just as all persons are subject to the law, all persons have a right to dignified treatment under the law, and the protection of this right is a duty which is as binding on the Department of Police as any other. Officers must treat a person with as much respect as that person will allow, and they must be constantly mindful that the people with whom they are dealing are individuals with human emotions and needs. Such conduct is not a duty imposed in addition to an officer's primary responsibilities, it is inherent upon them.

1.22 LOYALTY

In the performance of their duty to serve society, officers are often called upon to make difficult decisions. They must exercise discretion in situations where their rights and liabilities and those of the Division hinge upon their conduct and judgment. An officer's decisions are not easily made and occasionally they involve a choice which may cause their oath of office, the principles of professional police service, and the objectives of the Department, and in the discharge of their duty they must not allow personal motives to govern their decisions and conduct.

1.23 RESPECT FOR CONSTITUTIONAL CHANGES

No person has a constitutional right to violate the law; Nor may any person be deprived of his/her constitutional rights merely because he/she is suspected of having committed a crime. The task of determining the constitutionality of a statute lies with an appellate court of proper jurisdiction, not with an officer who seeks to properly enforce the law as it exists. Therefore, an officer may enforce any federal, state, or local statute which is valid on its face without fear of abrogating the Constitutional Rights of the person violating that statute. Officers who lawfully act within the scope of their authority do not deprive persons of their civil liberties. They may, within the scope of their authority, make reasonable inquiries, conduct investigations, and arrest on probable cause. However, when officers exceed their authority by unreasonable conduct, they violate the sanctity of the law which they are sworn to uphold.

1.24 OUTSIDE EMPLOYMENT

The nature of the law enforcement task requires Department of Police employees to have the ability to work irregular duty schedules which are subject to change in meeting deployment needs. Additionally, it is necessary that an employee have adequate rest to be alert during his/her tour of duty. For these reasons and because certain occupations inherently conflict with an employee's primary responsibility to the Department, the Department may impose conditions on outside employment or may prohibit it all together. Determination of the degree of limitation will be based upon the interest of the Department in furthering professionalism, protecting the reputation of the employee and the Department, and ensuring that the Department receives full and faithful service in return for its expenditure of resources.

1.25 COMMENDATIONS

The Cheswold Police expect a very high level of professional conduct from all employees; however, members of the Department frequently perform their duties in a manner exceeding the highest standards of the Department. The official commendations of such performance and the arrangement of appropriate publicity are to be provided by the Department to give full public recognition to those who have brought honor to themselves and the Department of Police.

RULES AND REGULATIONS

SECTION II

2.1 CONDUCT UNBECOMING AN OFFICER

Members shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the department. Conduct unbecoming an officer shall include that which tends to bring the department into disrepute or reflect discredit upon the officer as a member of the department, or that which tends to impair the operation and efficiency of the department or the officer.

2.2 IMMORAL CONDUCT

Members shall maintain a level of moral conduct in their personal and business affairs which is in keeping with the highest level of moral conduct in their personal and business affairs which is in keeping with the highest standards of the law enforcement profession. Members shall not participate in any incident involving moral turpitude which impair their ability to perform as law enforcement officers or causes the department to be brought into disrepute.

2.3 COOPERATION

All members and employees are strictly charged with establishing and maintaining cooperation within the department.

2.4 KNOWLEDGE OF LAWS AND REGULATIONS

Every member and employee is required to establish and maintain a working knowledge of all laws and ordinances in force in the Town and the rules and policies of the department. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule or policy in question.

2.5 CONFORMANCE TO LAWS

- A. Members shall obey all laws of the United States and of any State and local jurisdiction in which the members are present.
- B. A conviction of the violation of any law shall be prima facie evidence of a violation of this section.

2.6 VIOLATION OF RULES

Members shall not commit any acts or omit any acts which constitute a violation of any of the rules, regulations, directives or orders of the department, whether stated in the Code of Conduct Manual or elsewhere.

2.7 REPORTING VIOLATIONS OF LAWS, ORDINANCES, RULES OR ORDERS

Members and employees knowing of other members or employees violating laws, ordinances or rules of the department, or disobeying orders, shall report same in writing to the Chief of Police through official channels as soon as possible, but in any case within 24 hours of receipt of knowledge of the incident.

2.8 REPORTING FOR DUTY

Members shall report for duty at the time and place required by assignment of orders and shall be physically and mentally fit to perform their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they may immediately assume their duties. Judicial subpoenas shall constitute an order to report for duty under this section.

2.9 CONDUCT TOWARD THE PUBLIC

It shall be the duty of every member of the department to maintain the high public regard in which the department is held by giving assistance when it is requested or otherwise necessary and by impartial administration of the law. Upon request, members shall supply their full name and IBM number to citizens in a courteous manner.

2.10 CITIZENS COMPLAINTS

Members shall courteously and promptly record in writing any complaint made by a citizen against any member of the department. Members may attempt to resolve the complaint, but shall never attempt to dissuade any citizen from lodging a complaint against any member in the department. Members shall follow established departmental procedures for processing complaints.

2.11 ASSISTANCE

All members are required to take appropriate police action toward aiding a fellow peace officer exposed to danger or in a situation where danger might be impending.

2.12 NEGLECT OF DUTY

Members shall not engage in any conduct which constitutes neglect of duty.

- A. Members shall not engage in any activity or personal business which would cause them to neglect or be inattentive to duty.
- B. Members shall, at all times, respond to the lawful orders of superior officers and other proper authorities as well as calls for police assistance from citizens. The administrative delegation of the enforcement of certain laws and ordinances to particular units of the department does not relieve members of other units from the responsibility of taking prompt, effective police action within the scope of those laws and ordinances when the occasion so requires. Members assigned to special duties are not relieved from taking proper action outside the scope of the specialized assignment when necessary. All members shall take appropriate action when: required or directed by law, departmental rule, policy or order, or by order of a superior officer.

2.13 FICTITIOUS ILLNESS OR INJURY REPORTS

Members shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the department as to the condition of their health.

2.14 SLEEPING ON DUTY

Members shall remain awake while on duty. If unable to do so, they shall so report to their superior officer, who shall determine the proper course of action.

2.15 GENERAL RESPONSIBILITIES

Within the Town, members shall take appropriate action to:

- A. Protect life and property;
- B. Preserve the peace;
- C. Prevent crime;
- D. Detect and arrest violators of the law;
- E. Enforce federal, state and local laws and ordinances coming within departmental jurisdiction.

2.16 INSUBORDINATION

Members shall promptly obey any lawful order of a superior officer. This will include orders relayed from a superior officer by a member of the same or lesser rank.

2.17 QUESTIONS REGARDING ASSIGNMENT

Members and employees in doubt as to the nature or detail of their assignment shall seek such information from their supervisors by going through the chain of command.

2.18 CONDUCT TOWARD SUPERIOR AND SUBORDINATE OFFICERS AND ASSOCIATES

Members and employees shall treat superior officers, subordinates and associates with respect. They shall be courteous and civil at all times in their relationships with one another. When on duty and particularly in the presence of other members, employees or the public, officers should be referred to by rank.

2.19 CRITICISM

Members and employees shall not publicly criticize or ridicule the department, its policies or other employees by talking, writing, or expressing in any other manner, where such talking, writing or other expression:

- A. Is defamatory;
- B. Is obscene;
- C. Is unlawful;
- D. Tends to impair the operation of the department by interfering with the ability of supervisors to maintain discipline; or having been made with reckless disregard for truth or falsity.

2.20 MANNER OF ISSUING ORDERS

Orders from superior to subordinate shall be in clear, understandable language, civil in tone and issued in pursuit of departmental business.

2.21 UNLAWFUL ORDERS

No commander, supervisor or officer in charge shall deliberately issue any order which is in violation of any law or ordinance.

2.22 OBEDIENCE TO UNLAWFUL ORDERS

No member or employee is required to obey any order which is contrary to federal or state law or local ordinance. Responsibility for refusal to obey rests with the member. He/she shall be strictly required to justify his action.

2.23 OBEDIENCE TO UNJUST OR IMPROPER ORDERS

Members or employees who are given orders which they feel to be unjust or contrary to rules and regulations, must first obey the order to the best of their ability and then may proceed to appeal as provided below.

2.24 CONFLICTING ORDERS

Upon receipt of an order conflicting with any previous order or instruction, the member or employee affected will advise the person issuing the second order of this fact. Responsibility for countermanding the original instruction then rests with the individual issuing the second order. If so directed, the latter command shall be obeyed first. Orders will be countermanded or conflicting orders will be issued only when reasonably necessary for the good of the department.

2.25 REPORTS AND APPEAL -- UNLAWFUL, UNJUST OR IMPROPER ORDERS

A member or employee receiving an unlawful, unjust or improper order shall, at first opportunity, report in writing to the Chief of Police through official channels. This report shall contain the facts of the incident and the action taken. Appeals for relief from such orders may be made at the same time.

2.26 GIFTS, GRATUITIES, FEES, REWARDS, LOANS, SOLICITING, ETC.

Members and employees shall not, under any circumstances, solicit any gift, gratuity, loan or fee where there is any direct or indirect connection between the solicitation and their departmental membership or employment.

2.27 ACCEPTANCE OF GIFTS, GRATUITIES, FEES, LOANS, ETC.

Members and employees shall not accept directly or indirectly any gift, gratuity, loan, fee or any other thing of value arising from or offered because of police employment or any activity connected with said employment without the express permission of the Chief of Police.

2.28 OTHER TRANSACTIONS

Members and employees are prohibited from buying or selling anything of value from or to any complainant, suspect, witness, defendant, prisoner, or other person involved in any case which has come to their attention or which arose out of their departmental employment except as may be specifically authorized by the Chief of Police.

2.29 REWARDS

Members and employees shall not accept any gift, gratuity or reward in money or other consideration for services rendered in the line of duty to the community or to any person, business or agency except lawful salary, awards authorized by the Chief of Police and that which may be authorized by law.

2.30 CONFLICT OF INTEREST – COMMERCIAL TRANSACTIONS

Whenever potential conflict of interest may exist, members are prohibited from knowingly engaging in any commercial transaction with any complainant, suspect, witness, defendant, prisoner or other person involved in any case which has come to their attention through their departmental employment, unless such transaction is specifically authorized by the Chief of Police.

2.31 CONFLICT OF INTEREST – RELATIONSHIP

Whenever a potential conflict of interest may exist due to a relationship with any complainant, suspect, witness, defendant, prisoner or other person involved in any case in which a member is handling, the member shall immediately advise his superior of that conflict for resolution in the best interest of the department.

2.32 DISPOSITION OF UNAUTHORIZED GIFTS, GRATUITIES, ETC.

Any unauthorized gift, gratuity, loan, fee, reward or other thing falling into any of these categories coming into the possession of any member or employee shall be forwarded to the office of the Chief of Police together with a written report explaining the circumstances connected therewith.

2.33 FINANCIAL OBLIGATIONS

Members shall not undertake any financial obligations which they know or should know they will be unable to meet, and shall pay all just debts when due. An isolated instance of financial irresponsibility will be grounds for discipline, except in unusually severe cases. However, repeated instances of financial difficulty may be cause for disciplinary action. Financial difficulties stemming from unforeseen medical expenses or personal disaster shall not be cause for discipline, provided that a good faith effort to settle all accounts is being undertaken.

2.34 ADDRESS AND TELEPHONE

Members shall have telephones in their residences, and shall immediately report any change of telephone numbers or addresses to their superior officers and to such other persons as may be appropriate or required.

2.35 ASSOCIATIONS

Members shall avoid regular or continuous associations or dealings with persons whom they know, or should know, are persons under criminal investigation or indictment, or who have a reputation in the community or the department for present involvement in felonious or criminal behavior, except as necessary to the performance of official duties or where unavoidable because of other personal relationships.

2.36 SUBVERSIVE ORGANIZATIONS

No member or employee shall knowingly become a member of or connected with any subversive organization except when necessary in the performance of duty and then only under the direction of the Chief of Police. "Subversive organization" means any organization advocating the violent overthrow of the United States Government or any state or political subdivision thereof.

2.37 PERSONAL PREFERMENT

No member or employee may seek the influence or intervention of any person outside the department for purposes of personal preferment, advantage, transfer or advancement.

2.38 ABUSE OF POSITION

- A. Use of official position or identification: Members shall not use their official position, official identification, cards or badge for:
1. Personal or financial gain;
 2. Obtaining privileges not otherwise available to them except in the performance of duty; or
 3. Avoiding consequences of illegal acts. Members shall not lend to another person their identification cards or badges or permit them to be photographed or reproduced without the approval of the Chief of Police.
- B. Use of name, photograph or title: Members shall not authorize the use of their names, photographs or official titles which identify them as officers in connection with testimonials or advertisements of any commodity or commercial enterprise without the approval of the Chief of Police.

2.39 COURT APPEARANCES

Members and employees shall, upon being subpoenaed, attend court or quasi-judicial hearings as mandated by the Court stand-by/appearance policy. Permission to omit this duty shall be obtained from the prosecuting attorney handling the case or other competent court official. When appearing in court for trial, members of this department will wear the mode of dress that is applicable to the Section or Unit which he or she is presently assigned. Weapons shall not be displayed unless wearing the uniform. Members shall present a neat and clean appearance avoiding any mannerism which might imply disrespect to the court, such as gum chewing or smoking.

2.40 TESTIFYING FOR THE DEFENDANT

Any member or employee subpoenaed to testify for the defense in any trial or hearing, or against the County or Department, in any hearing or trial, shall notify his/her supervisor upon receipt of the subpoena.

2.42. TRUTHFULNESS

Members and employees shall not knowingly make an untrue statement in any communication, written or oral, official or unofficial report, to supervisor or any other member which relates to the performance of any member's official duties.

2.43 CIVIL ACTION INTERVIEWS

Civil action interviews involving members or employees which arise out of departmental employment shall be conducted according to current departmental Standard Operating Procedures.

2.44 CIVIL ACTION. COURT APPEARANCES -- SUBPOENAS

A member or employee shall not volunteer to testify unless legally subpoenaed. Members and employees will accept all subpoenas legally served. If the subpoena arises out of departmental employment or if the member or employee is informed that he/she is a party to a civil action arising out of departmental employment, he/she shall immediately notify his commanding officer of the service or notification, and of the testimony he/she is prepared to give. Members and employees shall not enter into any financial understanding for appearances as witnesses prior to any trial, except in accordance with current general orders.

2.45 CIVIL CASES

Members shall not serve civil process or assist in civil cases unless the specific consent of the Chief is obtained.

2.46 CIVIL ACTION BY MEMBERS

Members shall not prefer civil action against a person for injuries or damages incurred during the conduct of duty without first notifying the Chief of Police.

2.47 LABOR ACTIVITY

Members shall not engage in any strike. "STRIKE" includes the concerted failure to report for duty, willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful, and proper performance of duties of employment for the purposes of inducing, influencing or coercing a change in condition, compensations, rights, privileges, or obligations of employment.

2.48 EMPLOYMENT OUTSIDE THE DEPARTMENT

- A. Members may engage in off-duty employment subject to the following limitations:
 - 1. Such employment shall not interfere with the member's employment with the department; and
 - 2. Members shall submit a written request for off-duty employment to the Chief of Police whose approval must be granted prior to engaging in such employment; and
 - 3. Members shall not engage in any employment or business involving the direct sale or distribution of alcoholic beverages, bail bond agencies, or investigative work for insurance agencies, private investigators, private guard services, collection agencies or attorneys.
- B. Approval may be denied where it appears that the employment might:
 - 1. Render the member unavailable during an emergency;
 - 2. Physically or mentally exhaust the member to the point that their performance may be affected;
 - 3. Require that any special consideration be given to scheduling the members' regular duty hours; or
 - 4. Bring the department into disrepute or impair the operation or efficiency of the department or member.
- C. This section does not apply to off duty pay jobs sanctioned by the Department and governed by Directive 33-1-13.

GENERAL CONDUCT ON DUTY

SECTION III

3.1 PROHIBITED ACTIVITY ON DUTY

Members and employees are prohibited from engaging in the following activities while on duty with the exceptions as noted:

- A. Sleeping, loafing, and idling.
- B. Recreational reading (except at meals).
- C. Conducting private business.
- D. Carrying any articles which distract from the proper performance of police duty.
- E. Drinking intoxicating beverages (except in performance of a police duty, and then only with the specific consent of a commanding officer and never while in uniform).
- F. Gambling, unless to further a police purpose.

3.2 MILITARY COURTESY

When meeting in public, officers shall conform to normal courtesy standards and refer to each other by rank.

3.3 NATIONAL COLORS AND ANTHEM

Uniformed members will render full military honors to the national colors and anthem at appropriate times. Members and employees in civilian dress shall render proper civilian honors to the national colors and anthem at appropriate times.

3.4 RELIEF

All members and employees are to remain at their assignment and on duty until properly relieved by another member or employee or until dismissed by competent authority.

3.5 MEALS

Members may suspend their police duty for a lunch period to be taken within their beats or assigned duty areas, subject to modification by the commanding officer. Meals shall be eaten with reasonable dispatch when in public view.

3.6 REPORTING

Members and employees shall promptly submit those reports as are required by the performance of their duties or by competent authority.

3.7 ABSENCE FROM DUTY

Every member or employee who fails to appear for duty at the date, time and place specified for so doing without the consent of competent authority, is "absent without leave". Such absences within the period of one day must be reported in writing to the commanding officer. Absences without leave in excess of one day must be reported in writing to the Chief of Police.

3.8 CONSUMPTION OF INTOXICANTS

Members and employees shall not consume intoxicants while off duty to the extent that evidence of such consumption is apparent when reporting for duty, or to the extent that ability to perform duty is impaired.

3.9 INTOXICATION

Members and employees shall not, at any time, be intoxicated while on duty.

3.10 INTOXICANTS ON DEPARTMENTAL PREMISES

Members and employees shall not bring into or keep any intoxicating liquor on departmental premises except when necessary in the performance of a police task. Liquor brought into departmental premises in the furtherance of a police task shall be properly identified and stored.

3.11 SMOKING WHILE ON DUTY

Members and employees shall not smoke on duty while in direct contact with the public, or when in uniform in public view and/or in a public place. Smoking will not be permitted in any New Castle Town Police patrol vehicle. Smoking will be permitted outside in the SALLE PORTE GARAGE of the New Castle Police Headquarters.

3.12 UNIFORMS AND APPEARANCE

Members shall be neat appearing and well groomed while in uniform, consistent with current departmental policies. All articles of uniform shall conform to the departmental uniform regulations. Civilian clothing will not be worn with any distinguishable part of the uniform.

3.13 MANNER OF DRESS ON DUTY

Normally members shall wear the uniform of the day on a tour of duty; however, commanding officers may prescribe other clothing as required by the nature of the duty to which a particular member is assigned.

3.14 AVAILABILITY WHEN ON DUTY

Members on duty shall not conceal themselves except for some police purpose. They shall be immediately and readily available to the public during duty hours.

3.15 RESPONDING TO CALLS

Members of the department shall respond without delay to all calls for police assistance from citizens or other members. Emergency calls take precedence; however, all calls shall be answered as soon as possible consistent with normal safety precautions and vehicle laws. Except under the most extraordinary circumstances, or when otherwise directed by competent authority, no member shall fail to answer any telephone or radio call directed to him/her. The communications center shall be informed by a member when leaving the air, and when returning to a duty station.

3.16 AVAILABILITY OF QUALIFIED PERSONNEL

An officer who needs to process a crime scene, traffic crash site or any other investigation scene, may be authorized by a supervisor to utilize other police agencies' specialized units (i.e. fatal accident teams, Evidence Detection Units, K-9 units, etc.) on a 24-hour basis, when deemed necessary.

DEPARTMENT PROPERTY, UNIFORMS AND EQUIPMENT

SECTION IV

4.1 OFF-DUTY EQUIPMENT

When members carry an authorized weapon off duty, they shall also carry their official departmental identification.

4.2 UNIFORM AND EQUIPMENT DAMAGE CLAIM

Any claims for damage to clothing or other personal property belonging to the member or employee caused by performance of duty shall be made in accordance with current departmental policies.

4.3 COMPENSATION FOR OTHER DAMAGES SUSTAINED ON DUTY

Members and employees shall not seek in any way, nor accept from any person, money or other compensation for damages sustained or expenses incurred by them in the line of duty, without first notifying the Chief of Police in writing.

4.4 COMPENSATION FOR DAMAGES OFF DUTY

Members and employees who have received salary from the Town for injury or illness sustained off duty shall notify the Chief of Police in writing of any intent to seek, sue, solicit or accept compensation as damages for such illness or injury. This notice shall be filed before any action is taken. It shall include the fact of the claim and the name of the respondent.

4.5 DEPARTMENT PROPERTY AND EQUIPMENT

Members and employees shall maintain department property and equipment assigned to them in good condition. In the event that Town property is found bearing evidence of damage which has not been reported, it shall be prima facie evidence that the last person using the property was responsible.

4.6 DAMAGED – INOPERATIVE PROPERTY OR EQUIPMENT

Members and employees shall immediately report to their commanding officer on designated forms any loss of or damage to departmental property assigned to or used by them. The immediate supervisor will be notified of any defects or hazardous conditions existing in any department equipment or property.

4.7 CARE OF DEPARTMENT BUILDINGS

Members and employees shall not damage, mark or deface any surface in any departmental building. No material shall be affixed in any way to any wall in departmental buildings without specific authorization from a commanding officer.

4.8 NOTICES

Members and employees shall not mark, alter or deface any posted notice of the department.

4.9 MANUALS MAINTENANCE

All members and employees who are issued Code of Conduct Manuals are responsible for their maintenance and will make appropriate changes or inserts as they arise.

4.10 SURRENDER OF DEPARTMENT PROPERTY

Members and employees are required to surrender all department property in their possession upon separation from the service, or upon the order of a superior officer.

4.11 DEPARTMENT VEHICLES, USE

Use of the departmental vehicles for pleasure or commercial transportation is prohibited. Departmental vehicles can be used for personal use only with appropriate approval.

4.12 TRANSPORTING CITIZENS

Citizens will be transported in departmental vehicles only when necessary to accomplish a police purpose. Such transportation will be done in conformance with department policy or at the direction of a commanding officer, immediate supervisor or communications center.

COMMUNICATIONS - CORRESPONDENCE

SECTION V

5.1 COMMUNICATIONS, CORRESPONDENCE RESTRICTIONS

Members and employees shall not:

- A. Use departmental letterhead for private correspondence.
- B. Send correspondence representing the department without the general permission of the Chief of Police, his designee or a supervisor.

5.2 FORWARDING COMMUNICATIONS TO HIGHER COMMANDS

Any member or employee receiving a written communication for transmission to a higher command shall, in every case, forward such communication. A member receiving a communication from a subordinate directed to a higher command shall endorse it indicating approval, disapproval or acknowledgment.

5.3 DEPARTMENT ADDRESS (PRIVATE USE OF)

Members and employees shall not use the department as a mailing address for private purposes. The department address shall not be used on any motor vehicle registration or operator's license.

5.4 RADIO DISCIPLINE

All members of the department operating the police radio, either from a mobile unit or in the CPD Headquarters, shall strictly observe regulations for such operations as set forth in departmental orders and by the Federal Communications Commission.

5.5 DEATH AND SERIOUS INJURY NOTIFICATIONS

When a member is killed or seriously injured on or off duty, immediate verbal notification shall be made to the Chief of Police by a member or employee who has cognizance thereof. This shall be followed by a written report no later than the following work day. Information shall include the date, location, cause, extent of injury and property damage. Serious injury in this instance means an injury which could result in death or disability.

5.6 DEATH OF MEMBER OR EMPLOYEE

Any member or employee receiving notice of death of any member, employee or retired member, during regular business hours, shall notify the Chief of Police and the commander of the deceased. At other times, the staff duty officer shall be notified and he/she shall relay such information to the Chief of Police.

5.7 NOTIFICATION OF FAMILY

The family of a member or employee injured or dying on duty shall be notified immediately by an officer of command rank.

5.8 IDENTIFICATION AS POLICE OFFICER

Except when impractical or unfeasible, or where the identity is obvious, officers shall identify themselves by displaying the official identification card before taking police action.

5.9 REPORTS AND BOOKINGS / FALSIFICATION

No member or employee shall knowingly falsify an official report or enter or cause to be entered any inaccurate, false or improper information on records of the department.

5.10 NEWS MEDIA AT CRIME SCENE

Insofar as is consistent with sound police practice, the supervisor in charge at a crime scene shall grant access and supply information regarding the incident to the working news media. Whenever a supervisor feels that release of information of access to the scene is contrary to departmental policy, he/she shall refer the press to the Chief of Police or his designee.

5.11 SECURITY OF DEPARTMENTAL BUSINESS

Members and employees shall not provide police information outside the department except as provided elsewhere in this manual or as required by law or competent authority. Members shall treat as confidential the official communications and business of the department.

5.12 REMOVAL OF RECORDS

No original departmental record shall be removed from a departmental record repository without the permission of the Chief of Police or his designee.

5.13 AUTHORIZATION

Authorization is based on the legal authority empowered in the Town Charter and State law. Any questions arising as to one's authorization for action should be cleared through a superior officer.

DISCIPLINE PROCEDURES

SECTION VI

6.1 DISCIPLINE PROCEDURES

I. Objective

- A. The principle objective of this policy is to establish a procedure for the administering of summary and major discipline of police and civilian employees. Additionally, this procedure places primary responsibility of discipline for minor infractions of Standard Operating Procedures and Directives of Department and Town of Cheswold Civilian Work Rules with the Employee's first line supervisor.
- B. Commensurate with the day-to-day responsibility of first line supervision is the authority of all supervisors to take necessary corrective action. Effective discipline is administered in a fair, swift and impartial manner in cases of minor infractions.

II. Summary and Major Discipline

- A. Summary discipline is that discipline administered by supervisors when a violation of the Standard Operating Procedures., Rules and Regulations, Directives of the Department and Civilian Work Rules are of a minor nature. Discipline of a minor nature is considered up to forty (40) hours suspension.
- B. Summary discipline is to be handled as a routine matter with the investigation being handled by the patrol supervisor. Any allegations from citizens regarding misconduct falling under summary discipline will be initiated as per Directive 10-11-1.
- C. Any infraction of departmental orders or regulations where summary discipline would not apply will be considered a major violation and departmental charges will be preferred and forwarded to the Chief's office for a Show of Fact Hearing and disposition.
- D. Major Discipline investigations can only be initiated with the authorization of the Chief of Police. Major discipline will be considered as discipline beyond forty (40) hours suspension.
- E. In either instance, the Police Officers Bill of Rights will be adhered to while conducting these investigations, unless superseded by a contractual agreement.

III. Issuance of Discipline – Special Circumstances

- A. When a supervisor observes a violation by a subordinate, not normally or directly under his/her command, the observing supervisor shall initiate appropriate discipline action. The observing supervisor shall contact the direct supervisor of the officer and advise said direct supervisor of the incident and action to be taken, or action that has been taken.
- B. Complaints or information received alleging violations not observed by the supervisor shall be brought to the attention of the Chief of Police. The Chief of Police will then assign said complaint to the appropriate supervisor for investigation. Supervisors receiving such assignments shall conduct said investigation in accordance with procedures set forth in these regulations.

IV. Investigative Procedure

- 1. Notification of Complaint:
 - a. A signed citizen's complaint form.
 - b. Summary Discipline: A supervisor will request a control number for observed misconduct and conduct an investigation.
 - c. Major Discipline: Will be determined by the Chief of Police upon receipt of allegations from a supervisor or citizen.
- 2. The Chief of Police or his/her designee will determine the validity of the complaint.
- 3. Assign a control number.
- 4. The Chief of Police will assign an investigator.
- 5. The investigator will advise the accused of the complaint, and potential charges and/or departmental violations. A written memorandum from the accused is requested regarding his/her account of the incident.
- 6. Set up complainant and witness interviews.
- 7. Complete complainant and witness interviews.
- 8. Set up accused interview.
- 9. Complete accused interview.
- 10. Collect evidence as needed:

- a) Radio logs
 - b) Dispatch tapes
 - c) Criminal records
 - d) Medical records
 - e) Investigation records
 - f) Scientific evidence
 - g) DMV records
 - h) Pictures
 - i) Property receipts
 - j) Other
11. Transcription of interviews completed.
 12. Notify the accused if additional allegations or charges have developed through investigation.
 13. Complete summary letter, including officer notification letter, complaints letter and disposition.
 14. Review entire investigation with the Chief of Police with the recommendation for discipline.
 15. After the Chief reviews the incident, he will forward a letter to the accused setting up a Show of Fact hearing. This hearing will be before the Chief in order that the officer may give testimony and/or evidence to his/her defense. The hearing will be held within seven days of the officer receiving his/her notification.
 16. The Chief of Police will advise, in writing, his disposition to the accused.
 17. The accused can appeal the Chief's decision indicated in the appeal process or waive an appeals hearing and accepts the administered discipline.
 18. A letter is sent to the complainant advising of the disposition of the investigation. No information from the investigation will be forwarded to civilian complainants. There will be no mention of the actual discipline.
 19. Disposition classifications:
 - a. Unfounded: The investigation revealed the incident did not occur.
 - b. Justified or Exonerated: The investigation revealed the conduct of the accused was justifiable.
 - c. Not Sustained: There was insufficient evidence to

- d. Sustained / Partially Sustained: The investigation revealed that the accused engaged in misconduct.
- e. Sustained (Other): Misconduct was discovered other than alleged.

V. Administrative Investigation

The investigating officer will utilize the investigative plan as indicated below:

Part A:

Assigned investigator and all others subsequently assigned.

Part B:

1. **Allegations:**
Complaint reduced to significant allegations with brief statements of allegations.
2. **Purpose of the Investigation:**
Goals that are readily foreseeable and give focus to the investigation.
3. **Additional Allegations Developed:** May be added as case develops.
4. **Other point to cover.**
5. **Identification of Police Personnel Involved:**
Also any personnel records or significant reports.
6. **Persons to be interviewed:**
Complainant
Witnesses Police
Officers
7. **Premises and Locations to be Observed:**
Any scene mentioned in the complaint, as well as any other indicated in the allegations or that are developed during the investigation.
8. **Records to Obtain and Check:**
Civilian and police officer records where applicable.
Medical, criminal, financial, etc.
9. **Other Agencies to Contact:**
Those outside the police agency, hospitals, credit unions, etc.

Part C:

Officers conducting administrative investigations shall read and have the accused sign Departmental Regulation 6.2 in accordance with U.S. Supreme Court Decision RE: Garrity vs. New Jersey.

Regulation 6.2:

Members and employees are required to answer questions by or render material and relevant statements to a competent authority in a departmental inquiry or investigation when so directed. Members will submit to a polygraph if requested in accordance with state statutes and departmental rules, policies and orders. Members and employees are subject to the collection of evidence pertinent to the administrative investigations. Officers may be required to submit to but are not limited to:

*Polygraphs
Finger prints
Hair samples
Blood tests
Physical examination
Drug screening
Voice prints
Line-ups
Etc.*

Failure to comply with this regulation will result in the termination of employment of the accused.

VI. Summary Discipline

The recording of the investigative interviews will be at the discretion of the investigator.

All administrative investigative interviews deemed not to be of a summary nature will be recorded.

The accused will be given copies of all recordings, transcriptions and documents discovered in the investigation at the request of the accused

GARRITY ADVISEMENT

In accordance with Departmental Regulation 6.1, the accused is hereby notified that during an administrative investigation of misconduct, members and employees are required to answer questions by or render material and relevant statements to a competent authority in a departmental inquiry or investigation when so directed. Members will submit to a polygraph if requested in accordance with state statutes and departmental rules, policies and procedures.

Members and employees are also subject to the collection of evidence pertinent to the administrative investigation. Accused personnel will submit to, but no be limited to, any and all of the following at the request of the investigator:

Polygraphs
Finger prints
Hair samples
Blood tests
Physical examination
Drug screening
Voice prints
Line-ups
Etc.

Failure to comply with this administrative regulation will result in termination of employment.

I, _____, have read this advisement and completely understand same.

Date: _____

Witness: _____

DISCIPLINE

SECTION VI

INTERNAL AFFAIRS

UNIT FILE SECURITY

7.1 INTERNAL AFFAIRS – UNIT FILE SECURITY

All Internal Affairs Unit files are confidential, in as much as any complaint that leads to an internal investigation may result in a lawsuit against the Town of Cheswold and the named officer(s). All I.A.U. files are regarded as much for potential litigation as for any other purpose. Therefore, such files should be regarded as the property of the Law Department, in the custody of the Police Department for reasons of security.

Access to I.A.U. files is therefore limited to members of I.A.U. and such others as may be approved by the Chief of Police or the Town Solicitor.

Complaints received by I.A.U. shall be identified in numerical sequence by year (example: 12-01, 12-02, etc.).

An information file is to be maintained by the I.A.U. This file is to be maintained according to :

- Officers
- Complainant

The Discipline Issued File shall be identified in numerical sequence by year and filed separately (example: 12-01, 12-02, etc.). Discipline here refers to all discipline except verbal reprimands.

Complaint files and disciplinary action files are indexed in numerical sequence, however, each file is maintained separately. For example: a complaint received may be investigated under I.A.U. complaint No. 12-03, and upon completion of the investigation, result in departmental discipline No. 12-10. Unit members must take care to avoid misfiling due to improper or cross mixing the numerical sequence.

7.2 CHESWOLD POLICE DEPARTMENT DISCIPLINE POLICY

- A. Purpose: Cheswold Police recognizes that the interests of the community and job security of the employee depends upon the Police Department's success in providing proper, adequate, and efficient services to the citizens of the town of Cheswold.

In order to attain this end, the Police Department exercises its right to establish rules and regulations which require its employees to be positive and supportive of the goals of effective and efficient management. Town employees have pledged their cooperation to work in the public interest and to work toward securing continued improvement in the services offered to the citizens of the Town of Cheswold. The Cheswold Police therefore recognizes the need for progressive and/or appropriate discipline based on the seriousness of the infraction when an employee's conduct and/or job performance is inconsistent with the goals of Cheswold Police.

- B. Responsibilities:

1. The Chief of Police shall direct first-line supervisors and middle managers in the formulation of conduct and job performance standards and the administration of discipline on a department-wide basis.
2. First-line supervisors and middle management shall monitor the conduct, attendance, and job performance of employees under their supervision.

7.3 ADMINISTRATION OF PROGRESSIVE CORRECTIVE DISCIPLINE

Disciplinary action shall be taken only for just cause. Generally, employee misconduct and/or unsatisfactory performance shall be dealt with by the use of progressive, corrective discipline. However, in those instances of major misconduct or major unsatisfactory behavior, more severe discipline shall be taken, depending on the degree of seriousness of the misconduct.

Steps of the Administration of Progressive Corrective Disciplinary Action shall be as follows:

1. Verbal Reprimand
 - a. Initial step of discipline in which the supervisor verbally warns the employee concerning his/her violation of rules/regulations, unsatisfactory behavior or work performance, and counsels the employee of the requirement to correct the problem.
 - b. The supervisor shall make a written record of the counseling session to be retained only in the Supervisor's file. When the verbal reprimand is given, the employee shall have union representation present if the employee requests such representation. In the event that the employee does not request such representation, or in addition to such representation, the Supervisor may have a person of the Supervisor's choosing present during the verbal reprimand.

2. Written Reprimand

- a. A written reprimand is used when:
 1. The verbal reprimand has not resulted in corrective action or satisfactory change in the employee's behavior.
 2. Where a verbal reprimand is determined by the Department to be insufficient for the offense.
- b. A written reprimand shall, in most instances, include the following information:
 1. Reference to the preceding verbal reprimand concerning previous violations if appropriate.
 2. Specific charge of inappropriate or unsatisfactory action or behavior or misconduct with reference to the disciplinary rules, personnel policies and procedures, or departmental rules and regulations if appropriate.
 3. Warning regarding the Department's course of action concerning future violations.
 4. The employee's signature and the date acknowledging receipt of the reprimand. The employee's signature does not imply agreement. If the employee refuses to sign the written reprimand, then the Supervisor should note this on the document.
 5. The signature of the Supervisor and the Chief of Police (or designee).
- c. When a written reprimand is given, the employee may have union representation present if the employee requests such representation. If the event that the employee does not request such representation, or in addition to such representation, the Supervisor may have a person of the Supervisor's choosing present during the written reprimand. The writer shall explain the reprimand to the employee. A copy of the reprimand shall be given to the employee and the employee shall acknowledge receipt by signing the file copy. If the employee refuses to sign the document, this action shall be noted on the document.
- d. The copies of the written reprimand are placed in the employee's personnel folder in the Department. Copies of written reprimands shall not be placed in the employee's personnel files before the employee has been given and acknowledges the written reprimand.

7.4 DISCIPLINARY ACTION

Disciplinary action may be taken in accordance with the specific disciplinary rules. This list is not intended to be all-inclusive, but rather a list of the type of conduct which will warrant discipline.

1. Conviction of a crime related to job performance or availability to perform.
2. Insubordination (disobedience).
3. An unreasonable amount of lost time or abuse of sick leave.
4. Absence without leave.
5. Excessive tardiness.
6. Inefficiency and incompetence.
7. Abuse of Town property.
8. Giving false statements to supervisors or the public.
9. Violation of State statutes, Town or County ordinances, administrative regulation or departmental rules.
10.
 - (a) Consumption of intoxicating beverages or narcotic drugs during working hours on Town property or in Town-owned vehicles.
 - (b) Being under the influence of alcohol or narcotic drugs, so as to be unable to perform duties satisfactorily during work hours.
 - (c) Possession of intoxicating beverages or narcotic drugs on Town property or in Town owned vehicles.
11. Any conduct which reflects unfavorably on the Town as an employer.
12. Membership in any organization which advocates the overthrow of any legally constituted government.
13. Discovery of a false statement in an application which had not been detected previously.
14. Failure to pay legal debts or to reimburse the Town for funds due.
15. Acceptance of gratuities.
16. Refusal to be examined by a Town authorized physician when so directed.

17.
 - (a) Possession on Town property or in a Town vehicle of any device under any denomination by which any game of chance might be played for anything of value or any other gaming device whatsoever.
 - (b) Possession on Town property or in a Town vehicle of any books, device, apparatus or paraphernalia for the purpose of receiving, recording or registering bets or wagers.
 - (c) Gambling on Town property or in a Town owned vehicle
18. The use of Town supplies, materials, equipment or other property for personal purposes or securing the same for others.
19. Pursuing any non-job related activities during work hours without the permission of the department head.
20. Failure to observe the regulations of the Chief of Police on holding outside employment.
21. Profane, obscene, insulting words or gestures towards the public or any Town employee or supervisor.
22. Unlawful political or other activity.
23. Receipt of an unsatisfactory rating on two consecutive performance evaluations.
24. Loss of job requirement or a necessary license.

7.5 DISCIPLINE RULES

Discipline Rules are designed to provide the employee with notice of prescribed conduct and that violation of those rules could result in disciplinary action. A uniform set of rules provides the superior with standard disciplinary guidelines so as to insure fair, consistent and non-discriminatory treatment of employees.

Supervisors are expected to provide normal routine counseling to employees regarding disciplinary problems. The discipline rules as outlined below are not intended to be all-inclusive. They are examples of the types of conduct for which disciplinary action may be taken. The penalties as noted may, after consultation with the Chief of Police, may be modified depending upon the circumstances surrounding the conduct or act. An example of this would be if an incident is so serious that a verbal reprimand would not be appropriate.

Progressive, corrective discipline shall not proceed to the next higher step provided the employee goes a thirty-six month period (a rolling 36 month calendar) from the last disciplinary action concerning a particular offense.

This means that the employee must work a thirty-six month period clear of disciplinary action concerning a particular offense in order for progressive discipline for that offense not to proceed to the next higher step from the last issued discipline penalty. In such instances, the employee will be deemed as having corrected the problem for which he/she was disciplined. Notations of all disciplinary action beyond an oral reprimand shall remain on permanent record in the employee's personnel file maintained by the Department of Police. After three (3) years, if no similar violation has occurred, any summary disciplinary documentation shall be removed from the officer's personnel file.

7.6 PENALTIES

Offense	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense
1. Failure to report to work following the expiration of an approved leave and/or absence for which leave has been disapproved or withdrawn	Suspension up to review for dismissal	Dismissal		
2. Stopping work before specified quitting time without authorization.	Written Reprimand – up to review for suspension	Suspension – up to review for dismissal	Dismissal	
3. Going in or out of service for another employee	Written Reprimand – up to review for suspension	Suspension – up to review for dismissal	Dismissal	
4. Failing to personally go in and out of service with dispatch either at the beginning or end of work period; failing to go out of service when leaving on personal business	Written Reprimand – up to review for suspension	Suspension – up to review for dismissal	Dismissal	
5. Failure to comply with safety rules and practices including those pertaining to dress and use of protective equipment	Verbal Warning – up to review for Suspension	Written Reprimand-up to review for dismissal	Dismissal	
6. Failure to properly wear and/or maintain uniforms in conformance with Town-wide or departmental policy.	Verbal Warning	Written Reprimand	Suspension	Dismissal
7. Engaging in any conduct which may result in safety hazard of unsanitary condition.	Written warning – up to review for suspension.	Suspension	Dismissal	
8. Smoking in officially prohibited areas	Written Reprimand	Suspension	Dismissal	
9. Misuse or loss of Town Tools, Equipment or Property. Or, misuse is owned by another employee if required as per their job duties	Verbal Warning – up to review for suspension	Written Reprimand – up to review for suspension	Suspension	Dismissal

Offense	1st Offense	2nd Offense	3rd Offense	4th Offense
10. Incompetence or review for assigned work.	Verbal Warning –up to suspension	Suspension	Dismissal inability to perform.	
11. Carelessness and/or neglect of job duties and responsibilities	Verbal Warning – up to review for suspension	Suspension	Dismissal	
12. Sleeping on the job	Written Reprimand – up to review for suspension.	Suspension – up to review for dismissal	Dismissal	
13. Discourteous treatment of the public or any other conduct which does not merit the public trust.	Written reprimand – up to review for suspension.	Suspension – up to review for dismissal	Dismissal	
14. Participating in gambling on Town property or during work hours.	Written reprimand- up to review for dismissal	Suspension – up to review for dismissal	Dismissal	
15. Posting of unauthorized bulletins or removal of authorized bulletins or signs	Verbal Warning	Written Reprimand	Suspension – up to review for dismissal	Dismissal
16. Failure to report a change of address / phone number or name change within five (5) days to the department	Verbal Warning	Written Reprimand	Suspension – up to review dismissal	Dismissal
17. Failure to provide Doctor’s Certificate upon request of the Chief of Police or authorized designee or; absence for three (3) or more consecutive work days.	Written Reprimand – up to review for suspension	Suspension – up to review for dismissal	Dismissal	
18. Failure to report as soon as possible following any incident or accident suffered at work	Verbal Warning	Written Reprimand	Suspension	Dismissal
19. Negligence, carelessness, or failure to follow departmental procedures	Verbal Warning-up to review for suspension	Written Reprimand – up to review for suspension	Suspension – up to review for dismissal	Dismissal
20. Refusal to follow job instructions, directions, or	Suspension – up to review	Dismissal		

departmental procedures (Insubordination)	for dismissal			
Offense	1st Offense	2nd Offense	3rd Offense	4th Offense
21. Conducting personal business during work hours	Verbal Warning	Written Reprimand	Suspension	Dismissal
22. Transporting, picking up or delivering unauthorized passengers in Town vehicles.	Written Reprimand	Suspension	Dismissal	
23. The use of abusive or threatening language or otherwise threatening, intimidating, coercive or harassing conduct towards a superior or employee.	Written Reprimand – up to review for suspension	Suspension-up to review for dismissal	Dismissal	
24. Fighting or engaging in physical altercation or provoking a fight or physical altercation	Suspension – up to review for dismissal	Dismissal		
25. Sexual, racial, ethnic, religious harassment or discriminatory treatment of Town employee, citizen during work hours, or Town Authority.	Suspension-up to review for dismissal	Dismissal		
26. Negligence, carelessness or willful acts which result in, or could result in damage and/or injury to self or others, Town property or citizens while on duty.	Written Reprimand – up to review for suspension	Suspension – up to review for dismissal	Dismissal	
27. Unauthorized use and/or removal of Town Property, Records or any other materials from Town premises.	Written Reprimand – up to review for suspension	Suspension-up to review for dismissal	Dismissal	
28. Unauthorized Possession of firearms, weapons or explosives on person and/or while on Town Property	Suspension – up to review for dismissal	Dismissal		

Offense	1st Offense	2nd Offense	3rd Offense	4th Offense
<p>29. Possession and/or consumption of intoxicating beverages or narcotic drugs (including marijuana) during work hours, on Town property, or in a Town owned vehicle.</p> <p>Failure to comply with the request of a Supervisor that the Employee be examined by a physician employed by the Town in accordance with stated Town Policy.</p>	Suspension-up to review for dismissal	Dismissal		
<p>30. Being under the influence of intoxicating beverages or narcotic drugs during work hours, on Town property, or in Town owned vehicles.</p> <p>Failure to advise their Supervisor at the beginning of their shift (if not earlier) that they are taking a prescription drug or over-the-counter drug, which by nature may impair the employee's ability to perform.</p>	Suspension-up to review for dismissal	Dismissal		
<p>31. Selling or distribution of drugs and/or intoxicants on Town property and/or during work hours</p>	Dismissal			
<p>32. Soliciting or accepting any financial or other reward or gifts for services rendered through a Town Department</p>	Suspension-up for review for dismissal	Dismissal		
<p>33. Theft or other misappropriation of Town property.</p>	Suspension-up to review for dismissal	Dismissal		
<p>34. Falsification of Town forms or records, including employment applications, daily work sheets and attendance records, willful misrepresentation of facts; forging another's signature.</p>	Suspension-up to review for dismissal	Dismissal		

Offense	1st Offense	2nd Offense	3rd Offense	4th Offense
35. Conviction of a crime, or engaging in unlawful or improper conduct which; (a) affects the employee's ability to perform the job or report to work; (b) harms the Town's reputation or the public trust	Suspension-up to review for dismissal	Dismissal		
36. Horseplay in the workplace or on Town time; inability to get along with fellow employees which adversely affects operational efficiency	Written Reprimand-up to review for suspension	Suspension	Suspension-up to review for dismissal	Dismissal
37. AWOL-Absent without prior notification to supervisor in accordance with policy	Written Warning and loss of pay for time not at work -up to review for suspension	Suspension and loss of pay for time not worked-up to review for dismissal	Dismissal	
38. Unauthorized Absences includes; failure to report to work on time without prior notification to supervisor as to reason for such failure	Written Warning and loss of pay for time not at work -up to review for suspension	Suspension and loss of pay for time not worked-up to review for dismissal	Dismissal	
39. Absence during work hours which has not been excused for emergency or medical reasons	Written Warning and loss of pay for time not at work -up to review for suspension	Suspension and loss of pay for time not worked-up to review for dismissal	Dismissal	
40. Abuse of sick leave or other break time	Suspension	Suspension – up to review for dismissal	Dismissal	
41. Failure to appear for extra duty pay job, failure to notify supervisor of unavailability for pay job, erasing or altering a name once signed up for extra duty job.	Verbal Warning-up to thirty (30) day suspension from any pay jobs	Written Reprimand-up to sixty(60) day suspension from any pay jobs	Suspension	Dismissal

Offense	1st Offense	2nd Offense	3rd Offense	4th Offense
42. Court stand-by / Court appearances	Verbal Warning	Written Reprimand	Four (4) hour suspension with option to use leave time	Four (4) hour suspension without option to use leave time

7.7 OFFICER'S APPEAL

Discipline

Any alleged breach of the Police Department's Rules and Regulations, Standard Operation Procedures or Policies shall be investigated and resolved in accordance with the Law Enforcement Officer's Bill of Rights.

If a law enforcement officer is (1) suspended for any reason, or (2) charged with conduct alleged to violate the rules or regulations or general orders of the agency that employs the officer, or (3) charged with a breach of discipline of any kind, which charge could lead to any form of disciplinary action (other than a reprimand) which may become part of the officer's permanent personnel record, then that officer shall be entitled to a hearing which shall be conducted in accordance with this chapter unless a contractual disciplinary grievance procedure executed by and between the agency and the bargaining unit of that officer is in effect, in which case the terms of that disciplinary grievance procedure shall take precedence and govern the conduct of the hearing.

**7.8 TITLE 11, CHAPTER 92.
LAW ENFORCEMENT OFFICERS BILL OF RIGHTS**

SEC. No.

- 9200 Limitations on political activity: “law enforcement officer” defined: rights of officers under investigation.
- 9201 Insertion of adverse material in the officer’s file.
- 9202 Disclosure of personal assets.
- 9203 Hearing – Required on suspension or other disciplinary action.
- 9204 Same – Scheduling; notice.
- 9205 Same – Procedure.
- 9206 Same – Evidence obtained in violation of officer’s rights.
- 9207 Same – Written decision and findings of fact to be delivered to officer.
- 9208 Extra work as punishment prohibited.
- 9209 Application of chapter.

Revision note: This chapter, as enacted by 65 Del. Law, c. 12, became effective upon the signature of the Governor on May 13, 1985. As amended by ss 6 of Del. Law, c. 139, effective July 4, 1985, this chapter contained sub-section 9210, which provided: “If any provision of this chapter or the application thereof to any person or circumstance is held invalid, in whole or in part, then such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of application, and to that end the provisions of this chapter are declared severable.”

STATE CODE - TITLE 11

Crimes and Criminal

Procedure Victims of

Crimes

CHAPTER 92. LAW-ENFORCEMENT OFFICERS' BILL OF RIGHTS

§ 9200. Limitations on political activity; "law-enforcement officer" defined; rights of officers under investigation.

(a) A law-enforcement officer within a jurisdiction in this State has the same rights to engage in political activity as are afforded to any other person. The right to engage in political activity shall not apply to any law-enforcement officer while on duty or when acting in an official capacity or while in uniform.

(b) For purposes of this chapter a "law-enforcement officer" is defined as a police officer who is a sworn member of the Delaware State Police, of the Wilmington City Police Department, of the New Castle County Police, of the University of Delaware Police Division, the Delaware State University Police Department, of the police force established by the Delaware River and Bay Authority, or of the police department, bureau of police or police force of any incorporated municipality, Town or town within this State or who is a sworn uniformed police or enforcement officer of the Department of Natural Resources and Environmental Control or of the Delaware State Capital Police, or a Probation and Parole Officer of the Department of Corrections; provided, however, that this chapter shall not apply to the Superintendent or Deputy Superintendent of the Delaware State Police, or to any officer above the rank of Captain in the Delaware State Police, or to the chief of police of any police force in this State, or to any other officer who is the highest ranking officer in the law-enforcement agency. Furthermore, no law-enforcement officer not a member of 1 of the above agencies shall be covered by this chapter.

(c) Whenever a law-enforcement officer is under investigation or is subjected to questioning for any reason which could lead to disciplinary action, demotion or dismissal, the investigation or questioning shall be conducted under the following conditions:

(1) The questioning shall be conducted at a reasonable hour, preferably at a time when the officer is on duty unless the gravity of the investigation in the opinion of the investigator is of such degree that immediate questioning is required.

(2) The questioning shall take place at the agency headquarters or at the office of the local troop or police unit in which the incident allegedly occurred as designated by the investigating officer or unless otherwise waived in writing by the officer being investigated.

(3) The law-enforcement officer under investigation shall be informed of the

name, rank and command of the officer in charge of the investigation. All questions directed to the officer shall be asked by and through no more than 2 investigators. No formal complaint against a law-enforcement officer seeking dismissal or suspension or other formal disciplinary action shall be prosecuted under departmental rule or regulation unless the complaint is supported by substantial evidence derived from an investigation by an authorized member of the department.

(4) The law-enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to being questioned.

(5) Interview sessions shall be for reasonable periods of time. There shall be times provided for the officer to allow for such personal necessities and rest periods as are reasonably necessary.

(6) Except upon refusal to answer questions pursued in a valid investigation, no officer shall be threatened with transfer, dismissal or other disciplinary action.

(7) A complete record, either written, taped or, if taped, transcribed as soon as practicable, shall be kept of all interviews held in connection with the administrative investigation upon notification that substantial evidence exists for seeking an administrative sanction of the law-enforcement officer. A copy of the record shall be provided to the officer or the officer's counsel at the officer's expense upon request.

(8) If the law-enforcement officer under interrogation is under arrest or may reasonably be placed under arrest as a result of the investigation, the officer shall be informed of the officer's rights, including the reasonable possibility of the officer's arrest prior to the commencement of the interrogation.

(9) Upon request, any officer under questioning shall have the right to be represented by counsel or other representative of the officer's choice, who shall be present at all times during the questioning unless waived in writing by the investigated officer. The questioning shall be suspended for a period of time if the officer requests representation until such time as the officer can obtain the representative requested if reasonably available.

(10) An officer who is charged with violating any departmental rules or regulations, or the officer's representative, will be provided access to transcripts, records, written statements, written reports, analyses and video tapes pertinent to the case if they are exculpatory, intended to support any disciplinary action or are to be introduced in the departmental hearing on the charges involved. Upon demand by the officer or counsel, they shall be produced within 48 hours of the written notification of the charges.

(11) At the conclusion of the administrative investigation, the investigator shall inform in writing the officer of the investigative findings and any recommendation for further action.

(12) All records compiled as a result of any investigation subject to the

provisions of this chapter and/or a contractual disciplinary grievance procedure shall be and remain confidential and shall not be released to the public.

(d) Unless otherwise required by this chapter, no law-enforcement agency shall be required to disclose in any civil proceeding, other than those brought by a citizen against a law-enforcement officer alleging that the officer breached the officer's official duties and that such breach resulted in injury or other damage to the citizen, any:

(1) Personnel file; or

(2) Internal affairs investigatory file compiled in connection with a law-enforcement officer under investigation or subjected to questioning for any reason which could lead to disciplinary action, demotion, or dismissal. (65 Del. Laws, c. 12, § 1; 65 Del. Laws, c. 139, §§ 1, 2; 67 Del. Laws, c. 237, § 1; 69 Del. Laws, c. 298, § 1; 70 Del. Laws, c. 175, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 467, § 1; 71 Del. Laws, c. 456, § 1; 72 Del. Laws, c. 367, § 6.)

§ 9201. Insertion of adverse material in officer's file.

No law-enforcement agency shall insert any adverse material into the file of any officer except the file of the internal investigation or the intelligence division unless the officer has had an opportunity to review, sign, receive a copy of and comment in writing on the adverse material. (65 Del. Laws, c. 12, § 1.)

§ 9202. Disclosure of personal assets.

No officer shall be required or requested to disclose any item of personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless such information is necessary in investigating a violation of any federal, state or local ordinance with respect to the performance of official duties or unless such disclosure is required by state or federal law. (65 Del. Laws, c. 12, § 1; 70 Del. Laws, c. 186, § 1.)

§ 9203. Hearing -- Required on suspension or other disciplinary action.

If a law-enforcement officer is (1) suspended for any reason, or (2) charged with conduct alleged to violate the rules or regulations or general orders of the agency that employs the officer, or (3) charged with a breach of discipline of any kind, which charge could lead to any form of disciplinary action (other than a reprimand) which may become part of the officer's permanent personnel record, then that officer shall be entitled to a hearing which shall be conducted in accordance with this chapter unless a contractual disciplinary grievance procedure executed by and between the agency and the bargaining unit of that officer is in effect, in which case the terms of that disciplinary grievance procedure shall take precedence and govern the conduct of the hearing. (65 Del. Laws, c. 12, § 1; 65 Del. Laws, c. 139, § 3; 70 Del. Laws, c. 186, § 1.)

§ 9204. Hearing -- Scheduling; notice.

In the event an officer is entitled to a hearing, a hearing shall be scheduled within a reasonable period of time from the alleged incident, but in no event more than 30 days following the conclusion of the internal investigation, unless waived in writing by the charged officer. The officer shall be given written notice of the time and place of the hearing and the issues involved, including a specification of the actual facts that the officer is charged with having committed; a statement of the rule, regulation or order that those facts are alleged to violate; and a copy of the rule, regulation or order. The charge against the law-enforcement officer shall advise the officer of the alleged facts and that the violation of the rule constituted a basis for discipline, and shall specify the range of applicable penalties that could be imposed. (65 Del. Laws, c. 12, § 1; 70 Del. Laws, c. 186, § 1.)

§ 9205. Hearing -- Procedure.

(a) An official record including testimony and exhibits shall be kept of the hearing.

(b) The hearing shall be conducted within the department by an impartial board of officers. The prosecuting party and the officer and/or the officer's representative shall be given an opportunity to present evidence and argument with respect to the issues involved. Both the department and the officer may be represented by legal counsel. In the event an impartial board cannot be convened, then a board of 3 officers or more shall be convened under the auspices of the Delaware Criminal Justice Council. Any officer appointed under this subsection, either within the department or under the auspices of the Criminal Justice Council, shall not be liable for civil damages from any acts or omissions arising out of such officer's service on the board as long as the member of the board of officers acted in good faith and without malice in carrying out his or her responsibilities or duties. A member of the board of officers is presumed to have acted in good faith and without malice unless proven otherwise.

(c) Evidence which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs shall be admissible in evidence and given probative effect. The tribunal conducting the hearing shall give effect to the rules of privilege recognized by law and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. All records and documents which any party desires to use shall be offered and made a part of the record. Documentary evidence may be received in the form of copies of excerpts or by incorporation by reference.

(d) Every party shall have the right of cross-examination of witnesses who testify and may submit rebuttal evidence.

(e) The tribunal may take notice of judicially cognizable facts and in addition may take notice of general, technical or scientific facts within its specialized knowledge. Parties shall be notified beforehand of the materials so noticed by the trial board. No law-enforcement officer may be adjudged guilty of any offense unless the hearing tribunal is satisfied that guilt has been established by substantial evidence. (65 Del. Laws, c. 12, § 1; 65 Del. Laws, c. 139, § 4; 70 Del.

Laws, c. 186, § 1; 71 Del. Laws, c. 166, § 1.)

§ 9206. Same -- Evidence obtained in violation of officer's rights.

No evidence may be obtained, received or admitted into evidence in any proceeding of any disciplinary action which violates any of the rights established by the United States Constitution or Delaware Constitution or by this chapter. The tribunal may not enter any judgment or sustain any disciplinary action based on any evidence obtained in violation of the officer's rights as contained in this chapter. (65 Del. Laws, c. 12, § 1.)

§ 9207. Same -- Written decision and findings of fact to be delivered to officer.

Any decision, order or action taken following the hearing shall be in writing and shall be accompanied by findings of fact. The findings shall consist of a concise statement upon each issue in the case. A copy of the decision or order accompanying findings and conclusions along with the written action and right of appeal, if any, shall be delivered or mailed promptly to the law-enforcement officer or to the officer's attorney or representative of record. (65 Del. Laws, c. 12, § 1; 70 Del. Laws, c. 186, § 1.)

§ 9208. Extra work as punishment prohibited.

No law-enforcement officer shall be compelled to work extra duty without compensation as a penalty for a disciplinary infraction. No suspension for any period of time provided in departmental rules and regulations shall affect the law-enforcement officer's eligibility for pension, hospitalization, medical and life insurance coverage or other benefits specifically protected under the contract of employment. Suspension may affect time of pension eligibility by contractual provision or other statutory provision. Nothing herein shall prevent any law-enforcement agency from requiring reimbursement by a suspended law-enforcement officer of the officer's employee contribution to benefits during the officer's time of suspension. (65 Del. Laws, c. 12, § 1; 70 Del. Laws, c. 186, § 1.)

§ 9209. Application of chapter.

The chapter shall apply to all law-enforcement disciplinary proceedings throughout the State, conducted by the law-enforcement agencies specified in § 9200(b) of this title. (65 Del. Laws, c. 12, § 1; 65 Del. Laws, c. 139, § 5.)

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