

**CLARK POLICE
RULES
AND
REGULATIONS**

MISSION STATEMENT

To establish and maintain a peaceful and orderly environment that ensures the protection of life and property.

Initials

This manual is the property of the Township of Clark. It is assigned to you by your badge number and upon separation from police service, you are bound to return it. You are responsible for its security. Loss of the manual will constitute neglect of duty and result in disciplinary action.

Name of Police Officer or Civilian Employee

Badge Number

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**CLARK POLICE DEPARTMENT
POLICE MANUAL
PREFACE**

This manual generally states the basic duties and responsibilities of the members of the Police Department. The guidelines introduced are to be used by all police officers in the performance of their duties.

The police organization is composed of numerous units and divisions which are collectively and individually responsible for certain elements of the police function. To coordinate these general and specialized patrol duties toward a common goal, it is necessary that all police officers know the type of conduct expected of them in the performance of their duties. Therefore, all officers have the responsibility to acquaint themselves with the contents of this manual so that they may effectively fulfill their obligation to the CLARK POLICE DEPARTMENT.

The policies and procedures stated have been established by the Chief of Police.

This manual is the property of the Clark 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, the peaceful against violence or disorder; and to respect the constitutional rights of all men 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 in both my personal and official life, I will be exemplary in obeying the laws of the land and regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in official capacity will be kept ever secret unless revelation is necessary in the performance of duty.

I will never act officiously or permit personal feelings, prejudice, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or 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 public trust to be held as long as I am true to the ethics of police services. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession, Law Enforcement.

CHAPTER I

ESTABLISHMENT OF POLICE DEPARTMENT RULES AND REGULATIONS

1.1 POLICE DEPARTMENT AUTHORITY – POWERS – DUTIES

1.1.1 Legal Authorization N.J.S.A. 40A:14-118 states:

The governing body of any municipality, by ordinance, may create and establish an executive and enforcement function of municipal government, a police force, whether as a department or as a division, bureau or other agency thereof, and provide for the maintenance, regulation and control thereof. Any such ordinance shall, in a manner consistent with the form of government adopted by the municipality and with general law, provide for a line of authority relating to the police function and for the adoption and promulgation by the appropriate authority of rules and regulations for the government of the force and for the discipline of its members. The ordinance may provide for the appointment of a chief of police and such members, officers and personnel as shall be deemed necessary, the determination of their terms of office, the fixing of their compensation and the prescription of their powers, functions and duties, all as the governing body shall deem necessary for the effective government of the force. Any such ordinance, or rules and regulations, shall provide that the chief of police, if such position is established, shall be the head of the police force and that he shall be directly responsible to the appropriate authority for the efficiency and routine day to day operations thereof, and that he shall, pursuant to policies established by the appropriate authority:

- A. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its official personnel
- B. Have, exercise, and discharge the functions, powers, and duties of the force
- C. Prescribe the duties and assignments of all subordinates and other personnel
- D. Delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under his direction and supervision
- E. Report at least monthly to the appropriate authority in such form as shall be prescribed by such authority on the operation of the force during the preceding month, and make such other report as may be requested by such authority.

As used in this section, "appropriate authority" means the DIRECTOR OF PUBLIC SAFETY AS ESTABLISHED UNDER THE PROVISIONS OF

ORDINANCE 2-13A.12 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CLARK.

Except as provided herein, the municipal governing body and individual members thereof shall act in all matters relating to the police function in the municipality as a body or through the DIRECTOR OF PUBLIC SAFETY.

- 1.1.2 Ordinance. The Police Department is established by authority of Ordinance 213 et. seq. entitled "DEPARTMENT OF PUBLIC SAFETY" of the TOWNSHIP OF CLARK; Regulating and Defining the Manner of Appointment Thereto and Removal Therefrom; and Outlining the Duties of Officers, Personnel, and Divisions of the Police Department".

The power and duties of the Police Department are established by authority of said ordinance, which directs that the police department shall:

- A. Preserve the public peace, prevent crime, detect and arrest offenders against the penal laws and ordinances effective within the Township of Clark, suppress riots, mobs and insurrections, disperse unlawful or dangerous assemblies and preserve order at all elections and public meetings and assemblages
- B. Administer and enforce laws and ordinances to regulate, direct, control and restrict the movement of vehicular and pedestrian traffic and the use of street by vehicles and persons and to make rules and regulations not inconsistent with the charter, ordinance and general law for such purpose
- C. Remove all nuisances in the public streets, parks, and other public places; inspect and observe all places of public amusement or assemblage and all places of business requiring state or municipal licenses or permits
- D. Provide proper police attendance and protection at fires
- E. Enforce the laws and ordinances in effect within the Township of Clark and prevent the violation of them by any person; apprehend and arrest all persons legally charged with violations of any law or ordinance
- F. Provide for the attendance of its police officers or civilian employees in court as necessary for the prosecution and trial of persons charged with crimes and other violations of the law, and cooperate fully with the law enforcement and prosecuting authorities of federal, state and county governments.
- G. Operate a training program to maintain and improve the police efficiency of the members of the department.

- 1.1.3 Rules and Regulations Established. The Police Department of the Township of Clark hereby establishes the department Rules and Regulations under cover to be known as the CLARK POLICE DEPARTMENT RULES AND REGULATIONS.

1.1.4 Right to Amend or Revoke. For the good of the service, in accord with New Jersey Statute 40A:14-118, the right is reserved by the Director of Public Safety or the Chief of Police, as the representative of the governing body, to amend or to revoke any of the rules, regulations or procedures, or add thereto, as circumstances require.

1.1.5 Previous Orders. All rules, regulations, procedures and orders previously issued contrary to those embodied in the manual, are hereby revoked. All other rules, regulations, orders and procedures not in conflict with those contained in this manual shall remain in force.

1.2 APPLICATION

1.2.1 Police regulations are applicable to all officers of the department, where specified to all civilian employees of the department. Special Police Officers appointed under N.J.S.A. 40A:14-146 et. seq. are subject to all rules, regulations, policies, procedures, special and general orders issued by the Clark Police Department.

1.2.2 All existing departmental rules and regulations, orders and instructions in conflict with these police regulations is cancelled.

1.2.3 All general and special orders, instructions (including those on departmental forms) and manuals not in conflict with these police regulations shall have the same authority as police regulations.

1.2.4 Police regulations or general orders shall not be cancelled, amended or issued without the approval and signature of the Chief of Police.

1.2.5 Failure of an officer either willfully or through negligence or incompetence to perform the duties of his rank or assignment or violation by an officer or civilian employee of any police regulation or order may be considered sufficient cause for disciplinary action.

1.3 THE POLICE MANUAL

1.3.1 Distribution of Manual. One copy of the Police Manual shall be distributed to each member of the department and to certain civilian employees of the department.

1.3.2 Responsibility for Maintenance. All members and employees who are assigned a manual shall be responsible for its maintenance and care. All manuals shall be kept current and supplementary pages concerning additions, revisions or amendments shall be promptly and properly inserted. **MANUALS MUST BE AVAILABLE FOR INSPECTION UPON REQUEST.**

1.3.3 Familiarization. Each police officer and each civilian employee are duty bound to thoroughly familiarize themselves with the provisions of the Police Manual. Failure to comply shall be considered a neglect of duty.

1.3.4 Ignorance of contents of Manual. In the event neglect of duty is charged against a member for failure to observe the rules and regulations, department procedures or orders, ignorance of any provision of this manual or any department procedure or order will no be accepted as an excuse.

1.4 POLICY AND PROCEDURE MANUALS

1.4.1 Clark Police Policy and Procedure Manuals issued to all personnel in 1989 and periodic supplements issued thereafter by the Chief of Police are recognized under these rules and regulations. Sworn and civilian personnel shall adhere to all applicable policies and procedures. Section 1.3.3 and 1.3.4, listed above, shall apply to all Department Policies and Procedures. FAILURE TO COMPLY WITH THESE POLICIES AND PROCEDURES MAY SUBJECT DEPARTMENT MEMBERS AND EMPLOYEES TO DISCIPLINARY ACTION.

CHAPTER II

DEFINITIONS

2.1 DEFINITIONS

- 2.1.1 Annual Vacation. Vacation period granted to all members annually.
- 2.1.2 Authority. Authority is the right to give commands, enforce obedience, initiate action and make necessary decisions granted by statute or policy. Authority may be delegated by those so designated. Acts performed without proper authority or authorization shall be considered in violation of the manual and those persons in violation shall be subject to disciplinary action.
- 2.1.3 Bureau. A unit immediately subordinate to a Division
- 2.1.4 Chain of Command. The unbroken line of authority extending from the Chief of Police through a single subordinate at each level of command down to the level of execution and vice versa.
- 2.1.5 Chief of Police. The Chief of Police of the Township of Clark, New Jersey, is the ranking officer of the department.
- 2.1.6 Command Officer. Any officer appointed to the rank of Lieutenant or higher.
- 2.1.7 Days Off. Those days determined by the Chief of Police on which a given member is excused from duty.
- 2.1.8 Department. The Police Department of the Township of Clark.
- 2.1.9 Detail. A temporary assignment of personnel for a specialized activity.
- 2.1.10 Detective. A police officer assigned to conduct criminal investigations by Oath of Office.
- 2.1.11 Division. A functional unit having jurisdiction-wide coverage whose commanding officer reports directly to the Chief of Police.
- 2.1.12 Divisional Order. Written directives issued by Commanding Officers to their command, directing, describing, or informing subordinates of the official method of dealing with any given situation.
- 2.1.13 Employee. Civilian employee of the department.
- 2.1.14 Equipment/Personal.
 - A. Baton

- B. Belts (trouser and gun)
- C. Cartridge carrier
- D. Departmental shoulder insignias
- E. Flashlight
- F. Holster
- G. Insignia of rank
- H. Rain gear
- I. Weapon (service issued and personal)
- J. Handcuffs
- K. Portable radio and charger
- L. Firearm trigger guard

2.1.15 Gender. Use of the masculine gender herein shall also include, where applicable, the female gender.

2.1.16 General Orders. General orders are written directives that pertain to the permanent policies and procedures of the Police Department. General Orders are prepared and issued under the direction of the Chief of Police and remain in force until rescinded.

Examples of proper subject of General Orders:

- A. Institution of permanent procedures, rules, policies and related manuals.
- B. Permanent changes in organization.
- C. Installation of permanent programs that affect more than one unit subordinate to the issuing authority, e.g. citizen complaint, internal affairs procedures, etc.
- D. Permanent personnel policies and procedures including recruiting, hiring, training, and promotion policies, but not including changes of status, such as transfers and promotions.
- E. Use of public facilities and equipment.

2.1.17 Headquarters. The police building that houses the headquarters staff and the members of this department.

2.1.18 Incompetence. Incapable of satisfactory performance of police duties.

2.1.19 Insubordination. Failure or deliberate refusal of any member or employee to obey all lawful orders given by a superior officer.

2.1.20 Lawful Order. Any written or oral directive issued by a superior officer to any subordinate or group of subordinates in the course of police duty which is not in violation of any law, ordinance or any department rule or regulation.

2.1.21 May/Should. As used herein, words "may" and "should" mean that the action indicated is permitted.

- 2.1.22 Member. Any duly appointed police officer of the Department.
- 2.1.23 Memorandum. Written information not warranting a formal order. Used to direct any segment or all of the Department personnel in specific situation or to inform them of coming events.
- 2.1.24 Military Leave. The period of time during which an officer is excused from duty by reason of serving the armed forces of the United States in an active capacity as provided by law.
- 2.1.25 Neglect of Duty. Failure to give suitable attention to the performance of duty. Examples include, but are not limited to, failure to take appropriate action on the occasion of a crime, disorder, or other act or condition deserving police attention; absence without leave; failure to report to duty at the time and place designated; unnecessary absence from the beat during the tour of duty; failure to perform duties or comply with provisions prescribed in the Police Manual; failure to conform to the department operating procedures.
- 2.1.26 Off Duty. The status of a member during the period he is free from the performance of specified duties. Also may be known as day off, annual vacation, OT Comp., extra day off, lieu of holiday and death in family.
- 2.1.27 Official Channels. Through the hands of the superior officers in the chain of command.
- 2.1.28 On Duty. The status of a member during the period of day when he is actively engaged in the performance of his duties. Technically, a police officer is subject to call at all times.
- 2.1.29 Order. Any written or oral directive issued by the Chief of Police or any superior officer to any subordinate or group of subordinates in the course of police duty.
- 2.1.30 Personnel Orders. Includes a change in the position, transfer, promotion, etc.
- A. The appointment of new personnel
 - B. The assignment or transfer of members from one unit to another
 - C. Promotions
 - D. Commendations
 - E. Suspension and dismissal
 - F. Resignation or retirement
- 2.1.31 Police Manual. Reference guide specifying the rules and regulations governing the conduct of personnel and the operations of the department as well as specifying department policies and procedures. Department orders will be incorporated into the Police Manual after a provisional period of operation.

This manual is issued by the Chief of Police and carries the weight of a General Order.

- 2.1.32 Post. A geographical area of coverage assigned to a police officer.
- 2.1.33 Procedure. The official method of dealing with any given situation prescribed by the Chief of Police's order or procedural guide.
- 2.1.34 Promotional Probationary. Ninety (90) days probation in next highest rank.
- 2.1.35 Recruit Probationary. One (1) year period, following completion of the Police Academy. Refer to Section 4.3.
- 2.1.36 Rules and Regulations. Department legislation consisting of detailed directives binding members and employees of all ranks in terms of authority, responsibility and conduct.
- 2.1.37 Seniority. Seniority in the department is established first by rank and second by time served in rank. Where conflict occurs because of identical service or dates of appointment, the member with the highest position on the State of New Jersey Department of Personnel eligibility list from which the appointments were made is deemed to be the senior.
- 2.1.38 Shall/Will. The words "shall" and "will" as used herein shall indicate that the action required is mandatory.
- 2.1.39 Shift. A shift designates one of the basic time units for assignment of personnel.
- 2.1.40 Sick Leave. The period of time during which an officer is excused from active duty by reason of illness or maternity.
- 2.1.41 Special Assignment. A member being excused from the performance of his regular duties and assigned a special detail.
- 2.1.42 Special Orders. Those directives affecting a specific unit, a specific event, or circumstance of a temporary or self-canceling nature or involving only specific segments of activities. Examples of proper subjects of Special Orders:
 - A. The assignment of individual duties to public gatherings or parades
 - B. Seasonal change of uniforms
 - C. Annual budget preparation and special instructions for the year completed
 - D. Assignment of police vehicles
- 2.1.43 Special Police. Persons vested with special police authority pursuant to N.J.S.A. 40A:14-146, but not members of the Department.

- 2.1.44 Staff Supervision. An advisory relationship outside the regular hierarchy of command and responsibility in which a supervisor may review the work of another employee who is responsible to another superior officer.
- 2.1.45 Subordinate. A member lower in rank than his superior officer.
- 2.1.46 Superior Officer. A person holding rank higher than a police officer.
- 2.1.47 Suspension. The act of temporarily denying a member the privilege of performing his duties and relieving him from the duty with or without pay for a period of time in consequence of alleged dereliction or violation of Department regulations.
- 2.1.48 Supervisory Officer. Member of the Department assigned to a position requiring the exercise of immediate supervision over the activities of members and employees.
- 2.1.49 Tour of Duty. The number of days of work on a given tour during which an individual member is on duty.
- 2.1.50 Watch Commander. The superior officer in charge of a tour of duty.
- 2.1.51 Training Bulletin. Bulletins published are designed to keep officers of the Department abreast of current police techniques and procedures. The bulletins and their presentation act as a continuous training program and as a stimulus for further study. The information contained therein constitutes official departmental policy on the subject matter under consideration in the absence of other instruction to the contrary.
- 2.1.52 Uniform. Prescribed or regulation clothing worn by members of the Police Department.
- 2.1.53 Unit. A unit designates: (1) independent element of less than a bureau of division status directly responsible to the chief of Police, or (2) subordinate element of a division or bureau with a commanding or supervisory officer reporting to the division commander.
- 2.1.54 Patrol District. A specific territorial assignment of a mobile patrol officer.

CHAPTER III

GENERAL RULES AND REGULATIONS

3.1 PROFESSIONAL CONDUCT AND RESPONSIBILITIES

- 3.1.1 Standards of Conduct. Members and employees shall conduct their private and professional lives in such a manner as to avoid bringing the department disrepute.
- 3.1.2 Loyalty. Loyalty to the Department and to associates is an important factor in Department morale and efficiency. Members and employees shall maintain loyalty to the Department and their associates as is consistent with the law and personal ethics.
- 3.1.3 Cooperation. Cooperation between the ranks and units of the Department is essential to effective law enforcement. Therefore, all members are strictly charged with establishing and maintaining a high spirit of cooperation within the Department.
- 3.1.4 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.
- 3.1.5 General Responsibilities. members shall at all times 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 all federal, state and local laws and ordinances coming within department jurisdiction
 - F. Safely and expeditiously regulate traffic
 - G. Aid citizens in matters within police jurisdiction
- 3.1.6 Duty Activities. Although certain hours are assigned for the performance of regular duty tours, officers are considered to be "on duty" at all times and must act promptly anytime their services are required by the Department. Officers shall not engage in off duty activities or work which may conflict or interfere with the satisfactory performance of assigned police duties.
- 3.1.7 Neglect of Duty. Officers may be charged with neglect of duty for any act or commission in violation of law, police orders, procedures or rules and regulations.
- 3.1.8 Performance of Duty. All members and employees shall perform their duties as required or directed by law, Department rule, policy or order or by order of a superior officer. All lawful duties required by competent authority shall be

performed promptly as directed, notwithstanding the general assignment of duties and responsibilities.

- 3.1.9 Questions Regarding Assignments. Members and employees in doubt as to the nature or detail of their assignment shall seek clarification from their superiors by going through the chain of command.
- 3.1.10 Insubordination. Members and employees shall not commit acts of insubordination. The following specific acts are prohibited by this section:
- A. Failure or deliberate refusal to obey a lawful order given by a superior officer
 - B. Any disrespectful, mutinous, insolent or abusive language or action toward a superior officer
- 3.1.11 Conduct Toward Superior and Superior 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.
- 3.1.12 Obedience to Laws and Regulations. Members and employees shall observe and obey all laws and ordinances, all rules and regulations and orders of the Department.
- 3.1.13 Criticism of Official Acts or Orders. Members and employees shall not criticize actions, instructions, or orders of any department member in a manner which is defamatory, obscene, unlawful or which tends to impair the efficient operation of the department.
- 3.1.14 Manner of Issuing Orders. Orders from superior to subordinate shall be in clear, understandable language, civil tone and issued in pursuit of Department business.
- 3.1.15 No command or supervisory officer shall knowingly issue any order which is in violation of any law, ordinance or department rule.
- 3.1.16 Obedience to Unlawful Orders. Obedience to an unlawful order is never a defense of an unlawful action; therefore, no member or employee is required to obey any order which is contrary to federal, state law or local ordinance. Responsibility for refusal to obey rests with the member. He shall be strictly required to justify his action.
- 3.1.17 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 they may proceed to appeal as provided.

- 3.1.18 **Conflicting Orders.** Upon receipt of an order conflicting with any previous order or instruction, the member of employee affected will advise the person issuing the second order of this fact. Responsibility of countermanding the original instruction then rests with 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.
- 3.1.19 **Reports and Appeals: Unlawful, Unjust, Improper Orders.** A member or employee receiving an unlawful, unjust, or improper order shall, at first opportunity, report in writing to the next highest rank in the chain of command. This report shall contain the facts of the incident and may be made at the same time. Interdepartmental action regarding such an appeal shall be conducted through the office of the Chief of Police.
- 3.1.20 **Soliciting Gifts, Gratuities, Fees, Rewards, Loans.** members and employees shall not, under any circumstances, solicit any gift, gratuity, loan, reward or fee where there is any connection between the solicitation and their Department membership or employment.
- 3.1.21 **Acceptance of Gifts, Gratuities, Fees, Loans.** Members and employees shall not accept, either directly or indirectly, any gift, gratuity, loan, fee or any other object of value arising from or offered because of police employment or any activity connected with said employment. Members and employees shall not accept any gift, gratuity, loan, fee or other object of value, the acceptance of which might tend to influence the actions of said member or employee or any other member or employee in any matter of the police business or which might tend to cast an adverse reflection on the Department or any member or employee thereof. No member or employee of the Department shall receive any gift or gratuity from other members or employees junior in rank without the express permission of the Chief of Police.
- 3.1.22 **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 Department employment except as may be specifically authorized by the Chief of Police.
- 3.1.23 **Rewards.** Members and employees shall not accept any gift, gratuity or reward in money or other compensation for services rendered in the line of duty from the community or any person, business or agency except lawful salary and that which may be authorized by law.
- 3.1.24 **Disposition of Unauthorized Gifts, Gratuities.** Any unauthorized gift, gratuity, loan, fee reward or other object 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.

3.1.25 Free Admissions and Passes. Members and employees shall not solicit or accept free admission to theatres and other places of amusement for themselves and others except in the line of duty.

3.1.26 Debt Obligation.

A. Members and employees shall promptly pay all their just debts and meet all their legal liabilities.

B. No member or employee shall borrow any money from or otherwise become indebted to any other member or employee.

3.1.27 Intercession – Soliciting. members and employees shall not solicit anyone to intercede with the Chief of Police, Mayor, or members of the Council in relation to promotion assignments, disposition of pending charges or findings in a departmental trial or other related matter.

3.1.28 Persons and Places of Bad Reputation. Members and employees shall not knowingly frequent places of bad reputation nor associate with persons of bad reputation, except as may be required in the course of police duty.

3.1.29 Withholding Information. Members and employees shall not, at any time, withhold any information concerning criminal activity.

3.1.30 Reporting Violations of Law, Ordinances, Rules or Orders. Members and employees knowing of other members and 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. If the member or employee believes the information is of such gravity that it must be brought to the immediate, personal attention of the Chief of Police, official channels may be bypassed.

3.2 GENERAL CONDUCT OF DUTY

3.2.1 Prohibited Activity On Duty. Members and employees are prohibited from engaging in the following activities while on duty:

- A. sleeping, loafing, idling
- B. recreational reading, except at meals
- C. conducting private business
- D. gambling, except to further a police purpose

3.2.2 Alcoholic Beverages and Drugs

- A. Members or employees of the department shall not drink any kind of intoxicating beverage while on duty except when required in the performance of duty. A member, while assigned to duty in civilian clothes, may use intoxicants if absolutely necessary in the performance of

- duty, provided such use does not render him unfit for proper and efficient performance of duty. Under no circumstances shall medically defined intoxication be considered justifiable
- B. Members or employees of the Department shall not take any drugs that are not prescribed and necessary for their health at any time and disclose the use of any drugs (prescription or over-the-counter) which may impair job performance
 - C. Members shall not consume intoxicating beverages or other intoxicants while in uniform
 - D. Intoxicating beverages shall not, at any time, be consumed in police buildings
 - E. Members shall not report for duty under the influence of intoxicants. This condition shall cause the member to be unfit for duty. Superior officers shall not assign to duty any members in an unfit condition due to the use of intoxicants and shall immediately relieve of duty any member found on duty in such condition
 - F. Members or employees shall not have intoxicants on their person while on duty or in uniform or in any Police Department building or vehicle except for evidential or other authorized purpose
 - G. Liquor or drugs brought onto Department premises in the furtherance of a police task shall be properly identified and stored in accordance to Department policy
 - H. Members in uniform shall not enter any premises where intoxicants are sold or stored except in the performance of duty. Exception: Police officers may patronize diners, family restaurants or other eating establishments holding alcoholic beverage licenses during meal/coffee breaks
 - I. No liquor license shall be held by any regular police officer or any other person whose powers or duties include the enforcement of the alcoholic beverage laws or regulations or by any profit corporation or association in which any person is interested, directly or indirectly
 - J. No law or regulation promulgated by the Division of Alcoholic Beverage Control, however, shall prohibit permanent, full-time members of a municipal police department or a county police department from being employed, other than in the municipality, or in the county, as the case may be, for which they serve as police officers, by a business licensed to sell alcoholic beverages in this state
 - K. A police officer so employed shall not, while engaged in the selling, serving, possessing or delivering of any alcoholic beverages:
 - 1. Have in his possession any firearm
 - 2. Wear or display any uniform, badge or insignia which would identify him as a police officer
 - L. No police officer so employed shall be permitted to work in excess of 24 hours a week in any such establishment
(Reference: N.J.A.C. 13:2-23.31(a) and N.J.S.A. 33:1-26.i)

- 3.2.3 Absence from Duty. Every member or employee who fails to appear for duty at the date, time and place specified without consent of competent authority is "absent without leave". Such absence 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.
- 3.2.4 Roll Call. Unless otherwise directed, members shall report to daily roll call at the time and place specified, properly uniformed and equipped. They shall give careful attention to orders and instructions avoiding unnecessary talking or movement.
- 3.2.5 Physical Fitness for Duty. Members shall maintain good physical condition so that they can handle the strenuous physical contacts often required of a law enforcement officer.
- 3.2.6 Loitering. Members on duty or in uniform shall not enter theatres or other public places except to perform a police task. Loitering and unnecessary conversation in such locations are forbidden. Members and employees, off duty or on duty and not on official police business, shall not loiter in Police Department areas.
- 3.2.7 Smoking While On Duty. Members shall not smoke on duty while in direct contact with the public nor when in uniform except at meal times and when patrolling in police vehicles and at that time they shall be as inconspicuous as possible.
- 3.2.8 Relief. Members and employees are to remain at their assignments and on duty until properly relieved by other members or employees or until dismissed by competent authority.
- 3.2.9 All meals are to be within the officer's post or within assigned off duty areas, subject to modification by the Commanding Officer. Meals shall be eaten with reasonable dispatch when in public view.
- 3.2.10 Training. Members shall attend in-service training in the theory and practice of law enforcement at the direction of the Chief of Police or commanding officer. Such attendance is considered a duty assignment.
- 3.2.11 Inspections. From time to time, the Chief of Police may call for full dress inspections of the department or any part thereof. Members directed to attend such inspections shall report in the uniform prescribed, carrying the equipment specified. Unauthorized absence from such inspection is chargeable as absence without leave.
- 3.2.12 Military Courtesy. When meeting in public, members shall conform to normal courtesy standards and refer to each other by rank. A salute will be rendered to all superior officers.

3.2.13 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.

3.2.14 Possession of Keys. No member, unless authorized by his Commanding Officer, shall possess keys to any premises not his own, on or near his post or zone.

3.2.15 Address and Telephone Numbers. Immediately upon reporting for duty, members and employees shall record their correct residence addresses and telephone numbers with their Commanding Officer and administrative office. Members and employees are required to have telephones in the place where they reside. Changes in address or telephone number shall be reported to the Commanding Officer and administration office within 24 hours of the change. This shall be done in writing on the appropriate form and within the specified time whether the member or employee is working or on leave.

3.3 UNIFORMS, EQUIPMENT AND APPEARANCE

3.3.1 Regulation Uniforms Required. All members shall maintain regulation uniforms. Uniforms shall be kept neat, clean and well-pressed at all times.

3.3.2 Manner of Dress on Duty. Normally, members will wear the duty uniform on a tour of duty; however, Commanding Officers may prescribe other clothing as required by the nature of the duty which a particular member is assigned. Employees will wear and maintain an employee uniform when so directed by the Chief of Police.

3.3.3 Wearing or Carrying Badge. A member, when in uniform, shall wear the regulation badge on the outside of the outermost garment over the left breast and always in sight. When not in uniform or while off duty, he may carry his badge in his pocket, but shall carry his department ID.

3.3.4 Alternating Style of Uniform. Uniforms shall be made of the material and the style prescribed in Police Orders, and such style shall not be altered or changed in any manner, whatsoever, unless authorized by the Chief of Police.

3.3.5 Carrying Required Equipment When In Uniform. While on duty, except when assigned to office duties, members who are required to wear the specified uniform shall always carry as full equipment, the following:

- A. Badge
- B. Police Department Identification Card
- C. Notebook
- D. Pen

- E. Firearm and Ammunition (Department issued or approved)
- F. Whistle (does not apply to office duties)
- G. Handcuffs
- H. Flashlight, as necessary
- I. Baton (does not apply to office duties)
- J. Bullet proof vest

A member shall also carry specially issued equipment and forms necessary for performing his duties.

3.3.6 Equipment in Civilian Clothes and On Duty. While on duty, members who are required to wear civilian clothes shall carry as full equipment the following:

- A. Badge
- B. Firearm and Ammunition (Department issued or approved)
- C. Handcuffs
- D. Police Department Identification Card

3.3.7 Carrying Equipment Off Duty. When off duty, each member will carry or have in his immediate possession, his badge, department firearm or a weapon authorized by the department and the identification card. This rule shall not apply when members are engaged in sports and activities of such a nature as to make it impractical.

3.3.8 Civilian Clothing – Manner of Dress. Male members and employees permitted to wear civilian clothing during a tour of duty shall wear either a business suit or sport coat and slacks. A dress-type shirt with a tie shall be worn. Commanding Officers may prescribe other types of clothing when necessary to meet a particular police objective. Female members and employees permitted to wear civilian clothing shall wear clothing that conforms to standards normally required of office personnel in private business firms, unless otherwise directed. All articles of clothing shall be of a conservative nature.

3.3.9 Equipment. All equipment must be clean, in good working order and conform to Department specifications.

3.3.10 Personal Appearance. Every member and employee of the department, while on duty, must at all times be neat and clean in person, his clothes clean and pressed, and his uniform in conformity with the rules and regulations. He shall, as often as necessary, examine and clean his equipment and keep it always in good serviceable condition. Male members and employees shall conform to the following additional standards of appearance:

- A. Hair
 - 1. The style shall be of no more than a medium length

2. Bushy hair protruding from the sides, back or front of the head is prohibited
3. Hairstyles shall not be of such length as to cover any portion of the ears
4. A neat pattern, shaped at the rear of the neck, shall be maintained. Growth near the collar line must be neatly trimmed and shall not extend over the shirt or collar
5. Unusual haircuts, such as hair cut in an Indian style or in the shape of an arrow, etc., are strictly prohibited
6. Sideburns shall not extend below the bottom of the earlobe. The width shall not exceed 1 ½ inches at the broadest point

B. Mustaches

1. The pattern shall be neatly trimmed
2. The extent of the growth shall be limited to ½ inch below the corner of the mouth
3. Length of hair shall be no more than ½ inch, nor appear bushy
- 4.

C. Beards

1. Full beards or other growths of hair below the lower lip, on the chin, or lower jawbone are prohibited.

D. Clean Shaven

1. Except for the areas of facial growth of hair permitted, all members shall be clean-shaven.
2. Personnel with a medical condition which precludes shaving shall be required to present a written statement signed by a medical doctor verifying such conditions.

E. Female Members

1. In the interest of safety, female members assigned to a division or unit where the regulation police uniform is worn, shall wear their hair short and neatly trimmed near the collar line, and growth shall not extend over the shirt or coat collar; or wear their hair rolled in a bun style when on duty so that it conforms to the above.

3.3.11 Department Property and Equipment. members and employees are responsible for the proper care of department property and equipment assigned to them. Damaged or lost property may subject the responsible individual to reimbursement charges and appropriate disciplinary action.

3.3.12 Damaged, Inoperative Property or Equipment. Members and employees shall immediately report to their Commanding Officers on designated forms any loss of or damage to Department property assigned to or used by them. The immediate superior will be notified of any defects or hazardous conditions existing in any Department equipment or property.

- 3.3.13 Care of Department Building. Members and employees shall not mark or deface any surface in any Department building. No material shall be affixed in anyway to any wall in Department buildings without specific authorization from commanding officer.
- 3.3.14 Notices. Members and employees shall not mark, alter or deface any posted notice of the department. Notices or announcements shall not be posted on bulletin boards without permission of a Commanding Officer.
- 3.3.15 Department Vehicles -- Use. Members shall not use any department vehicle without the permission of a Commanding Officer. Department vehicles shall never be used for personal business or pleasure. Members shall abide by all policies and orders regarding use of department vehicles.
- 3.3.16 Operation of Motor Vehicles. Members and employees, when driving vehicles of any description, private or of the Department shall not violate the traffic laws except in cases of absolute emergency and then only in conformity with the law regarding same. They shall set an example for other persons in the operation of their vehicles.
- 3.3.17 Emergency Calls and Use of Red Light and Siren. Members driving any department vehicle, when responding to an emergency call, shall exercise judgement and care with due regard to the safety of life and property. They shall slow down at all street intersections to such degree that, when crossing same, they will have safe control of their cars; especially when crossing street intersections where the traffic signal lights are against them or where there are stop signs. They shall use the red light and sound the siren on such calls and take the utmost precaution.
- 3.3.18 Transporting Citizens. Citizens will be transported in Department 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 Command Officer, immediate supervisor, or communications center.
- 3.3.19 Reporting Accidents. Accidents involving municipal personnel, property and equipment must be reported in accordance with Department procedures.
- 3.3.20 Presumption of Responsibility. In the event that municipal property is found bearing evidence of damage, it shall be incumbent upon the discoverer to report same immediately. Failure to do so will result in disciplinary action.
- 3.3.21 Liability. Liability for negligence: The care, maintenance and safekeeping of property or equipment. All departmental property or equipment issued to or placed at the disposal of any member of the Department shall be properly cared for, maintained and secured by said member. In the event of any misuse or loss

of said property by any member, that member will be held liable to reimburse the Department for damage or loss. This shall also include transportation vehicles of any type.

3.4 COMMUNICATIONS, CORRESPONDENCE

3.4.1 Restrictions. Members and employees shall:

- A. Not use Department letterheads for private correspondence
- B. Only send correspondence out of the Department under the direction of the Chief of Police.

3.4.2 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 acknowledgement.

3.4.3 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 for any private vehicle registration or driver license.

3.4.4 Telephones. Department telephone equipment may not be used for the transmission of personal messages involving toll charges without the express approval of a Commanding Officer.

3.4.5 Radio Discipline. All members of the Department operating police radios shall strictly observe regulations for such operations as set forth in Department Orders and by the Federal Communications Commission.

- A. Except in an emergency, all members shall use the appropriate Department codes and signals when using the police radio
- B. The use of portable radios and any other forms of entertainment other than equipment authorized by the Department is prohibited in police vehicles

3.5 INVESTIGATIONS

3.5.1 Command of Scene. At the scene of a crime, accident or other police incident, the ranking officer present shall assume command and direction of police personnel to assure the most orderly and efficient accomplishment of the police task. When two or more officers of the same rank are present and one of these is assigned to the investigation detail that will follow up the investigation, that ranking officer will be in charge.

- 3.5.2 Responsibilities of Members Arriving at Crime Scene. The first member to arrive at the scene of a crime or other police incident is responsible for the following actions as they may apply to the situation:
- A. Summon medical assistance and administer first aid as required to prevent further injury or loss of life
 - B. Arrest violators
 - C. Secure scene
 - D. Conduct a preliminary investigation
- 3.5.3 Responsibilities of Assigned Members at Crime Scene. The members officially assigned to perform the preliminary or other investigation of an alleged crime or other incident are responsible for the duties Section 3.5.2 and the completion of the preliminary or other investigation as directed. This shall include: securing statements and other information which will aid in the successful completion of the investigation; locating collecting and preserving physical evidence; and identifying, locating and apprehending the offender.
- 3.5.4 Identification as Police Officer. Except when impractical or where the identity is obvious, officers shall identify themselves by displaying the official badge or identification card before taking police action.
- 3.5.5 Release of Information at Crime Scene. Unauthorized persons, including members of the press, shall be excluded from crime scenes. Information, which will not hinder or nullify an investigation, shall be given to the press by the superior officer in charge of the investigation or in accordance with departmental policy set forth below. In order not to jeopardize the prosecution of a criminal case and to insure that an accused will not have cause to challenge the fairness of the court proceeding against him, every member of the Department is hereby advised of the following guidelines to be used in dealings with the press.
- 3.5.6 An officer shall not make nor participate in making any statement to the media that relates to:
- A. The character, reputation or prior criminal record (including arrests, indictments or other charges of crime) of the accused
 - B. The possibility of a plea of guilty to the offense charged or to a lesser offense
 - C. The existence or contents of any confession, admission, or statement given by the accused or his refusal or failure to make a statement
 - D. The performance or results of any examinations or tests or the refusal or failure of the accused to submit to examinations or tests
 - E. The identity, testimony, or credibility of a prospective witness
 - F. Any opinion as to the guilt or innocence of the accused, the evidence, or the merits of the case

THESE RULES DO NOT PRECLUDE AN OFFICER FROM ANNOUNCING:

- A. The name, age, residence, occupation and family status of the accused
- B. If the accused has not been apprehended, any information necessary to aid in the apprehension or to warn the public of any dangers the accused may present
- C. A request for assistance in obtaining evidence
- D. The identity of the victim of the crime unless a sexual assault is involved or there is some other reason to protect the privacy of a victim
- E. The fact, time and place of arrest, resistance, pursuit, and use of weapons
- F. The identity of the investigating and arresting officers or agencies and the length of the investigation
- G. At the time of seizure, a description of the physical evidence seized other than a confession, admission or statement
- H. The nature, substance or text of the charge
- I. Quotation from or references to public records of the court in the case
- J. The scheduling or result of any step in the judicial proceedings
- K. That the accused denies the charges made against him

3.5.7 Confidential Information.

- A. Members and employees shall not reveal any confidential business of the Department. They shall not impart confidential information to anyone except those for whom it is intended or as directed by their Commanding Officer.
- B. Members shall not make known to any person any Department order, which they may receive unless so required by the nature of the order.
- C. Contents of any record or report filed within any department in the Police Department shall not be exhibited or divulged to any person other than a duly authorized police officer, except with the approval of the Chief of Police, or under due process of law, or as permitted under Department regulations.

3.5.8 Compromising Criminal Cases. Members and employees shall not interfere with the proper administration of criminal justice.

- A. Members and employees shall neither attempt to interrupt the legal process except where a manifest injustice might otherwise occur nor participate in or be concerned with any activity which might interfere with the process of law.
- B. Members and employees shall not attempt to have any traffic summons or notice to appear reduced or stricken from the calendar. In any instance of voiding a traffic summons, a full report explaining reasons and circumstances shall be submitted to the division office.
- C. Any member or employee having knowledge of such action and failing to inform his superior officer thereof shall be subject to disciplinary action.

3.6 ARRESTS

3.6.1 Arrests. In making arrests, members shall strictly observe the laws of arrest and the following provisions:

- A. The arresting officer shall employ only such reasonable force and necessary restraints to assure the safety of other persons, other police officers and himself
- B. Every member shall refrain from using unnecessary force or violence in making arrests and must not strike a prisoner or any other person except when necessary in self-defense or to overcome actual physical resistance in making an arrest. However, he must be firm, resolute and energetic, exercising the necessary means to perform his duty properly, resolute, and energetic, exercising the necessary means to perform his duty properly. When it is necessary to use force, the circumstances shall be included in the arrest report on the case
- C. The arresting officer is responsible for the safety and protection of the arrested person while in his custody. He shall notify the desk officer of any injury, apparent illness or other conditions which indicates that the arrested person may need special care
- D. The arresting officer is responsible for the security of the personal property in possession or under the control of the arrested person at the time of the arrest. In the case of vehicles, this responsibility transfers to the towing company when they accept custody of the vehicle

3.6.2 Assisting Criminals. Members and employees shall not communicate any information which might assist persons guilty of criminal or quasi-criminal acts to escape arrest or punishment or which may enable them to dispose of or secrete evidence of unlawful activity or money, merchandise or other property unlawfully obtained.

3.6.3 Complaints by Members for Assault Against Themselves. Members shall arrest perpetrators of assault, assault and battery and criminal offenses directed against them. The perpetrators shall be charged accordingly. Whenever it is impossible to consummate the arrest at the time of the offense, the member shall make a complete report of the incident to his shift commander with a request that he be allowed to make a complaint in the proper manner according to procedure. A warrant which may be issued as a result of filing such a complaint shall in no case be served by the aggrieved member.

3.7 DETENTION

3.7.1 Custody of Prisoners. Members charged with the custody of prisoners shall observe all laws and Department orders regarding this activity. Prisoners shall be

kept secure, treated firmly and humanely and shall not be subjected to unnecessary restraint.

3.7.2 Custody and Detention of Juveniles. The custody and detention of juveniles shall be governed by the Code of Juvenile Justice, N.J.S.A. 2A:4A-20 et. seq. (L. 1982, c. 77).

3.7.3 Custody of Juveniles.

A. Any duly appointed police officer may take a juvenile into custody pursuant to an order or warrant of any court having jurisdiction, or for delinquency, as defined in N.J.S.A. 2A:4A-23, where no process has been issued by a court. In taking a juvenile into custody, the police officer shall conform his conduct to the laws governing arrest and to the Rules of Court (Reference: N.J.S.A. 2A:4A-31(a)).

B. Where no delinquent conduct is alleged, a juvenile may be taken into short-term custody by a police officer without order of the court when:

1. The officer has reasonable grounds to believe that the health and safety of the juvenile is seriously in danger and taking into immediate custody is necessary for his protection
2. The officer has reasonable grounds to believe the juvenile has left home and care of his parents or guardian without the consent of such persons
3. An agency legally charged with the supervision of a child has notified the law enforcement agency that a child has run away from out of home placement, provided, however, that in any case where the law enforcement officer believes that the juvenile is an "abused or neglected child" as defined in section 1 of P.L. 1974, c. 119 (N.J.S.A. 9:6-8.21), the officer shall handle the case pursuant to the procedure set forth in that act

C. Any police officer taking a juvenile into custody shall immediately notify the parents or the juvenile's guardian, if any, that the juvenile has been taken into custody.

D. The taking of a juvenile into custody shall not be construed as an arrest, but shall be deemed a measure to protect the health, morals and well being of the juvenile.

Under no circumstances, shall any juvenile taken into short-term custody be held for more than six (6) hours. A juvenile taken into short-term custody shall not be retained in a detention facility or jail. The release of juveniles held in short-term custody is governed by N.J.S.A. 2A: 4A-32b et. seq.

3.7.4 Juvenile Complaints. Whenever a juvenile has been taken into custody for an offense that shall be adjudicated, the police officer taking the juvenile into

custody, or his duly-constituted superior, shall proceed to file a complaint. The complaint shall be filed with the clerk of the court and contain the information set forth in N.J.S.A. 2A:4A-30a (1) – (5).

3.7.5 Juveniles Released.

- A. Where it will not adversely affect the health, safety or welfare of a juvenile, the juvenile shall be released pending the disposition of a case, if any, to a person or agency provided for in the Code of Juvenile Justice upon assurance being received that such a person or persons accept responsibility for the juvenile and will bring him before the court as ordered.
- B. A police officer may release a juvenile charged with delinquency on his own recognizance if all of the following circumstances have been met:
 - 1. The nature of the offense charged is not such that a danger to the community would exist if the juvenile were released
 - 2. There is no parent, guardian or other appropriate adult custodian to whom the juvenile could be released and all reasonable measures have been exhausted by either police or court personnel to locate and contact any such person
 - 3. The juvenile is at least 14 years of age
 - 4. The identity and address of the juvenile are verified through a positive form of identification, and
 - 5. Reasonable certainty exists on the part of the releasing authority that upon release, the juvenile will return to school or home safely and will appear at his hearing

3.7.7 Juvenile's Place of Detention or Shelter.

- A. No juvenile shall be placed in detention or shelter care in any place other than that specified by the Department of Corrections or Department of Human Services.
- B. A juvenile being held for a charge under this act including a juvenile who has reached the age of 18 years after being charged, shall not be placed in any prison, jail or lockup nor detained in any police station, except that if no other facility is reasonably available a juvenile may be held in a police station in a place other than one designated for the detention of prisoners and apart from any adult charged with or convicted of crime for a brief period if such holding is necessary to allow release to his parent, guardian, or other suitable person or approved facility. No juvenile shall be placed in a detention facility, which has reached its maximum population capacity, as designated by the Department of Corrections.

- C. No juvenile charged with delinquency shall be transferred to an adult county jail solely by reason of having reached the age of 18.
- 3.7.8 Rights of Juveniles. All defenses available to an adult charged with a crime, offense or violation shall be available to a juvenile charged with committing an act of delinquency. All rights guaranteed to criminal defendants by the Constitution of the United States and the Constitution of this state except the right to indictment, the right to trial by jury and the right to bail shall be applicable to cases arising under this act.
- 3.7.9 Transportation of Prisoners. Members transporting prisoners shall do so in accordance with department policy.
- A. Prisoners requiring medical attention shall be delivered to the appropriate emergency hospital and the transporting officers shall be responsible for the security of prisoners until properly relieved by a guard officer unless otherwise directed by a superior officer.
- B. Prisoners are the responsibility of the arresting officer or custodial officers until secured in a cell or turned over to a detective for investigation. The arresting officer shall be responsible for the thorough searching of the prisoner and the securing of his personal property.
- C. Any prisoner transported to a hospital in a private ambulance shall be accompanied and guarded by an officer unless police exigencies dictate otherwise. In the latter case, a guard will be arranged for the prisoner as soon as possible.
- D. Whenever a female prisoner is transported, the transporting officer, prior to starting the transport, shall transmit to communications, his destination, the odometer's starting mileage and the time. The officer, upon completing the transport, shall again give the mileage reading and time. All prisoners before being transported must be thoroughly searched and properly secured.
- 3.7.10 Use of Derogatory Terms. Members or employees shall:
- A. Neither speak disparagingly of any race or minority group nor refer to them in insolent or insulting terms of speech, whether prisoners or otherwise
- B. Neither use uncomplimentary terms of speech when referring to any prisoner or other person nor willfully antagonize any person with whom the officer comes in contact
- 3.7.11 Reports and Booking. No member or employee shall knowingly falsify any official report or enter or cause to be entered any inaccurate, false or improper information on records of the Department.

- 3.7.12 **Recommending Attorney and Bail Bond Brokers Prohibited.** Members and employees shall not suggest, recommend, advise or otherwise counsel the retention of any attorney or bail bond broker to any person coming to their attention as a result of police business. Any person requesting this information shall be referred to the telephone directory.
- 3.7.13 **Acting as Bailer Prohibited.** Members and employees cannot act as bailers for any person in custody, except relatives, or in any case where any fee, gratuity or reward is solicited or accepted.
- 3.7.14 **Assisting Escape of Prisoners, Handling of and Safekeeping.** Members shall not communicate any information nor shall they aid a person to escape custody or arrest, nor shall they delay in taking action to apprehend an offender.
- 3.7.15 **Maltreatment.** No member shall willfully mistreat or harm a prisoner in custody or in the custody of the station house.
- 3.7.16 **Use of Force.** Members shall not use excessive force on any person at any time, no matter what the provocation may be. Any member guilty of the use of excessive force shall be subject to disciplinary action. FOLLOW GUIDELINES SET FORTH IN THIS MANUAL FOR THE USE OF FORCE.
- 3.7.17 **Safekeeping of Prisoners.** It is the responsibility of the arresting officer to search all prisoners. The superior officer will insure that a proper search of the person of a prisoner has been made before his placement in a lockup or before being transported to another location.
- 3.7.18 **Male and Female Prisoners.** The arresting officer shall cause all prisoners to be thoroughly searched before being lodged in a cell. The following items shall be removed from a prisoner's possession:
- A. All drugs, liquors, weapons
 - B. All property unlawfully carried or which is required as evidence
 - C. All other property which is lawfully carried but is dangerous to life or which would facilitate escape
 - D. All other property which can be used to damage or deface department property
 - E. All other property such as money and valuables, except clothing, if prisoner is intoxicated
- 3.7.19 **Strip Searches.** If, in the opinion of the officer in charge, a strip search of a prisoner is necessary, the following guidelines shall be adhered to:
- A. No strip search may be conducted upon a person who has been detained or arrested for the commission of an offense other than a crime, without a

- warrant or the consent of the person to be searched unless there is probable cause to believe a weapon, controlled dangerous substance or evidence of a crime will be found
- B. No body cavity search may be conducted upon a person who has been detained or arrested for the commission of an offense other than a crime, without a warrant or the consent of the person to be searched
 - C. For the purpose of this section, "strip search" means any search of an arrested or detained person which requires the removal or rearrangement of some or all of his clothes so as to permit a visual inspection of the genitals, buttocks, anus, female breasts or underwear covering those areas of the person. "Body cavity search" means any search of the anal or vaginal cavities
 - D. Persons of the same sex as the arrested person and at a location where the search cannot be observed by persons not physically conducting the search shall perform any strip search or body cavity search conducted pursuant to this section. The police officer or other person authorized to conduct a strip search or body cavity search shall obtain permission of the officer in charge of the station house to conduct the search and shall report the reason for the search on the record of arrest. This report shall not be deemed a public record but shall be released only to the person searched upon the written request of that person or upon court order. Where emergency conditions require immediate action to prevent bodily harm to the officer or others, the requirements of this section shall not apply. In all cases where a strip search is conducted as an exception to the requirements of this section, the officer conducting the search shall file a separate written report setting forth the emergency conditions, which required the immediate action. This written report shall be filed with and reviewed by the officer in charge who had the authority to authorize a strip search.
 - E.
 - 1. Where it is determined that a strip-search or body cavity search is necessary, it shall be performed under sanitary conditions. A licensed physician or registered professional nurse shall conduct a body cavity search, pursuant to subsection 2 of this section.
 - 2. Any person conducting a body cavity search pursuant to this section, shall, upon request, furnish to any law enforcement agency a certificate stating that the body cavity search was pursuant to the requirements of this section and performed in a medically acceptable manner. The certificate shall be signed under oath before a notary public or other person empowered to take oaths and shall be admissible in any proceeding as evidence of the statements contained therein.
 - 3. No person may claim the physician and patient privilege with respect to the conducting of a body cavity search pursuant to this section.
 - F. Failure to comply with any provisions of this section shall subject the police officer or other authorized person to administrative disciplinary action. Nothing in this section shall be construed as limiting such person's criminal liability pursuant to the laws of this state.

- G. Nothing in this section shall be construed as limiting any statutory or common law rights of any person for purposes of any civil action or injunctive relief.
- H. Nothing in this section shall prohibit a strip search or body cavity search of a person unable to post bail after a reasonable opportunity to do so, who is lodged by court order or pursuant to an arrest authorized by law in a lockup, detention facility, prison, jail or penal institution. The Administrative Office of the Courts shall promulgate a bail schedule for all offenses, other than crimes, bail may be fixed and accepted by the law enforcement officer in charge of the station house.
- I. A violation of the provisions of subsections D and E of this section shall not affect the admissibility of evidence seized pursuant to a strip search or body cavity search (Reference: N.J.S.A. 2A:161A).

- 3.7.21 Searching Female Prisoners. The search of a female prisoner by male officers is restricted to a search of the female prisoner's purse and those articles of outer clothing, which can be removed from the prisoner and searched with propriety. A female Department officer or other responsible female such as a matron, registered nurse, a female court attendant, or a county or state prison matron, shall be summoned to make a thorough search of all female prisoners with all the privacy that circumstances permit. The items to be removed from her possession shall be the same as those enumerated in 3.7.19. A strip search of a female prisoner shall be conducted in conformity with 3.7.20.
- 3.7.22 Search of Unconscious or Injured Prisoner. When an unconscious or seriously injured prisoner is removed to a hospital, a police officer shall search the prisoner, if a male, in the presence of witnesses. If the prisoner is a female, the search of the prisoner shall be left to the hospital authorities. Any property in her possession unlawfully carried or lawfully carried but dangerous to life or that may be used to facilitate escape or required as evidence shall be taken by the arresting officer and delivered to the desk officer for safekeeping. An itemized receipt shall be given to the hospital authorities of all property received by the officers.
- 3.7.23 Unconscious or Injured Prisoner. A police officer shall not transport an unconscious or seriously injured prisoner to police headquarters or other designated place for detention. An ambulance or other conveyance shall be summoned and such prisoner shall be removed to the nearest hospital for medical attention.
- 3.7.24 Assisting a Citizen in Arrest. When a citizen charges another with the commission of a crime and insists that the person charged be taken into custody and the circumstances appear to warrant an arrest, a police officer shall take the accused to police headquarters and shall require the accuser to accompany him as the complainant.

- 3.7.25 The Citizen's Arrest. Prisoners arrested by citizens shall be processed and detained in the usual manner.
- 3.7.26 Superior Officer's Responsibility. The superior officer in charge shall not permit a person arrested by a citizen to be detained until and unless he, the superior officer, has carefully considered the factors in the case and is satisfied that a crime has been committed and that the person arrested has committed it.
- 3.7.27 Citizen as Arresting Person. Citizens making arrests shall be carried on all forms as the arresting person and shall be instructed by a superior officer or police officer where he is to make a sworn complaint, and when and where to appear for the arraignment of the prisoner.
- 3.7.28 Services of Detective Division. Where citizens make arrests, the Supervising Officer shall use discretion as to whether such cases warrant the services of detectives. If so, a superior officer of the command having responsibility shall be immediately notified so that a citizen may be interviewed and an investigation conducted, if necessary.
- 3.8 BAIL
- 3.8.1 Offenses Bailable by Municipal Judge. A municipal judge may admit to bail any person charged with any offense except murder, kidnapping, manslaughter, aggravated manslaughter, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, or a person arrested in any extradition proceeding. See Court Rules 3:26-2; 7:5-1.
- 3.8.2 Denial of Bail by Municipal Judge. When a person charged with an offense shall have been committed to jail after hearing by reason of bail having been denied, only a judge of the Superior Court may thereafter admit him to bail. See Court Rules 3:26-2; 7:5-1.
- 3.8.3 Indictable Offenses Reserved to Court. Only a municipal judge, as well as other judges provided by law, shall have the power to admit to bail any person arrested and charged with an indictable offense; however, he cannot admit to bail in all cases. See section 1 and 2 above, Court Rules 7:5-3.
- 3.8.4 Absence of the Municipal Judge. In the absence of the municipal judge, a person arrested and charged with a criminal offense, which is not an indictable offense and which may be tried by the municipal judge, may be admitted to bail by the clerk of the court. Court Rule 7:5-3.
- 3.8.5 Absence of Both Judge and Clerk. In the absence of the judge and the clerk, a person arrested and charged with a criminal offense which is not an indictable offense and which may be tried by the municipal judge, may be admitted to bail by the Chief of Police, or the officer acting in that capacity, or the police officer

in responsible charge of the police building or detective division desk. Court Rule 7:5-3; N.J.S.A. 2A:8-27.

- 3.8.6 **Absence of Municipal Judge Defined.** The municipal judge shall be considered absent when his court is closed or when he has left his court for the day.
- 3.8.7 **Absence of Clerk Defined.** The clerk of the court shall be considered absent when the court is closed (Saturdays, Sundays and holidays), or has closed for the day or after 4:00 p.m. on any regular business day.
- 3.8.8 **Business Hours of the Court.** The regular business hours of the court shall be from 8:30 a.m. to 12:00 noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday.
- 3.8.9 **Police Shall Not Bail During Business Hours.** Police officers shall not admit to bail during the regular business hours of the court, unless the court is closed and bail shall not be taken, during these hours except with the consent of the court (Municipal Judge).
- 3.8.10 **Arresting Officer Shall Not Bail.** The arresting officer shall not fix bail, nor shall he take bail.
- 3.8.11 **Accepting Bail in Indictable Offenses.** After the municipal judge has set bail for a person who has been arrested and charged with an indictable offense, which is bailable, authority is granted to the Chief of Police or officer acting in the capacity; or to the police officer in responsible charge of headquarters to accept bail in the amount set by the municipal judge. Court Rule 7:5-3.
- 3.8.12 **Procedure for Acceptance of Bail.** When bail is taken, the officer accepting the bail shall:
- A. Make proper entry in the bail bond book at the police station and complete the bail bond receipt
 - B. List the necessary information on bail bond, endorse the recognizance in duplicate) and forward to the Clark Municipal Court Clerk
- 3.8.13 **The Payment of Bail.** Only cash bail shall be accepted by a police officer who is authorized to admit to and accept bail (with the following exceptions: bail bond and a check from a reputable citizen).
- 3.8.14 **Release on Own Recognizance.** When directed by any municipal judge, no cash need be required and the person arrested may be released on his own recognizance, Court Rule 3:26(a). Police officers shall assist the municipal judge, if he should inquire, by advising him of the defendant's background, residence, family status and employment, if it is known or can easily be learned.

- 3.8.15 Amount of Bail for Traffic Offenses. Police officers admitting to bail persons arrested and charged with non-indictable traffic and motor vehicle violations shall accept bail in amounts equal to the maximum fine charged upon convictions for the specific violation plus costs, or as specified by the bail schedule issued and approved by the municipal court.
- 3.8.16 Amount of Bail for Other Non-Indictable Offenses. The police officer admitting to bail persons arrested and charged with other non-indictable offenses shall accept bail in conformance with applicable departmental orders, unless otherwise ordered by the court. In unusual circumstances, the police officer may assist the municipal judge in arriving at a proper bail and shall consider the amount that will insure their presence in court when requested, having regard for their background, residence, employment and family status.
- 3.8.17 Under Influence of Narcotics or Intoxicants. Police officers shall not admit to bail persons who are apparently under the influence of narcotics or intoxicants unless they can be released to the care of a responsible person.
- 3.8.18 Police Shall Not Bail on Warrants That Issue Out of Superior Courts. When arrests are made on warrants on a complaint that originated in the Superior Courts, a Superior Court Judge must set bail.
- 3.8.19 Juveniles Shall Not Be Bailed. Police Offices shall not admit to bail any juvenile offender who may be taken into custody. They shall follow court Rule 5:21-1 et. seq. See Sections 3.7.2 to .8, supra.
- 3.8.20 Bail Forwarded to Court. The Supervisor accepting bails shall forward the bail receipt book, containing the cash, bond, check, etc., to the Clark Municipal Court Administrator. All bails accepted shall be deposited in the secured bail box at the Police Desk.
- 3.8.21 The Court Administrator Shall Sign Receipt Book. The member detailed to transport the bail receipt book to court shall have the bail book signed by the court administrator as acknowledgement of the receipt of bail funds.
- 3.8.22 Bail Book Returned to the Police Desk. The receipted bail book shall be returned to the Police Desk at headquarters.

3.9 FIREARMS

Departmental regulations concerning the care and use of firearms are designed to protect the lives of police officers and the lives and property of the public.

- 3.9.1 Handling Firearms. Police officers shall exercise caution and the utmost care in handling firearms on and off duty.

- 3.9.2 **Official Police Firearms.** The official police firearm shall be the firearm issued to each police officer by the department. Carrying personal firearms on duty or during emergencies is prohibited, unless otherwise dictated by the Chief of Police.
- 3.9.3 **Off-Duty Firearm.** The Chief may authorize a police officer to carry an off-duty weapon other than the official police firearm, providing that the police officer follows the steps prescribed below:
- A. He submits a written report through channels requesting permission to carry an off-duty weapon.
 - B. He submits the off-duty weapon to the officer in charge of firearms training for inspection to determine whether it meets the same standards set for safety and serviceability that apply to the official police firearms.
 - C. He carries the authorized off-duty weapon only after he has secured the approval of the Chief of Police and only during the time approval remains in effect.
 - D. When requested, the off-duty weapon will be submitted for test fire and inspection upon the member's appearance for scheduled in-service training.
 - E. The officer observes and is bound by any part of or any section of these rules and regulations which pertain to the official police firearm, and he understands that these same rules and regulations also apply to his use of any off-duty weapon which may be authorized by the Chief of Police.
- 3.9.4 **Carrying Firearm Generally.** Police officers may carry their official police firearms or authorized off-duty weapons fully loaded and in a serviceable, operating condition so that they may be prepared when called upon to carry out a police duty, service function, or responsibility. When on duty, they shall carry **their official police firearm** and sufficient extra ammunition to fully reload their official department issued firearm. Police officers who may be sick, injured or on vacation leave may, but are not required to, carry a firearm.. Police officers who are suspended or whose weapons have been officially taken from them for other reasons shall not carry a firearm under any circumstances.
- 3.9.5 **In-Service and Off-Duty Holsters.** The official police firearm or authorized off-duty firearm shall be carried in holsters that conform to acceptable specifications.
- 3.9.6 **Non-Regulation Firearm Prohibited.** Police officers who carry and employ firearms other than those that have been inspected and approved by the Police Department shall be subject to disciplinary action.
- 3.9.7 **Tampering With Police Firearm.** The officer in charge of firearms training shall make all repairs and adjustments to the official police firearm. Police officers shall not make any change in the trigger pull mechanism or effect any other unauthorized alteration or addition. Special grips may be used in special cases,

but only after the police officer first has obtained the approval of the officer in charge of the firearms section.

- 3.9.8 Care of Firearms Off Duty, Outside Home. A police officer when off duty and outside his home, may keep his department issued service firearm or authorized off duty weapon holstered on his person readily available for emergency use unless he is sick, injured or on vacation leave. To avoid an accidental discharge, a police officer shall not carry his firearm in his waistband or in any of his pockets. **THE DEPARTMENT MUST APPROVE ALL HOLSTERS.**
- 3.9.9 Care of Firearms Off Duty, At Home. A police officer shall keep his firearm in a secure place readily available in case of emergency.
- 3.9.10 Removing Firearm From His Person. When removing a firearm from his person, a police officer shall keep the firearm holstered and jointly remove both the firearm and holster from his person. A police officer shall not remove the firearm from its holster except when he intends to clean or fire it. However, when circumstances require, a police officer may unload his firearm before storing it in a secure place, providing he observes all the safe practices prescribed and taught by authorized department firearms instructors for the safe unloading of the weapon.
- 3.9.11 Loss of Firearm. Loss of the official police firearm through carelessness or neglect shall be deemed a serious violation of Department regulations. **LOSS OF A FIREARM, HOWEVER TEMPORARY, MUST BE REPORTED TO THE DEPARTMENT IMMEDIATELY.**
- 3.9.12 Ammunition Issue. The initial issue and the replacement of ammunition for department firearms shall be made by the department without expense to the police officer. The Department shall replace rounds of ammunition that have become unserviceable and rounds that have been expended in the line of police duty. Only Department issued ammunition shall be used.
- 3.9.13 Discharge of a Firearm: Report. It shall be the policy of the Police Department that any member of the force who discharges any firearm or service weapon shall, by the quickest means of communication available, notify the Duty Supervisor and promptly submit a written report to his Commanding Officer
- A. Whether in performance of duty or accidentally
 - B. Whether on or off duty, as well as during an authorized absence from duty

This reporting requirement shall not apply to firearms routinely discharged during the course of training.

- A. Required Reports:
 - 1. Officer involved to execute an incident report

2. Responding supervisor's investigation
 3. Commanding officer's investigation, conclusions and recommendations
- B. Report Includes:
1. Time
 2. Day
 3. Date
 4. Location
 5. What occurred (incident leading up to the discharge of firearm)
 6. Reason for discharge – giving all pertinent information
 7. If in performance of duty – justification for the discharge
 8. If in another jurisdiction, name of police agency in that jurisdiction.
- C. Responding Supervisor's Investigation
1. Submits report to commanding officer as soon as possible.
 2. Report includes:
 - a. Officer(s) involved
 - b. Tour of Duty
 - c. Time of occurrence
 - d. Assignment
 - e. Day
 - f. Date
 - g. Chronological sequence of events up to the shooting
 - h. Names and addresses of subjects and/or witnesses with a brief summary of their statements
 - i. Results of examination of service firearm:
 - (1) Number of live rounds still contained
 - (2) Number of expended shells
 - (3) Number of shots fired related to firing point
 - (4) Serial number and maker of service firearm model
 - (5) Name of officer to whom issued if different from officer firing it
 - j. Results of check of surrounding area for expended rounds, giving location where found – if applicable (injury or damage)
 - k. State if officer involved was familiar with Section 3.9.15 on the "Use of Deadly Force"
 - l. Conclusions: Use of service firearm was justifiable or unjustifiable, with investigation officer's observations and conclusions.
- D. Reports of Witnesses
1. Names of all persons having firsthand knowledge should be gathered immediately
 2. Statements of disinterested witnesses are vital
 3. Should be in writing
 4. Should be in narrative form, but augmented by series of questions and answers to insure fullest possible disclosure

- E. **Commanding Officer's Investigation**
 - 1. Complete report to Chief of Police within 24 hours of incident unless specific approval from Chief of Police for extension of time
 - 2. Preliminary report within 24 hours
- F. **Notifications**
 - 1. Communications will notify the Chief of Police or senior officer in charge of force in case of injury or death
 - 2. Communications will notify the commanding officer or officer in charge at time in which incident occurred and, if appropriate, unit to which officer is attached
 - 3. If injury or death by any firearm:
 - a. Detective Bureau is to be notified
 - b. Officer placed on administrative leave and an entry made in police log
 - 4. Union County Prosecutor's Office
- G. **Use of Weapon Other Than Firearm**
 - 1. The member who uses the weapon shall report the incident to his commanding officer no later than the conclusion of the tour of duty in which the incident occurs.
 - 2. "Incident Report" (use of blackjack, baton, mace)
 - 3. The commanding officer shall make a thorough investigation and forward a report to the Chief of Police at his discretion.

3.9.15 Use of Force, Including Deadly Force, By Law Enforcement Officers

- A. The primary objective of this section is to express this department's policy as a guide concerning the use of force in law enforcement. In furtherance of this objective, this section incorporates the essence of laws and basic training courses concerning the use of force by officers in the performance of their duties.
- B. As defined in N.J.S.A. 2C:3-11, "deadly force" means force which the officer uses with the purpose of causing or which the officer knows to create a substantial risk of causing death or serious bodily harm. Purposely firing a firearm in the direction of another person or at the vehicle, building or structure in which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily harm by the production of a weapon or otherwise, so long as the purpose is limited to creating an apprehension that the officer will use deadly force if necessary, does not constitute deadly force.
- C. Non-deadly force means physical force other than deadly force.
- D. As defined in N.J.S.A. SC:3-11, "serious bodily harm" means bodily harm which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily

member or organ or which results from aggravated sexual assault or sexual assault.

- E. As defined in N.J.S.A. SC: 3-11, "dwelling" means and building or structure though moveable or temporary, or portion thereof, which is for the time being an individual's home or place of lodging.

3.9.15.1 It is the policy of this department that its officers employ force in the performance of their duties only to the degree and in the manner provided by law and consistent with the provisions of the New Jersey Code of Criminal Justice.

A. Warning shots by officers performing their duties are not authorized by this department.

B. Comment. Officers have special legal authority to use force and deadly force in certain situations subject to limitations. Notwithstanding this authorization, they are under a duty to employ extraordinary care in the handling of firearms and other deadly weapons. It is essential that each officer exercise sound judgement and reasonably under all circumstances where any force is applied. Given the existence of the requisite conditions, an officer should resort to deadly force only when immediately necessary and only after less drastic alternatives have been exhausted or are believed to be ineffective in light of the prevailing circumstances.

3.9.15.2 Mechanics. The specific rules and limitations that follow govern the circumstances in which a police officer is justified in using force (deadly or non-deadly). The unifying principles that bind all of these rules and limitations are necessity and proportionality: a police officer shall use force only when and to the extent necessary and he shall use only that force which is reasonable in relation to the harm he seeks to prevent.

A. Use of Non-Deadly Force

1. Officers are justified in using non-deadly force in the performance of their duties when they reasonably believe it is immediately necessary to:
 - a. Protect themselves or others against the use of unlawful force by another person or
 - b. Prevent another from committing suicide or inflicting serious bodily harm upon oneself or
 - c. Thwart the commission of a crime involving or threatening bodily harm, damage to or loss of property or a breach of the peace or
 - d. Prevent escape or
 - e. Effect an arrest for any offense or crime under the laws of the State of New Jersey.
2. The use of force (deadly or non-deadly) to effect an arrest, however, is not justifiable unless:

- a. Officers make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known or cannot reasonably be made known to the person to be arrested;
 - b. When the arrest is made under a warrant, the warrant is valid or reasonably believed by the officer to be valid;
 - c. When the arrest is without a warrant, the arrest is lawful.
- B. Use of Deadly Force. Officers are justified in using deadly force in the performance of their duties only in the following situations and subject to the following limitations consistent with the provisions of the New Jersey Code of Criminal Justice:
 1. Self-defense. When officers reasonably believe that deadly force is necessary to protect themselves against death or serious bodily harm
 2. Comment. Officers, when justified in using force, are not obligated to desist because resistance is encountered or threatened. They may not only stand their ground, but may press forward to achieve a lawful objective, overcoming force with force.
 3. Defense of a Third Person. When officers reasonably believe that their intervention is necessary to protect another against death or serious bodily harm, except that deadly force not justifiable:
 - a. If the officer can otherwise secure the complete safety of the protected person (unless the person whom he is defending is in his home and the attacker is not a resident)
 - b. Where it reasonably appears to officers that the person they seek to protect has unlawfully with the purpose of causing death or serious bodily harm, provoked the use of deadly force against himself in the same encounter.
 4. Prevention of Crime. When the officer reasonably believes that:
 - a. Deadly force is necessary to prevent the following crimes:
 - (1) Murder, aggravated manslaughter and manslaughter (2C:11-3 or 2C:11-4)
 - (2) Kidnapping (2C:13-1)
 - (3) Arson (2C:17-1)
 - (4) Robbery (2C:19-1)
 - (5) Burglary of a dwelling (2C:18-2)
 - (6) Sexual assault and aggravated sexual assault (2C:14-2)
 - (7) Aggravated criminal sexual contact (2C:14-3a)
 - b. The person whom they seek to prevent from committing a crime will endanger human life or inflict serious physical injury upon another unless the commission or the consummation of the crime is prevented.
 - c. The use of deadly force presents no substantial risk of injury to innocent persons.

Notwithstanding, the provisions of N.J.S.A. 2C:3-7.b(2)(c) and N.J.S.A.2C:3-7.E, **IT IS THE POLICY OF THIS DEPARTMENT THAT THE USE OF DEADLY FORCE BY OFFICERS TO PREVENT DEATH BY AUTO (2C:11-5) OR CRIMINAL SEXUAL CONTACT (2C:14-3.b) IS NOT AUTHORIZED.**

5. Arrest – Escape From Custody. When, subject to subsections 3:9.15.1 and 3.9.15.2 paragraph A2 of this section, the officer reasonably believes that:

a. Deadly force is necessary to effect an arrest of, or prevent the escape of a person who has committed or has attempted to commit the following crimes:

- (1) murder, aggravated manslaughter or manslaughter (2C:11-3 and 2C:11-4)
- (2) kidnapping (2C:13-1)
- (3) arson (2C:17-1)
- (4) robbery (2C:19-1)
- (5) burglary of a dwelling (2C:18-2)
- (6) sexual assault and aggravated sexual assault (2C:14-2)
- (7) aggravated criminal sexual contact (2C:14-2.a)

And

b. The force involved creates no substantial risk of injury to innocent persons

And

c. There is an imminent threat of deadly force to the officer or to a third party; or the use of deadly force is necessary to thwart the commission of a crime as set forth in this section or the use of deadly force is necessary to prevent an escape or flight from arrest for a crime as set forth in this section and bodily injury to officers or a third person or the person has committed a crime involving infliction or threatened infliction of serious bodily injury.

NOTWITHSTANDING THE PROVISIONS OF N.J.S.A. 2C:3-7.b(2)(c) AND THE FOREGOING, IT IS THE POLICY OF THIS DEPARTMENT THAT THE USE OF DEADLY FORCE BY OFFICERS TO EFFECT AN ARREST OR TO PREVENT AN ESCAPE FROM CUSTODY FOR THE CRIMES OR ATTEMPTS TO COMMIT CRIMES OF DEATH BY AUTO (2C:11-5) OR CRIMINAL SEXUAL CONTACT (2C:14-3.b) IS NOT AUTHORIZED

6. Escape From Officer's Detention. When a person charged with or convicted of an offense attempts to escape after arrest but prior to commitment detention, only if officers would be justified in using deadly force to effect the arrest.
7. Escape from Commitment. When the officer reasonably believes that deadly force is necessary to prevent the escape of a person committed

to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense, provided that the officer believes that the force employed creates no substantial risk of injury to innocent persons.

- C. **Overlapping Justifications.** Justifications for the use of any force in specific situations (e.g., self-defense, defense of others, effecting an arrest, etc.) are not mutually exclusive. There will be situations where the justifications overlap. The fact that the use of deadly force may not be warranted under a particular justification (disorderly persons offender, etc.) does not mean that an officer who is lawfully effecting the arrest of a disorderly persons offender cannot use deadly force in self-defense. Similarly, an officer may be warranted in acting under more than one justification, provided that the requirements of both justifications are met. Thus an officer effecting an arrest for kidnapping may be justified in using deadly force either to effect the arrest, or in self-defense, or both.

- 3.9.16 **Firearm Requalification.** A police officer must be legally skilled in the use and maintenance of the firearm he carries for the protection of the community and himself. To ensure that all officers are well trained and proficient in the use and maintenance of firearms, it is the policy of this department that each officer satisfy the county firearms requalification process as dictated by the policies of the Union County Prosecutor's Office and/or the Attorney General of the State of New Jersey.

An officer must successfully requalify with both his in-service and off-duty weapon and the records of scores of all members of this department shall be systematically maintained. Those officers who do not successfully requalify shall not be permitted to carry a firearm.

3.10 PUBLIC ACTIVITIES

- 3.10.1 **Conduct Toward The Public.** Members and employees shall be courteous and orderly in their dealings with the public. They shall perform their duties quietly, avoiding harsh, violent, profane or insolent language and shall always remain calm regardless of provocation. Upon request, they are required to supply their names and badge numbers in a courteous manner. They shall attend to the request from the public quickly and accurately, avoiding unnecessary referral to other parts of the Department.
- 3.10.2 **Impartial Attitude.** All members, even though charged with vigorous and unrelenting enforcement of the law, must remain completely impartial toward all persons coming to the attention of the department. Violations of the law are against the state and not against individual officers. All citizens are guaranteed equal protection under the law. Exhibiting partiality for or against a person because of race, creed or influence is conduct unbecoming an officer. Similarly,

unwarranted interference in the private business of others when not in the interest of justice is conduct unbecoming an officer.

- 3.10.3 **Disparaging Nationality, Race or Creed.** Courtesy and civility toward the public is required of all members of the department. Members shall not use words that humiliate, disparage, demean, degrade, ridicule or insult a person because of his race, creed, color, national origin or ancestry.
- 3.10.4 **Public Statements.** Members of the department shall not make public statements concerning the work, plans, events, policies or affairs of the department, or **any statements**, which may impair or disrupt the operation of the department or which are obscene, unlawful, or defamatory. **Public statements, public information and news releases shall be released by the Chief of Police or his designees.**
- 3.10.5 **Subversive Organizations.** No member or employee shall knowingly become connected with any subversive organization, except when necessary in the performance of duty and then only under the direction of the Chief of Police.
- 3.10.6 **Affiliation With Certain Organizations Prohibited.** Police officers shall not join any organizations nor affiliate themselves with any organizations whose constitutions embrace provisions, which might in any way exact prior consideration and prevent the proper and efficient functioning of the department. This prohibition does not apply "to the active military or naval service of the United States or of this state, in time of war or an emergency, or for or during any training, or pursuant to or in connection with the operation of any system of selective service." (Source: N.J.S.A. 38:23-4)
- 3.10.7 **Affiliation With Radical Groups.** No police officer or civilian employee, except in the discharge of police duties, shall knowingly associate with or have any dealings with any person or organization which advocates or which is instrumental in fostering hatred, prejudice or oppression against any racial or religious group or political entity.
- 3.10.8 **Trade Unions – Organizations Affiliated With Trade Unions.** No member of this police department shall affiliate himself with any labor union or organization whose policy may be to cause a violation of any state statute or town ordinance which would cause a deterioration of police service.
- 3.10.9 **Commercial Testimonials.** Members and employees shall not permit their names or photographs to be used to endorse any product or service which is in any way connected with law enforcement without the permission of the Chief of Police. They shall not, without the permission of the Chief, allow their names or photographs to be used in any commercial testimonial which alludes to their positions or employment with the Department.

- 3.10.10 Public Appearance Request. All requests for public speeches, demonstrations and the like, concerning police matters, will be routed to the Chief for approval and processing. Members and employees directly approached for this purpose shall suggest that the party submit his request to the Chief of Police or his designee.

3.11 POLITICAL ACTIVITIES

- 3.11.1 Partisan Political Activities Prohibited. Police officers shall not actively engage in partisan political campaigns and activities while on duty or in the performance thereof.

- 3.11.2 Bi-Partisan Political Activities: Limitation. Police officers may engage in bi-partisan political activities except when such activities will impair or harm the operation or discipline of the department.

- 3.11.3 Election To Public Office. Police officers may run for public office but may not campaign nor engage in any activity connected with candidacy for such office, during any tour of police duty.

- 3.11.4 Soliciting Prohibited. Members of the Department shall not solicit contributions for political purposes, nor shall they interfere with or use the influence of their office for political reasons.

3.12 JUDICIAL AND INVESTIGATIVE ACTIONS: APPEARANCE AND TESTIFYING.

- 3.12.1 Court Appearance. Attendance at a court or quasi-judicial hearing as required by subpoena is an official duty assignment. Permission to omit this duty must be obtained from the prosecuting attorney handling the case or other competent court officials. When appearing in court, either the official uniform or a business suit or sport jacket and pants, with shirt and tie shall be worn. Members shall present a neat and clean appearance, avoiding any mannerism which might imply disrespect to the court.

- 3.12.2 Testifying for the Defendant. Any member or employee subpoenaed to testify for the defense in any hearing or trial shall notify the court liaison officer upon receipt of the subpoena. The court liaison officer shall notify the municipal attorney.

- 3.12.3 Duty of Member or Employee to Appear and Testify. It shall be the duty of every member or employee to appear and testify upon matters directly related to the conduct of his office, position or employment before any court, grand jury or the State Commission of Investigation. Any member or employee failing or refusing to testify shall be subject to removal from his office, position or employment.

- 3.12.4 Department of Investigations – Testifying. Members or employees are required to answer questions or render material and relevant statements in a departmental investigation when such questions and statements are directly related to job responsibilities.
- 3.12.5 Truthfulness. Members and employees are required to be truthful at all times whether under oath or not.
- 3.12.6 Civil Action, Court Appearances – Subpoenas. A member or employee shall not volunteer to testify in civil actions and shall not testify unless legally subpoenaed. Members and employees will accept all subpoenas legally served. If the subpoena arises out of department employment or if the member or employee is informed that he is a party to a civil action arising out of department employment, he shall immediately notify his commanding officer and the municipal attorney of the service or notification and of the testimony he is prepared to give.
- 3.12.7 Civil Depositions and Affidavits. Members and employees shall confer with their commanders before giving a deposition or affidavit on a civil case. If a commander determines that the case is of importance to the town, he shall inform the Chief of Police before the deposition or affidavit is given.
- 3.12.8 Civil Cases. Members shall not serve civil process or assist in civil cases unless the specific consent of the Chief of Police is obtained. They shall avoid entering into civil duties but shall prevent or abate a breach of the peace or crime in such cases.

CHAPTER IV

PERSONNEL REGULATIONS

4.1 PERSONNEL REGULATIONS

4.1.1 General Qualifications of Police Officers. Except as otherwise provided by law, no person shall be appointed as a member of the police department and force unless he:

- A. is a citizen of the United States and a resident of New Jersey
- B. is sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System of New Jersey as to his eligibility for membership in the retirement system
- C. is able to read, write and speak the English language well and intelligently
- D. is of good moral character and has not been convicted of any criminal offense involving moral turpitude.

4.2 OATH OF OFFICE

All new police officers and civilian employees, before their assignment to duty and prior to their promotion to higher ranks, shall be required to take an oath of office as follows:

"I, (name of police officer or employee), do solemnly swear or affirm that I will support the Constitution of the State of New Jersey and of the United States, and that I will faithfully, impartially and justly discharge the duties of (state rank or position) of the Clark Police Department according to the best of my ability."

4.3 PROBATIONARY PERIOD

Appointment of a police officer to the Police Department is for a probationary period of one year after he has completed training. Continuation in the service is dependent upon the conduct of the appointee and his fitness to perform his duties. At the termination of the probationary period, if the conduct or capacity of the probationer has not been satisfactory, he shall be notified in writing that he will not receive absolute appointment, and his services shall be terminated by the Chief of Police without a trial. The probation period shall be one year commencing at the completion of the academy training period. Reference: N.J.S.A. 11:12-1 AND 11:22-6.

4.4 DRIVER'S LICENSE

Members and employees operating department motor vehicles shall possess a valid New Jersey license. Whenever a driver's license is revoked, suspended or lost, he shall immediately notify his commanding officer, giving full particulars.

4.5 SURRENDER OF DEPARTMENT PROPERTY

4.5.1 Upon Separation From the Department. Members and employees are required to surrender all Department property in their possession, except ID card and off-duty badge upon pre-retirement period and the ID and badge upon final separation from the service. For failure to return a non-expendable item, the person concerned will be required to reimburse the Department for the fair market value of the article.

4.5.2 Under Suspension. Any member under suspension shall immediately surrender his badge, firearm, I.D. card and all other Department or municipal property to the commanding officer of the Administration Bureau pending disposition of the case.

4.6 COMPENSATION FOR DAMAGES OFF DUTY

Members and employees who have sustained injury while off duty and who received salary from the town while injured shall notify the Chief of Police in writing of any intent to seek, sue, solicit or accept compensation as damages for such injury. It shall include the facts of the claim and the name of the respondent.

4.7 DUTY HOURS, DAYS OFF, VACATION

4.7.1 Hours of Duty

- A. Members of the department shall have regular hours assigned to them for active duty, and when not so employed, they shall be considered off duty. They shall, however, be subject to duty as needed
- B. The fact that they technically may be off duty, shall not be held as relieving members from the responsibility of taking proper police action on any matter coming to their attention at any time

4.7.2 Days Off. Members and employees are entitled to days off which are to be taken according to a schedule arranged by the Chief of Police.

4.7.3 Suspension of Vacation, Day Off, or Leave of Absence. Any vacation, day off, or leave of absence may be suspended when a sudden and serious emergency arises and when, in the judgement of the Chief of Police or his designee, such action should be taken.

4.7.4 Absence From Duty For Five Days Continuously. Except as otherwise provided by law, any permanent member or officer of this Police Department and force

who shall be absent from duty without just cause or leave of absence for a continuous period of five days shall cease to be a member of this police department and force (references: N.J.S.A. 40A:14-122 and N.J.A.C. 4:1-16.14).

- 4.7.5 Selection of Vacation. Annual vacation periods shall be selected according to seniority within the guidelines established in the PBA contract. In the ranks above police officer, when the accrued seniority in rank is equal, the determining factor shall be the member's respective position on the State of New Jersey Department of Personnel eligibility list, which determined the order of his appointment to that grade.
- 4.7.6 Vacation Scheduling. Vacation schedules shall be arranged by commanding officers and coordinated with the administration office. The Chief of Police or his designee shall determine the number of members who may be granted vacation at a given vacation period.
- 4.7.7 Vacation Address. A report of a vacation address is not required from a member or employee whose vacation has been approved.
- 4.7.8 Split Vacation. Split vacation periods may be granted to any member or employee of the department providing permission has been obtained from the Chief of Police or his designee; however, once vacation periods have been assigned, they shall be completed without interruption unless it becomes necessary by reason of emergency, to suspend them.
- 4.7.9 Exchange of Days Off. When mutually agreeable, any two members may exchange days off but may do so only with the approval of their commanding officers.
- 4.8 SICK AND INJURY LEAVE
 - 4.8.1 Reporting Sick or Injured. Members and employees unable to report for duty because of sickness or injury shall make an immediate report to the desk officer in person or by telephone the reason for his absence no less than two hours prior to his scheduled tour of duty. If unable to report, a relative or other responsible person shall notify the desk officer of all pertinent facts either in person or by telephone. Upon becoming available for active duty, the member shall notify the desk officer no later than two hours prior to his scheduled tour of duty.
 - 4.8.2 Address of Confinement. Members and employees, when sick or injured, shall be responsible for notifying the desk officer as to their place of confinement or of any subsequent change in their place of confinement.
 - 4.8.3 Sick of Injured on Duty. Members taken sick or injured on duty shall report the fact to their command and shall remain on duty until relieved, unless excused by a

superior officer. The only exception to this rule would be where the sickness or injury is disabling to the point of preventing compliance.

4.8.4 Unauthorized Absence. Members or employees who absent themselves in an improper manner shall be subject to disciplinary action. Unauthorized absence occurs when members or employees:

- A. Feign illness or injury
- B. Deceive the town physician in any way as to their true condition
- C. Are injured or become sick as a result of improper conduct or of intemperate, immoral or vicious habits or injury
- D. Violate any provisions concerning reporting of sickness or injury
- E. Are not at home or at their place of confinement when visited by a superior officer.

4.8.5 Convalescent Time. Any police officer on sick or injured leave will be confined to his home unless specifically excused by the town physician or if the town physician is not available, by the ranking superior officer at the time the request is made. If any police officer is on sick or injured leave for an extended period of time, the Chief may provide for alternate duty under the provisions of General Order 91-01.

4.8.6 Answering Machines. The use of answering machines to screen phone messages while on sick leave is prohibited. While on sick leave, at the place of confinement, police officers must be available to personally receive messages from the Department.

4.8.7 Members or employees reporting off duty sick may be directed to the department physician for an evaluation of the condition reported. This examination shall be done at the expense of the Department and may be requested by any command officer.

4.9 LEAVE OF ABSENCE FOR DEATH IN FAMILY

Members and employees will be allowed the time off in case of death in family. The specific number of days allowed and the definitions of "family" shall be governed by the applicable PBA contract in force at the time. In the case of civilian employees, by the applicable union contract covering such employee(s).

4.10 MILITARY LEAVE OF ABSENCE

4.10.1 Members and employees who is a member of the organized reserve of the Army of the United States, United States Marine Corps Reserve, United States Air Force Reserve, United States Naval Reserve or other affiliated organization shall be entitled to leave of absence from duty without loss of pay or time on all days during which he shall be engaged in field training. Such leave of absence shall be

in addition to the regular vacation allowed such member or employee. (Source: N.J.S.A. 38:23-1)

- 4.10.2 Enlistment or Re-Enlistment in National or State Military Organization. Members and employees of the department shall not enlist, re-enlist or accept a commission in any federal or state military organization without having made prior notification to the Chief of Police.
- 4.10.3 Extended Leave (Surrender of Department Property). Before reporting for extended military service, police officers of the department shall surrender all department property held by them to their commanding officer.
- 4.10.4 Field Training Leave. Members or employees going on military leave for field training must notify their commanding officer at least 30 days before the date that their training period is scheduled to begin. They must also submit copies of their official military orders at least five days prior to the date they are to report for duty.
- 4.10.5 Draft Board Determination. When a member or employee has been classified 1-A by Selective Service or ordered to report for examination, he shall immediately notify his commanding officer.
- 4.11 STATE OR COUNTY LEAVE
- 4.11.1 Leave of Absence: State or County Agency. Leave of absence without pay may be granted by the authority in charge to a member or employee of a municipal police department or force in order that his services may be made available to the state or county or to a state or county department or agency. A request for a leave of absence shall be made in writing by the member or employee and the state or county or the state or county department or agency desiring his service. But no such leave of absence shall be used to displace an incumbent. (Source: N.J.S.A.40a:14-136) This statute authorizes the Director of Police to grant or refuse to grant a leave of absence to a police officer in order that the police officer render his services to another city department or city agency.
- 4.11.2 Limitation on Period of Absence: Extension. Any such leave of absence shall not be for more than one year, but may be extended, in the same manner as originally granted, but in the aggregate, shall not exceed five years. (Source: N.J.S.A. 40A:14-136)
- 4.11.3 Retention of Pension and Retirement Benefits. Neither membership in the municipal police department or force nor pension or retirement rights shall be affected by such leaves of absence, but pension contributions shall be payable notwithstanding such leaves of absence. (Source: N.J.S.A. 40A:14-136)

4.11.4 Rights on Resumption of Office, Position or Employment. Upon the expiration of any such leave of absence, the member or employee shall return to his original duties and resume his office, position or employment with the Department or force and be entitled to all salary adjustments, increments, seniority and pension rights as if no leave had been granted. (Source: N.J.S.A. 40A:14-136)

4.12 DEATH AND INJURY NOTIFICATIONS
--ALSO REFER TO POLICY 88-11--

4.12.1 Death of Serious Injury. When a member is killed or seriously injured on or off duty, his immediate supervisor will, as soon as possible, verbally notify the Chief of Police. The immediate submitting of a report of the facts will follow this. Information shall include the date, location cause, and extent of injuries and property damage. Serious injury in this instance means an injury which could result in death or disability.

4.12.2 Death of Member or Employee. Any member or employee receiving notice of the death of any member or employee during regular business hours shall notify the Chief of Police and commanding officer of the deceased. At other times, the desk officer shall be notified and he shall relay such information to the aforementioned personnel.

4.12.3 Non-Serious Injury. In cases where the injuries are other than of a serious nature, a written report will be submitted prior to reporting off duty unless authorized by the supervising officer to defer same to a later date. The report shall include all information required above. These reports are in addition to those accident and sick reports otherwise required.

4.12.4 Notification of Family. The family of a member or employee killed or seriously injured on duty shall be personally notified by the highest-ranking member available.

4.13 RESIGNATION

4.13.1 Resignation To Be In Writing. All resignations of members or employees must be in writing and bear the signature of the person resigning. Members or employees shall provide the Chief of Police no less than two weeks written notice. A member or employee who resigns without giving the required notice shall be held as having resigned not in good standing.

CHAPTER V
CHAIN OF COMMAND

5.1 CHAIN OF COMMAND

- 5.1.1 Rank Established. Rank in the Police Department as established by municipal ordinances shall descend in the following order:
- A. Chief of Police
 - B. Deputy Chief of Police, IF APPLICABLE
 - C. Captain
 - D. Lieutenant
 - E. Sergeant
 - F. Police Officer
- 5.1.2 Command By Rank. Command shall be exercised by the virtue of rank, and in such cases of equal rank, by length of service in such rank; where equal, the officer's respective position on the eligibility list which determined the order of his appointment to that grade.
- 5.1.3 Temporary Absence of Commanding Officer. During the temporary absence of a commanding officer, when competent authority makes no other provision, the command automatically devolves upon the subordinate present who is next in rank.
- 5.1.4 Temporary Assignment. Members of the Department who may be placed temporarily in the position of a member of higher rank by proper authority, shall exercise the authority and perform the duties of such higher position, and shall be held responsible in like manner as if regularly appointed to such higher office. They shall not alter or countermand any order issued by the member whose place they temporarily occupy, except when expediency demands.
- 5.1.5 Ranking Officer to Assume Command. Upon all occasions when a body of members of the Department is assembled, the ranking officer present shall take command and will be held responsible for the official action and conduct of those present. He shall be familiar with all that concerns his command and he shall exact from his subordinates efficient performance of duty.
- 5.1.6 Senior Officer. When two or more police officers are sent on any special duty and no ranking officer accompanies them, the police officer senior in point of service will have command.

5.2 COMMANDING OFFICERS: AUTHORITY AND RESPONSIBILITIES

Subject to direction from higher authority, a commanding officer has direct control over all members and employees within his command. In addition to the general and individual responsibilities of all members and employees and commanding officers, a commanding officer is responsible for the following:

- A. Supervision. The direction and control of personnel under his command to assure the proper performance of duties and adherence to established rules, regulations, policies and procedures. Providing for continuation of supervision in his absence
- B. Loyalty and Esprit de Corps. The development and maintenance of esprit de corps and loyalty to the Department
- C. Discipline and Morale. The maintenance of discipline and morale within the command and the investigation of personnel complaints not assigned elsewhere
- D. Interdepartmental Action. Maintain a harmonious relationship with other elements of the Department, allied agencies and the public
- E. Organization and Assignment. Proper organization and assignment of duties within his unit to assure proper performance of departmental functions and those of his unit
- F. Reports and Records. Preparation of required correspondence and reports and maintenance of records relating to the activities of his command. Assurance that information is communicated up and down the chain of command as required
- G. Maintenance. Assurance that quarters, equipment, supplies and material assigned to his command are correctly used and maintained

5.2.1 WATCH COMMANDER: Authority and Responsibilities.

The Watch Commander, during his tour of duty, exercises the same authority and has the same responsibility as his commanding officer, subject to higher authority. In the absence of the Watch Commander, the senior available member of the shift is in charge unless otherwise provided. In addition to the general and individual responsibilities of all members and employees, the Watch Commander is specifically responsible for the following:

- A. Good Order. The general good order of his command during his tour of duty to include proper discipline, conduct, welfare, field training and efficiency
- B. Roll Call. Conduct of prescribed roll calls, communication of all orders or other information at roll call and inspection and correction of his tour as necessary
- C. Reporting. Reporting as required by a commanding officer
- D. Personnel Complaints. Inquiry into personnel complaints against members and employees under his tour in accordance with the provisions of this manual

5.2.2 SUPERVISORY OFFICERS: AUTHORITY AND RESPONSIBILITIES

Supervisory officers are members appointed in charge of one or more members and/or employees. In addition to the general and individual responsibilities of all members and employees, each supervisory officer is specifically responsible for the following:

- A. Supervision. A supervisory officer may be assigned to field or office duties. During his tour of duty he must closely supervise the activities of his subordinates, making corrections where necessary and commending where appropriate
- B. Leadership. Effective supervision demands leadership. Provision of leadership shall include on-the-job training as needed for efficient operation and coordination of effort when more than one member or employee is involved
- C. Direction. Supervisory officers must exercise direct supervision in a manner that assures the subordinates. Exercise of command may extend to subordinates outside his usual sphere of supervision if the police objective or reputation of the Department so requires; or if no other provision is made for personnel temporarily unsupervised. This authority shall not be exercised unnecessarily. If a supervisor requires a subordinate other than his own to leave a regular assignment, the supervisor so directing will inform the subordinate's own supervisor as soon as possible
- D. Enforcement of Rules, etc. Supervisory officers must enforce Department rules and regulations and insure compliance with Department rules and regulations and insure compliance with departmental policies and procedures
- E. Inspection. Supervisory officers are responsible for inspection of activities, personnel and equipment under their supervision and initiation of suitable action in the event of a failure, error, violation, misconduct or neglect of duty by a subordinate
- F. Assisting Subordinates. A supervisory officer shall have a working knowledge of the duties and responsibilities of his subordinates. He shall observe contacts made with the public by his subordinates and be available for assistance or instruction as may be required. Field supervisory offices shall respond to calls of serious emergencies, felonies in progress, assaults and others, unless actively engaged in a police incident. He should observe the conduct of the assigned personnel and take active charge when necessary.

ALSO REFER TO POLICY 89-11: DUTIES OF PATROL SERGEANT

CHAPTER VI

AUTHORITY AND RESPONSIBILITY

6.1 CHIEF OF POLICE

The Chief of Police is the ranking Executive Officer of the Department. He shall have complete authority over all police personnel, functions and operations. He exercises all lawful powers of his office and issues such orders as may be necessary to insure the efficient and effective performance of the department.

6.1.1 Responsibilities. The Chief of Police is responsible for training, instruction and assignment of all police personnel.

- A. He shall be the administrative officer of the Department
- B. he shall organize and control all resources of the Department and be responsible for their care and safekeeping
- C. He shall develop the organizational structure of the Department and shall integrate related activities under the control of intermediate supervisors holding them responsible for the effective performance of such duties
- D. He shall be responsible for the investigation and adjudication of all complaints concerning performance of services or duties performed by members of the department
- E. He shall prescribe the table of organization for his Department subject to the approval of the Mayor and Council
- F. He shall maintain a constructive relationship with the media and the public
- G. He shall be responsible for the employment and dismissal of all special police officers and supervise their training to insure the proper and lawful performance of their duties
- H. He shall report annually to the Mayor.
- I. He shall enforce all laws and ordinances falling within the jurisdiction of the police department
- J. He shall faithfully and promptly obey and cause all personnel of the Police Department under him to obey all rules, regulations and orders
- K. He shall maintain the discipline and efficiency of the Police Department
- L. He shall ensure the supervision of the police activity and working conditions
- M. He shall exercise such executive authority and supervision of department work, as he deems necessary
- N. In case of riot, insurrection or threat thereof, he shall take command of the Police Department in person and direct their movements and operations in discharge of their respective duties
- O. He shall be responsible for the maintenance of a daily police attendance record in which each member shall record his name, rank, and the time of reporting to and leaving duty, complaints and matters pertaining to the Police Department, as well as all telephone calls

- P. He shall establish procedures for the hearing and determination of charges of violation of department rules and regulations by any member or the department, in accordance with State of New Jersey Department of Personnel rules and regulations
- Q. He shall have and exercise all of the functions, powers and duties of a department head as prescribed by the Administrative Code and the Ordinances of the department
- 6.1.2 Functions. The Chief of Police conducts the affairs of the Police Department, interprets and applies the policies of the Mayor and Township Council, coordinates the operations of the units and the activities of the staff within the department, conducts public relations and implements the internal disciplinary process.
- 6.1.3 Authority and Responsibility. The authority and responsibility of the Chief is subject to the policies, predicated on law, of the Mayor and Township Council, the Ordinances of the Township of Clark and the laws of the State of New Jersey.
- 6.1.4 Operations and Activities. The Chief of Police administers and coordinates activities and approves operating plans:
- A. He sets the administrative policies of the department
 - B. He allocates funds within the budget, which are approved by the Council
 - C. He recommends adjustments in the salary and working benefits for members of the department
- 6.1.5 Personnel and Financial Policies. The Chief of Police administers personnel and financial policies in conformance with the ordinances of the Township of Clark, laws of State of New Jersey and the rules of the New Jersey Department of Personnel. The Chief of Police:
- A. Causes examination to determine the qualifications of persons applying for positions
 - B. Recommends promotion, demotion, release or other disciplinary measures subject to the ordinances of the Township of Clark, the laws of New Jersey and the rules and decisions of the New Jersey Department of Personnel
 - C. Administers wage and salary programs and employee benefit plans and personnel rating programs

ALSO REFER TO POLICY 90-29 EMPLOYEE PERFORMANCE
EVALUATION

- D. Requires that all personnel be trained and approves training programs
- E. Grants temporary leaves of absence to members of the Department with approval of the Mayor and Council

- F. Submits the annual budget and proposed expenditure programs to the Mayor or other appropriately designated officials
- G. Approves payment from allocated funds for operating expenses and capital expenditures
- H. Approves expense accounts

6.2 COMMAND OFFICERS

Command Officers are police officers holding the rank of Lieutenant or above.

6.2.1 Responsibilities: In General.

Commanding Officer shall exercise direct control over all members within their command, subject to higher authority and in accordance with the rules, regulations, policies and procedures of the Department. Commanding Officers:

- A. Shall maintain good order and discipline within their command
- B. Shall cooperate with other department units
- C. Shall investigate personnel complaints not processed elsewhere
- D. Shall assign duties and responsibilities within their command to achieve command and Department objectives
- E. Shall prepare reports, correspondence and maintain records concerning their command
- F. Shall maintain the quarters, control of equipment and use of supplies and material assigned to their command

6.2.2 Instructing Police Officers. A Commanding Officer is responsible for determining that each member of his command is instructed in his duties and performs them properly. The Captains, under the direction and consistent with the authority delegated to them by the Chief of Police and in accord with these rules and regulations, assists the Chief of Police in the management and discipline of the Police Department.

6.2.3 Authority. Commands and controls a division within the Police Department and is responsible for its overall activities and performance.

6.2.4 Responsibilities. Informs and advises his immediate superior, the Chief of Police, of all significant conditions and activities existing in his division. Conducts periodic staff meetings and makes periodic inspections of all personnel, equipment and facilities under his command. Ensures that all commanding officer and supervisors are complying with and enforcing current policies and procedures; effectively deploys personnel to decrease the incident of crimes, vice and traffic conditions within the divisions; directs and coordinates police operations at emergencies or other situations requiring his immediate presence.

6.3 POLICE CAPTAIN

6.3.1 Authority. Under supervision of the Chief of Police, may command a division or any segment thereof, shift or unit of the Police Department and is responsible for the direction and control of personnel under his command consistent with the authority delegated to him and in accord with these rules and regulations.

6.3.2 Responsibilities.

- A. Analyzes and properly assigns the work of his unit providing for the proper protection of persons and property, the prevention of crime, enforcement of law and the apprehension, incarceration and prosecution of lawbreakers
- B. Provides sufficient supervision to assure that the work of his unit is carried out in an efficient manner
- C. Delegates such of his powers as may be deemed necessary to enable subordinates to properly carry out their duties
- D. Performs sufficient inspection services to see that all ranks of his command are properly and effectively performing assigned work. Recommends or institutes changes as necessary
- E. Investigates, or causes to be investigated, complaints regarding police service or alleged infractions of rules and regulations; makes recommendations regarding disposition of same; in minor infractions, disciplines subordinates.

SEE POLICY 90-24 DEPARTMENT INVESTIGATION OF PERSONNEL

- F. Is responsible for police facilities and equipment; maintains or causes to be maintained necessary records and files; does related work as required.

6.4 POLICE LIEUTENANT

6.4.1 Authority. Under supervision, may command and is responsible for a unit or squad, or performs field or desk supervisory functions.

6.4.2 Responsibility.

- A. Analyzes and properly assigns the work of his unit
- B. Provides police assignments and instructions necessary to enable subordinates to properly effect their duties
- C. Delegates such of his powers as may be deemed necessary to enable subordinates to properly effect their duties
- D. Inspects the work of his unit or squad to assure that work standards are adhered to
- E. Initiates and directs criminal and non-criminal investigations; assures that accountability is maintained

- F. At such times as emergent action is required, takes such actions as are necessary to meet the emergency; makes or causes to be made, all notifications necessary to same
- G. Prepares and directs the preparation of reports suitable to the required accounting for each police action; does related work as required

6.5 SUPERVISORS

Supervisory officer are the Sergeants appointed to a permanent or acting supervisory capacity who are placed in charge of one or more police officers or civilian employees.

6.5.1 General Supervisory Responsibility.

- A. Shall enforce Department rules and regulations and insure compliance with departmental policies and procedures
- B. Shall exercise proper use of their command within the limits of their authority to assure efficient performance by their subordinates
- C. Shall exercise necessary control over their subordinates to accomplish the objectives of the department
- D. Shall guide and train subordinates to gain effectiveness in their present and future assignments
- E. Shall generally resort to negative disciplinary measures only after positive disciplinary measures have been found ineffective

6.6 POLICE SERGEANT

SEE POLICY 89-11 DUTIES OF PATROL SERGEANT

6.6.1 Authority. Under direction, supervises and is responsible for the activities of field or headquarters personnel, overseeing and taking part in police activities intended to provide order, maintenance, assistance and protection for persons and property, observance of law and the detection and apprehension of law violators.

6.6.2 Responsibility.

- A. Assigns and instructs subordinates in police patrol methods and procedures, investigation practices and related law enforcement problems. Provides training as needed
- B. Directs criminal and non-criminal investigations; makes investigations regarding improper police services or actions
- C. Supervises technical aspects of some police operations
- D. When necessary takes proper police action against law violators
- E. Visits and inspects police patrol units, assignments and posts, noting and correcting or reporting any conditions which require police attention

- F. Directs the preparation of reports and maintains necessary reports and records; does related work as required

6.7 DETECTIVE/PLAINCLOTHESMAN (ASSIGNMENT)

Under direction, is assigned to investigative or technical units and is responsible for the investigation and clearance of criminal and non-criminal complaints, or other duties which may be assigned because of a particular expertise.

- A. Shall intelligently and thoroughly investigate each assignment, initiating the investigation by prompt contact with the complainant
- B. Shall keep detailed day-to-day records of his investigations, acquainting supervisors and interested units with information developed
- C. Uses all legal means at his disposal to detect and solve crime and prosecute offenders, thoroughly investigating information received from any source
- D. Must study and apply sound investigative techniques and improve his efficiency by attention to:
 - 1. Use of records and reports
 - 2. Conduct interviews
 - 3. Cultivation of informants
 - 4. Development of perceptive abilities
 - 5. Proper collection, identification, analysis, preservation and presentation of evidence.
- E. Shall prepare all cases in a manner which insures the best possible presentation in court
- F. Shall learn the rules of evidence, court procedure, and the art of testifying, which make for an effective witness. He shall also cooperate with the prosecution in trial preparation
- G. Notwithstanding his assignment, he shall provide an immediate response to an emergent or observed need for police service
- H. When, from time to time, he shall be called upon to serve in a uniformed capacity, he shall be governed by all rules pertinent to his regular assignment and those governing uniformed police officers.

6.8 POLICE OFFICER

Under direction, during an assigned tour of duty, on foot or in a vehicle, patrols a designated area to prevent crime, provide protection for persons and property, assure observance of law and apprehend lawbreakers; provide assistance to persons as necessary; or assigned to tasks consistent with a particular or educational expertise.

- A. Shall exercise authority consistent with the obligations imposed by his oath of office and in conformance with the policies of the Department

- B. Is accountable to his superior officers and is responsible for obeying all legitimate orders
- C. Shall coordinate his efforts with other members of his shift and the department, and shall communicate to his supervisors and co-workers all information necessary to achieve the maximum of department objectives
- D. Shall report for duty and all other assignments punctually at specified times, physically fit, neatly and properly groomed and with prescribed equipment
- E. Shall familiarize himself with administrative policy and procedures and, within his area of responsibility, provide service necessary for the:
 - 1. Prevention and suppression of crime
 - 2. Protection of life and property
 - 3. Apprehension and prosecution of offenders
 - 4. Preservation of the peace
 - 5. Enforcement of regulatory measures
 - 6. Provision of miscellaneous field services
- F. Shall conduct himself in accordance with high ethical standards, on and off duty, and shall, by study and observation, become familiar with laws and ordinances and improved techniques and ideas which will enable him to improve his performance
- G. Shall maintain all equipment assigned to him in functional and presentable condition
- H. Shall thoroughly familiarize himself with his post or patrol district, becoming familiar with all public businesses, offices and their entrances, exits, skylights, fire escapes and other possible means of escape. While making security checks of doors, he shall familiarize himself with the locations of safes and night-lights. Changes in night-lights will be particularly noticed
- I. Shall, during the tour of duty, continuously patrol every part of his post or patrol district giving attention to and frequently rechecking locations where the crime hazard is great. As far as possible, he shall not patrol his post or district according to any fixed route or schedule but shall alternate frequently and backtrack in order to be at the location least expected
- J. Shall, when a door or window is found open under suspicious or unusual circumstances on any tour of duty, make a thorough investigation and determine, if possible, whether a burglary or other crime has been committed and whether the door or window can be secured. He shall summon backup assistance to examine the premises and to secure such doors and windows. He shall notify his immediate superior and, if possible, the property owner. Under circumstances indicating that an intruder is still inside a building, the officer discovering same should immediately summon assistance and then stand guard. When the assistance arrives, he may enter and search the building
- K. Shall, **upon reasonable and articulable suspicion**, courteously but firmly question persons on the public streets as to their names, addresses, reason

for being on the street, and other matters relative to the circumstances. In all cases, **probable cause shall be the minimum standard** used in making a decision to arrest

- L. Shall familiarize himself with his assigned areas and provide a diligent patrol inspecting public and licensed premises
- M. Shall give particular attention to places where vice violators might congregate. They shall use every lawful means to suppress the illegal activities of such persons, prosecute them and require all such establishments to be conducted in accordance with municipal ordinances and state laws and shall report all violations
- N. Shall, as motorized and foot police officers, be charged with the enforcement of all provision of local and state traffic codes. Failure to take appropriate action in traffic violations cases is considered neglect of duty.

See 90-19: Traffic Enforcement Policy

90-06: DWI Policy

90-38: MV Stops

89-22: Impound/Inventory of Motor Vehicles

- O. Shall carefully investigate all complaints on or near his post or zone which are brought to his attention by citizens. He shall take suitable action in those cases which come under his jurisdiction and inform interested parties of the laws or ordinances relative to the particular complaint or incident. If the legal remedy of the complaint lies outside the jurisdiction of the Police Department, he shall advise the complainant accordingly and refer him to the proper authority
- P. Shall, when assigned to motorized patrol, pay strict attention to all regular radio transmissions. When he fails to hear any radio transmission or time signals for a period not to exceed 15 minutes, he shall immediately call the dispatcher for a special test. If, after three attempts, he fails to receive an acknowledgement, he shall immediately contact the desk officer by telephone. In case of radio trouble, the officer shall notify his immediate supervisor and dispatcher of the nature of the trouble
- Q. Shall conduct a thorough investigation and report, clearly and concisely, all facts concerning incidents or crimes which occur and of which he has knowledge during his duty tour, or which he may observe or become involved in while off duty
- R. Shall insure the civil treatment and observance of rights of all coming under the scope of his authority
- S. Does related work as required

6.9 CIVILIAN EMPLOYEES

All Civilian Employees shall assist Department police officers in the accomplishment of the police function.

6.9.1 Civilian Employees Subject to Police Authority. Civilian employees shall be subject to the authority of the Chief of Police and of the superior officer in charge of the bureau or unit or office to which they are assigned.

6.9.2 Employees Bound by Department Directives. All rules, regulations and departmental procedures and orders governing police officers shall also bind all civilian employees whenever applicable.

CHAPTER VII

DISCIPLINARY ACTION

7.1 DISCIPLINARY ACTION

7.1.1 Disciplinary Action. Department members, regardless of rank, shall be subject to disciplinary action, according to the nature or aggravation of the offense, for violating their oath and trust by committing an offense punishable under the laws or statutes of the United States, the State of New Jersey, or municipal ordinances, or for failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment, or for misconduct in office, or for violation of any general order or rule, policy or procedure of the department, or for failure to obey any lawful instruction, order or command of a superior officer. Disciplinary action in all cases will be decided on the merits of each case and in conformity with controlling state law.

7.1.2 Establishing Elements of Violation. Existence of facts establishing a violation of the law, ordinance, rule, policy or procedure is all that is necessary to support any allegation of such violation as a basis for disciplinary action. Nothing in this manual prohibits charging or disciplining members or employees merely because the alleged conduct or omission that supports the charge or disciplinary action does not appear herein, in department order, or in laws and ordinances within the cognizance of the department.

7.2 PENALTIES

7.2.1 The following penalties may be assessed against any member or employee of the department as disciplinary action:

- A. Oral reprimand
- B. Written reprimand
- C. Voluntary surrender of time off in lieu of suspension.
- D. Voluntary surrender of accumulated overtime in lieu of suspension
- E. Suspension
- F. Demotion
- G. Removal from the service

7.3 DEPARTMENT AUTHORITY TO DISCIPLINE

7.3.1 Except as otherwise provided in the Department of Personnel law and N.J.S.A. 40A:14-147 to 151 inclusive, and municipal ordinances, the Department disciplinary authority and responsibility rests with the Chief of Police. With the exception of oral reprimands and emergency suspensions, Department discipline must be taken or approved by the Chief of Police.

7.3.2 Other supervisory personnel may take the following disciplinary measure:

- A. Oral reprimand
 - B. Written reprimand (subject to approval by the Chief of Police)
 - C. Emergency suspension until the next business day
 - D. Written recommendations for other penalties
- 7.3.3 Emergency Suspension. Members shall not be suspended or suffer any loss in benefits until after the member has had a departmental hearing and has been found guilty except in cases of a severe nature, when the Chief of Police deems the suspension of the member of immediate necessity for the safety of the public or the welfare of the department. The Chief of Police shall immediately submit a report explaining such action to the Director of Public Safety.
- 7.3.4 Emergency Inter-Divisional Disciplinary Action. When the improper conduct of a member or employee of one unit is of such a nature that immediate or emergency disciplinary action is required of a command or supervisory officer of another unit, such action may be taken at once within the following limitations:
- A. Oral reprimand
 - B. Emergency suspension until the next business day
- 7.3.5 Inter-Divisional Oral Reprimand. When the command or supervisory officer of one unit orally reprimands a member or employee of another unit, he shall notify the supervisor of the member so disciplined as soon as possible. He shall also submit a written report of this action and reason therefore to his commanding officer and also to the commanding officer of the member or employee.
- 7.3.6 Follow-up Emergency Suspensions. A member or employee receiving an emergency suspension shall be required to report to the Chief of Police on the next business day at 9:00 a.m. unless otherwise directed by competent authority. The command or supervisory officer imposing the suspension shall also report to the Chief of Police at the same time.
- 7.3.7 Reports of Disciplinary Action Taken or Recommended. Whenever disciplinary action is taken or recommended (except oral reprimand), a written report must be submitted immediately in triplicate containing the following information:
- A. The name, rank, badge number and present assignment of the person being disciplined
 - B. The date and time of the misconduct and location
 - C. The section number of the violated rule and common name of the infraction
 - D. A complete statement of the facts of this misconduct
 - E. The punishment imposed or recommended
 - F. The written signature, badge number and rank of the preparing officer and his position in relation to the member being disciplined.
- 7.3.8 Distribution of Reports of Disciplinary Action. The officer imposing or recommending the disciplinary action shall distribute reports as follows:
- A. Original to the Chief of Police

- B. Duplicate to member's commanding officer
- C. Triplicate retained by officer imposing or recommending discipline

- 7.3.9 Endorsement and Forwarding of Disciplinary Reports. Each level in the chain of command must endorse and forward reports bearing on disciplinary matters. Such endorsement may be one of approval, disapproval or modification. No member or employee shall alter or cause to be altered or withdraw any disciplinary report. Disciplinary reports in transit through the chain of command shall not be delayed but must be reviewed, endorsed and forwarded as soon as possible. Disciplinary reports shall be filed in accordance with current department directives.
- 7.3.10 Informing the Person Being Disciplined. The member or employee being disciplined shall be informed of the charges, in writing, as provided in N.J.S.A. 40A:14-147. The department also shall inform the Department of Personnel of the charges against the member or employee in writing.
- 7.3.11 Appeals From Penalties. Appeals from penalties imposed as disciplinary measures may be taken as provided in Department of Personnel law and N.J.S.A. 40A:14-147 to 151 inclusive, and the municipal ordinance.
- 7.3.12 Misconduct Observed by Police Personnel. Whenever any command or supervisory officer observes or is informed of the misconduct of another member or employee which indicates the need for disciplinary action, he shall take authorized and necessary action and render a complete written report of the incident and his actions to his commanding officer.

CHAPTER VIII

DISCIPLINARY CODE

8.1 DISCIPLINARY CODE

- 8.1.1 The offenses herein shall guide the Director of Public Safety in administering fair and uniform penalties for violations of the Police Department Rules of Conduct.
- 8.1.2 Penalties for offenses listed shall in no way limit any penalty which the Director of Public Safety may impose. Consistent with the Rules of the New Jersey Department of Personnel, the Director may allow suspension penalties to be satisfied by forfeiture of vacation time or accumulated overtime.
- 8.1.3 Offenses not included in the following list shall result in penalties similar to those specified for similar offenses of comparable seriousness.
- 8.1.4 Repeated violations of the rules of conduct shall be indicative of a member's disregard of the obligations of all members and shall be cause for dismissal. This shall apply regardless of any reckoning period and regardless of whether these violations are of the same type.
- 8.1.5 Suspension, Fine and Demotion for Disciplinary Purposes. An appointing authority may suspend without pay, or with reduced pay, fine or demote an employee due to inefficiency, incompetency, misconduct, negligence, and insubordination or for other sufficient cause.
- 8.1.6 Causes for Removal. Any one of the following shall be cause for removal from the service, although removals may be made for sufficient causes other than those listed:
 - A. Neglect of duty
 - B. Incompetency or inefficiency
 - C. Incapacity due to mental or physical disability
 - D. Insubordination or serious breach of discipline
 - E. Intoxication while on duty
 - F. Chronic or excessive absenteeism
 - G. Disorderly or immoral conduct
 - H. Willful violation of any of the provisions of the Department of Personnel statutes, rules or regulations or other statutes relative to the employment of public employees
 - I. The conviction of any criminal act or offense
 - J. Negligence of or willful damage to public property
 - K. Conduct unbecoming an employee in the public service

SPECIFIC RULES, CHARGES AND PENALTIES

- 8.1.7 Accepting bribes or gratuities for permitting illegal acts
1st Offense: Dismissal
2nd Offense: N/A
3rd Offense: N/A
- 8.1.8 Failure to report, in writing, offers of bribes or gratuities to permit illegal acts
1st Offense: 3 - 5 day suspension
2nd Offense: 10 - 15 day suspension
3rd Offense: Dismissal
- 8.1.9 Involved in a crime of moral turpitude that negatively affects the operation of the department
1st Offense: Dismissal
2nd Offense: N/A
3rd Offense: N/A
- 8.1.10 Knowingly and willfully making a false entry in any departmental report or record
1st Offense: 5-15 day suspension
2nd Offense: 30 day suspension
3rd Offense: Dismissal
- 8.1.12 Associating, fraternizing or transacting business at any time or in any manner whatsoever with known criminals or persons engaged in unlawful activities
1st Offense: 10-20 day suspension
2nd Offense: 30 day suspension
3rd Offense: Dismissal
- 8.1.13 Participating in illegal games of chance or illegal gambling while on duty
1st Offense: Reprimand to 10 day suspension
2nd Offense: 10 - 30 day suspension
3rd Offense: Dismissal
- 8.1.14 Fighting or quarreling with members of the department as prescribed in this code
1st Offense: Reprimand to 5 day suspension
2nd Offense: 10 day suspension
3rd Offense: 30 day suspension
- 8.1.15 Soliciting for attorneys bondsmen or other business persons or firms
1st Offense: Reprimand to 5 day suspension
2nd Offense: 5 - 10 day suspension
3rd Offense: 20 day suspension

- 8.1.16 Using rude or insulting language or conduct offensive to the public
1st Offense: Reprimand
2nd Offense: Reprimand to 3 day suspension
3rd Offense: Reprimand to 10 day suspension
- 8.1.17 Publicly criticizing the official action of a Superior Officer
1st Offense: Reprimand
2nd Offense: Reprimand to 3 day suspension
3rd Offense: Reprimand to 10 day suspension
- 8.1.18 Odor of alcoholic beverage on breath while on duty
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 20 day suspension
3rd Offense: Reprimand to 30 day suspension
- 8.1.19 Failure to recognize and satisfy any just debts which negatively affects the department
1st Offense: Reprimand to 4 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 20 days suspension
- 8.1.20 Repeated violations of Departmental Rules and Regulations or any other course of conduct indicating that a member has little or no regard for his responsibility as a member of the Police Department
1st Offense: 15 day suspension
2nd Offense: Dismissal
3rd Offense: N/A
- 8.1.21 Conduct subversive of good order and the discipline of the Department
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 30 day suspension
3rd Offense: Dismissal
- 8.1.22 Intoxication while on duty
1st Offense: Reprimand to Dismissal
2nd Offense: Dismissal
3rd Offense: N/A
- 8.1.23 Intoxication off duty while in uniform
1st Offense: Reprimand to Dismissal
2nd Offense: Dismissal
3rd Offense: N/A

- 8.1.24 Intoxication off duty, not in uniform, which negatively affects the Department
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 30 day suspension
- 8.1.25 Intoxication off duty, in part uniform
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 20 day suspension
3rd Offense: Reprimand to 30 day suspension
- 8.1.26 Intoxication off duty, not in uniforms and arrested
1st Offense: Reprimand to 20 day suspension
2nd Offense: Reprimand to dismissal
3rd Offense: Reprimand to dismissal
- 8.1.27 Refusal to obey proper orders from a superior
1st Offense: 10 day suspension
2nd Offense: 10 – 20 day suspension
3rd Offense: Dismissal
- 8.1.28 Using profane or insulting language to a superior officer
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 30 day suspension
3rd Offense: Reprimand to Dismissal
- 8.1.29 Failure to take police action when necessary, at any time, in or out of uniform and/or failure to make a written report of same to commanding officer
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 20 day suspension
3rd Offense: Reprimand to 30 day suspension
- 8.1.30 Asleep on duty
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: 15 – 30 day suspension
- 8.1.31 Absence without leave for less than five (5) consecutive working days
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 20 day suspension
- 8.1.32 Failure to properly supervise subordinates, or to prefer disciplinary charges or to take other inappropriate disciplinary action
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: 10 - 20 day suspension

- 8.1.33 Failure to comply with the Chief's orders, directives, regulations, etc. oral or written and also those of superiors and supervisors
1st Offense: Reprimand to 10 day suspension
2nd Offense: 10 - 20 day suspension
3rd Offense: 20 day suspension to dismissal
- 8.1.34 Failure to conduct proper, thorough and complete investigations
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 20 day suspension
- 8.1.35 Failure to report as witness when duly notified or subpoenaed
1st Offense: Reprimand
2nd Offense: Reprimand to 5 day suspension
3rd Offense: Reprimand to 10 day suspension
- 8.1.36 Allowing a prisoner to escape through carelessness or neglect
1st Offense: Reprimand to 30 day suspension
2nd Offense: Reprimand to Dismissal
3rd Offense: N/A
- 8.1.37 Failure to thoroughly search for, collect, preserve and identify evidence, personal property or locations in any arrest or investigation
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 7 day suspension
3rd Offense: Reprimand to 10 day suspension
- 8.1.38 Failure to remove key from patrol car when unattended
1st Offense: Reprimand
2nd Offense: Reprimand to 2 day suspension
3rd Offense: 3 - 10 day suspension
- 8.1.39 If stolen due to above conditions
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 20 day suspension
3rd Offense: Reprimand to 30 day suspension
- 8.1.40 Failure to properly care for assigned equipment and vehicles causing damage to same
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 30 day suspension
3rd Offense: Dismissal

- 8.1.41 Failure to take appropriate action concerning illegal activity, including vice conditions and/or to make a written report of the same to commanding officer
1st Offense: Reprimand to 10 day suspension
2nd Offense: 10 - 20 day suspension
3rd Offense: 30 day suspension to dismissal
- 8.1.42 Neglect of duty
1st Offense Reprimand to: 10 day suspension
2nd Offense: Reprimand to 20 day suspension
3rd Offense: 30 day suspension to dismissal
- 8.1.43 Soliciting money or other valuable things without proper authorization
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 20 day suspension
3rd Offense: Reprimand to 30 day suspension
- 8.1.44 Giving a verbal or written report of any incident without approval of the commanding officer
1st Offense: Reprimand
2nd Offense: Reprimand to 5 day suspension
3rd Offense: Reprimand to 10 day suspension
- 8.1.45 Being found in any alcoholic beverage licensed establishment, in full uniform, while not in performance of police duty
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 30 day suspension
- 8.1.46 Possession of alcoholic beverages on the person in police vehicle or on any police property, not necessarily while on duty
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 30 day suspension
- 8.1.47 Failure to be home without a legitimate reason after reporting sick
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 20 day suspension
- 8.1.48 Failure to obtain any required medical treatment or certificate while on sick leave
1st Offense: Reprimand
2nd Offense: Reprimand to 5 day suspension
3rd Offense: 5 - 10 day suspension

- 8.1.49 Failure to follow department procedures for the handling of evidence, personal effects and all other property taken into custody
1st Offense: Reprimand to 10 day suspension
2nd Offense: Reprimand to 20 day suspension
3rd Offense: 30 day suspension to dismissal
- 8.1.50 Improper use, handling or display of firearms
1st Offense: Reprimand to dismissal
2nd Offense: Dismissal
3rd Offense: N/A
- 8.1.51 Failure to submit properly written report within a reasonable or prescribed period of time as per regulations
1st Offense: Reprimand
2nd Offense: Reprimand to 5 day suspension
3rd Offense: Reprimand to 10 day suspension
- 8.1.52 Failure to carry badge, firearm and other required equipment when on duty
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 20 day suspension
- 8.1.53 Unexcused tardiness
1st Offense: Reprimand to 2 day suspension
2nd Offense: Reprimand to 5 day suspension
3rd Offense: Reprimand to 10 day suspension
- 8.1.54 Changing residence or telephone number without giving prompt and proper notification
1st Offense: Reprimand
2nd Offense: Reprimand to 5 day suspension
3rd Offense: 5 - 10 day suspension
- 8.1.55 Unauthorized persons in radio car
1st Offense: Reprimand
2nd Offense: Reprimand to 2 day suspension
3rd Offense: 2 - 5 day suspension
- 8.1.56 Untidy appearance and dress while in uniform
1st Offense: Reprimand
2nd Offense: Reprimand to 5 day suspension
3rd Offense: Reprimand to 10 day suspension

- 8.1.57 Not in full prescribed uniform
1st Offense: Reprimand
2nd Offense: Reprimand to 2 day suspension
3rd Offense: Reprimand to 5 day suspension
- 8.1.58 Communicating or imparting confidential police information either in writing or orally to unauthorized persons
1st Offense: Reprimand to dismissal
2nd Offense: Dismissal
3rd Offense: N/A
- 8.1.59 Failure to give prescribed identification when answering the telephone
1st Offense: Reprimand
2nd Offense: Reprimand to 2 day suspension
3rd Offense: 3 - 5 day suspension
- 8.1.60 Refusal to give name and badge number when properly requested
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 5 day suspension
3rd Offense: 5 - 10 day suspension
- 8.1.61 Reading newspapers, books or periodicals while in view of public where it would represent an affront to same
1st Offense: Reprimand
2nd Offense: Reprimand to 2 day suspension
3rd Offense: Reprimand to 5 day suspension
- 8.1.62 No one shall, prior to written approval by the Chief of Police or his representative designated for that purpose, appear to give testimony as a character witness for any defendant in a criminal trial or inquiry
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: 30 day suspension or dismissal
- 8.1.63 Willfully damaging Police Department property and/or equipment
1st Offense: Reprimand to 10 day suspension
2nd Offense: 10 - 30 day suspension
3rd Offense: 30 day suspension to dismissal

- 8.1.64 Interference with police radio broadcasting and tampering with police radio including but not limited to: **UNAUTHORIZED TRANSMISSIONS, PROFANE LANGUAGE** and/or **COMMENTARIES UNRELATED TO THE POLICE MISSION**
1st Offense: Reprimand to 5 day suspension
2nd Offense: 5 – 30 day suspension
3rd Offense: 30 day suspension to dismissal
- 8.1.65 Removing official documents from the Department without permission.
1st Offense: Reprimand to 15 day suspension
2nd Offense: 15 – 30 day suspension
3rd Offense: Dismissal
- 8.1.66 Unauthorized press releases and statements.
1st Offense: Reprimand to 5 day suspension
2nd Offense: Reprimand to 10 day suspension
3rd Offense: Reprimand to 20 day suspension
- 8.1.67 Failure of members and employees to remain at their assignments and on duty until properly relieved by other members or employees or until dismissed by competent authority
1st Offense: Reprimand to 15 day suspension
2nd Offense: 15 - 30 day suspension
3rd Offense: 30 day suspension to dismissal
- 8.1.68 Failure to properly patrol post or zone; unauthorized absence of assignment; failure to respond to radio calls; idle conversation or loafing
1st Offense: Reprimand to 15 day suspension
2nd Offense: Reprimand to 30 day suspension
3rd Offense: 30 day suspension to dismissal
- 8.1.69 Failure to possess and maintain a current and valid New Jersey State vehicle operator's license
1st Offense: Reprimand
2nd Offense: 2 –10 day suspension
3rd Offense: 10 –30 day suspension
- 8.1.70 Failure to adhere to the requirements of the Clark Police Department Policy and Procedure Manual, or any portion thereof; or failure to obey the General or Special Orders of the Clark Police Department
1st Offense: Reprimand to dismissal
2nd Offense: 10 day suspension to dismissal
3rd Offense: 30 day suspension to dismissal

8.2 DEPARTMENT DISCIPLINARY HEARINGS

Whenever an internal investigation establishes probable cause that a member is guilty of violating a departmental rule or regulation, penalty for which is to be permanently reflected on the member's personnel record, a Preliminary Notice of Disciplinary Action form shall be prepared by the proper authority and personally served upon the respective member.

- 8.2.1 The Preliminary Notice of Disciplinary Action Form shall contain:
- A. The bureau and department instituting the action
 - B. The name, address and title of the member against whom the action is being instituted
 - C. The charges (rules and regulations) allegedly violated
 - D. Specification of the alleged facts upon which the charges are based
 - E. Notification as to whether the member is suspended pending the determination of the hearing
 - F. The time, date and place at which the hearing is scheduled to be held
 - G. The penalties to which the member is being exposed as a result of the alleged charges
 - H. The signature of the respective bureau commander and his official title
- 8.2.2 The Disciplinary Hearing shall be scheduled during the business day, but no sooner than five (5) days nor later than thirty (30) days after said notice is personally served upon said member, subject of course to the granting of reasonable requests for postponements by said member.
- 8.2.3 Where a Disciplinary Hearing has been postponed at the request of the respective member pending the determination of criminal or quasi-criminal charges filed on the basis of the same factual situation which gave rise to the division or bureau's charges, said division or bureau's hearing must be held within thirty (30) days after the division or bureau receives notice of such disposition. The duty to advise the division or bureau that said judicial determination has been made is that of the respective member.
- 8.2.4 "Personal Service" means actual service upon the member as well as actual service upon any members of the member's family over 18 years of age, residing in the residence of said member.
- 8.2.6 Every member formally charged with the violation of a Department rule or regulation shall have the opportunity to testify in his own defense, produce relevant evidence in support of his defense, produce competent witnesses to testify to relevant matters in support of his defense and cross-examine any witness who has testified against him.
- 8.2.7 Under the provisions of Ordinance 2-13 A3, the director of Public Safety shall be referred to as the hearing officer.

- 8.2.8 In order that all parties may be afforded a fair and equal opportunity to be heard and that the Director of Public Safety may be completely informed in the matter and enabled to render a proper determination based on all the facts and applicable laws and rules, all hearings shall be conducted in an informal manner, without reference to any formal rules or procedure.
- 8.2.9 The Hearing Officer may, at his discretion, clear the hearing room of all persons, including witnesses not under examination or testifying. When the evidence pertains to scandalous or indecent conduct of any sort, the Hearing Officer may exclude all persons not having a direct interest in the matter being heard.
- 8.2.10 The Hearing Officer shall admit all testimony having reasonable, probative value, but shall exclude immaterial, irrelevant or unduly cumulative testimony.
- 8.2.11 He shall give effect to the rules of privilege as provided by law, but no person shall be excused from testifying or presenting evidence on the ground of possible self-incrimination.
- 8.2.12 The member is presumed innocent and the burden of proof is upon the bureau or division to prove the member's guilt by a preponderance of the credible evidence presented during said hearing. All hearings may (in the discretion of the respective Hearing Officer) be recorded by:
- A. A certified shorthand report
 - B. Stenographers, duly sworn, to make an accurate stenographic recording of the proceeding
 - C. Sound recording device to be operated under the supervision and direction of the Hearing Officer
- 8.2.13 After considering all the evidence in support and in defense of the particular charge of misconduct, the respective Hearing Officer shall consider same and render his verdict as soon as practical thereafter.
- 8.2.14 Although the verdict may be oral at the time of the hearing, the determination must be reflected upon a final notice of disciplinary action, which must be personally served upon the respective member as soon as practical after the termination of said disciplinary hearing.
- 8.2.15 Although the verdict shall be rendered in the manner referred to above, where the sentence or penalty is in excess of five (5) days suspension without pay, or its monetary equivalent, said sentence or penalty shall not be imposed or carried out until the time for filing of an appeal as provided in 8.3 has elapsed.

8.3 APPEAL PROCEDURES

8.1.3 Appeal to Department of Personnel.

- A. In a civil service municipality, any member who shall be suspended, fined, or demoted more than three (3) times in any one (1) year or more than five (5) days at any one time, or its monetary equivalent or for a period of more than fifteen (15) days in the aggregate in any one (1) calendar year shall have a right of appeal to the State of New Jersey Department of Personnel
- B. The Department of Personnel shall have the power to revoke or modify the action of the appointing authority except that removal from service shall not be substituted for a lesser penalty
- C. A petition or request to the Department of Personnel for a hearing or other relief must be received by the Commission within twenty (20) days after date of receipt of the notice by the petitioner and must be in the form and manner prescribed by the Department of Personnel through Title 4, New Jersey Administrative Code, Department of Personnel

8.4 MEMBER'S RIGHTS DURING DEPARTMENTAL INVESTIGATIONS AND DISCIPLINARY HEARINGS

- 8.4.1 Each member is entitled to a hearing before the Director of Public Safety, for any charge, which shall become a permanent record in the member's personnel file.
- 8.4.2 Other than the official findings and attendant penalties, every internal investigation and subsequent departmental hearing shall be considered privileged and confidential information and same shall not be made public and/or released to any non-government agency.
- 8.4.3 No member shall be found guilty of violating a Department Rule, Regulation, Policy, Procedure, General or Special Order unless the Hearing Officer finds that a preponderance of credible evidence substantiates the specific charges of the particular case.
- 8.4.4 Although every member has a duty to answer truthfully and directly all questions and submit to any and all forms of investigative efforts when so ordered or questioned by a supervising or commanding officer, said duty only applies to questions and investigation which directly relate to one's official duties or directly bear on one's fitness for continued employment.
- 8.4.5 Although the Department can utilize any form of investigative procedure pursuant to an internal investigation, which is fair and reasonably calculated to achieve its objective, the nature or utilization of same must not violate the basic concepts and substantive due process of law.

- 8.4.6 All questions and investigative efforts must be limited to the investigations of matters in which the department has a legitimate interest. Accordingly, questions must be specifically, directly and narrowly related to the performance of the member's official duties.
- 8.4.7 Although cooperation of a member is demanded under threat of disciplinary action (including job forfeiture) said member shall not be questioned or subjected to investigative efforts under circumstances which would render such statements void as being coerced. Prolonged interrogation, threats of force, hostility, or over aggressiveness by interrogators shall render any statement or member's response void for all purposes.
- 8.4.8 Exclusive of normal reporting duties incidental to the performance of official duties, no member shall be expected to answer questions or submit to other forms of investigative efforts until he is advised of the following:
- A. Whether he is being questioned or required to submit to submit to investigative efforts as a suspect or witness
 - B. The identity of his interrogator as well as the identity of all persons present at the time of the interrogation
 - C. The nature of the investigation and facts sufficient to apprise the member of the existing allegations
- 8.4.9 All questioning or other investigative efforts shall be completed with reasonable dispatch and, where practical, said member should be made as comfortable as possible so as not to offend the concepts of procedural and substantive due process of law.
- 8.4.10 Under circumstances where the alleged violation of Department rules and regulations involves or could possibly involve criminal prosecution, the member shall be advised of his constitutional rights against self-incrimination (Miranda Warning) which he may invoke with respect to possible criminal prosecutions. However, he must respond with respect to the administrative subject matter of the inquiry.
- 8.4.11 All evidence obtained as a result thereof accordingly could not be used in a subsequent criminal prosecution, but would be admissible during a departmental disciplinary hearing.
- 8.4.12 No questioning or other investigative effort shall be initiated arbitrarily for personal or other reasons that are unrelated to the maintenance of departmental efficiency or integrity.
- 8.4.13 All questioning and investigative efforts shall be limited in scope to activities, circumstances and events which pertain to a member's conduct which may form

the basis for disciplinary action under one or both of the following two (2) reasons:

- A. Commission of a crime or quasi-criminal offense of misconduct that would be grounds for removal
- B. Not being qualified for continued employment with the department

- 8.4.14 No suspension without pay (in excess of six months) shall be imposed as a disciplinary penalty.
- 8.4.15 A formal charge must be filed against a member within a reasonable time after which the existence of the alleged or suspected misconduct is made known, or should have been made known, to the police department.
- 8.4.16 Although a member is not entitled to legal counsel or organizational representation during the investigative stages of an internal investigation, every member has a right to legal counsel and/or organizational representation during a disciplinary hearing before a Hearing Officer.
- 8.4.17 At no time during an internal investigation, shall any member be subjected to offensive language, nor shall he be threatened with transfer, dismissal or other disciplinary punishment. No promise or reward shall be made as an inducement to answering questions. Nothing herein is to be construed as to prohibit the investigating officer from informing the member that his conduct can become the subject of disciplinary action resulting in disciplinary punishment.
- 8.4.18 No member shall be ordered or asked to submit to a polygraph (lie detector) test for any reason. Such test may be given, however, if requested by the member.
- 8.4.19 A member may be ordered or asked to submit to a blood test, breathalyzer, or any other test to determine the percentage of alcohol or drugs in the blood for any reason except as otherwise provided by specific statutory law. Such tests must be given if requested by the member. Requests or orders in this regard must be based on reasonable or articulable suspicion, or probable cause.
- 8.4.20 As a general rule, when a member is charged with the violation of a departmental rule or regulation, said member shall continue to perform the assigned duties of his position until such time as the judicial determination duly rendered pursuant to a departmental hearing necessitates a discontinuance of same. However, where the public trust relationship, when considered against the nature of the alleged charge of misconduct, would dictate the immediate temporary termination of such duties, said member shall be temporarily re-assigned to another less sensitive position within the Department, pending the departmental hearing referred to above.

- 8.4.21 Notwithstanding any of the above mentioned general policy, whenever it proves physically impossible to re-assign said member to any duties whatsoever and/or the alleged misconduct indicates a physical, mental or emotional condition inconsistent with the continued performance of any departmental duty whatsoever, the interest of the public welfare may require suspension from duty pending a departmental hearing. In such case, the member may continue on salary, at the discretion of the appointing authority as per the provision of Chapter 270. Laws of New Jersey 1973, specifically dealing with such situations.
- 8.4.22 During any administrative investigation or criminal investigation involving Clark Police personnel, the Chief of Police reserves the right to search departmental property. At his discretion, he may authorize subordinate officers to fulfill this function in the presence of the subject officer. The Department may assign to its members and employees departmentally owned vehicles, lockers, desks, office space, filing cabinets, etc. for the mutual convenience of the department and its personnel. Such equipment is and remains the property of the department. Personnel are reminded that storage of personal items in this property is at the employee's own risk. **DEPARTMENT PROPERTY IS SUBJECT TO ENTRY AND INSPECTION WITHOUT NOTICE.**