



CLEVELAND DIVISION OF POLICE

GENERAL POLICE ORDER



EFFECTIVE DATE: November 8, 2023	CHAPTER: 1 - Administrative	PAGE: 1 of 13	NUMBER: 1.07.06
SUBJECT: CORRECTIVE ACTION GUIDANCE			
CHIEF:			

Substantive changes by Division are italicized

PURPOSE: To establish guidelines for the imposition of corrective action within the Cleveland Division of Police. These guidelines provide all members of the Division the assurance that corrective action will be imposed fairly.

*Each member of the Cleveland Division of Police must have an understanding of the Division's values, rules, and expectations for conduct while on or off duty. Members must also understand the processes and outcomes associated with judgmental errors that conflict with the Division's values and rules. This policy serves as the expected-set of values and behavioral standards for **all** members, regardless of rank or authority in the organization, in an equal, fair, and consistent manner.*

POLICY: To ensure compliance with all laws of the United States, the State of Ohio, the Charter provisions and ordinances of the City of Cleveland, and the written directives of the Division of Police and the City of Cleveland. Additionally, members of the Division shall be responsible for adherence to all criminal laws in the jurisdictions in which they may be traveling.

The highest standards of personal conduct measure the integrity of the Cleveland Division of Police. The discipline system reflects the values of the Division while protecting the rights of both officers and citizens. The corrective action guidance matrix is intended to create a culture of transparency, fairness, and consistency while maintaining the highest standards of professionalism and integrity in policing.

Transparency is achieved through sharing of factual information about the discipline process with both the public and members of the Division, including holding officers publicly accountable. The Division shall comply with Ohio public records laws in respect to requests for disciplinary information. The Division's leadership shall share disciplinary information internally at its discretion for the purpose of correcting misinformation, organizational learning and growth. Sharing of information should be done in a manner that respects privacy when warranted.

Consistency is holding everyone equally accountable for unacceptable behavior. **Fairness** is applying consequences according to the Corrective Action Matrix.

All disciplinary or non-disciplinary outcomes shall be decided without consideration of the member's race, religion, gender, sex, national origin, age, ethnicity, familial relationships or sexual orientation.

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No members shall receive favorable treatment based on rank or assignment within the Division. All disciplinary or non-disciplinary outcomes shall be decided without consideration of the high or low-profile nature of the incident.

Supervisors shall follow the contractual procedures of the respective bargaining units. The discipline matrix applies to both sworn and non-sworn members of the Division unless there are contractual exceptions.

This corrective action guidance is designed to accomplish the following goals:

1. Establish standards of corrective action to encourage compliance with all applicable laws, ordinances, rules, and directives.
2. Delineate categories of conduct for Group I, II, III *and* IV policy violations.
3. Outline the presumptive discipline ranges within those categories and for specific policy violations based on the severity of the violation.
4. Give notice to officers and the community of the likely sanction for a particular violation.
5. Define and identify aggravating and mitigating factors to consider when determining the imposition of corrective action.
6. Provide the framework for consistent and fair corrective action.

DEFINITIONS:

Aggravating Factors - relevant facts and circumstances that increase the severity or culpability of a member's actions. Circumstances that constitute aggravating factors include but are not limited to deceitfulness, dishonesty, maliciousness, injury or harm to the public or a member, prior history of corrective action, the supervisory or command rank of the officer who committed the violation, the existence of an actual or demonstrable legal or financial risk to the Division or the City (including, but not limited to, cases involving allegations of civil rights violations, unlawful search and seizure, excessive use of force or unlawful detention or arrest), *actual or demonstrable prejudice to the Division, jeopardizing the Division's mission or relationship with other agencies*, loss or damage to the City or private property, and prejudicial or biased conduct.

Corrective Action - any non-disciplinary or disciplinary action.

Dishonesty - to act without honesty; to deliberately mislead, deceive, defraud or lie.

False Statement - a statement that is deliberately made and meant to mislead or deceive, or an intentionally untrue statement.

Group I Violation - misconduct that has a negative impact on the operations or professional image of the Division or that negatively impacts relationships with other officers, agencies or the public.

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Group II Violation - misconduct contrary to the Division's values, interferes with its mission, operations or professional image, or involves a demonstrable serious risk to officer or public safety.

Group III Violation - misconduct that involves a serious abuse or misuse of authority, unethical behavior, or an act that results in an actual or serious and adverse impact on an officer or public safety or the professionalism of the Division.

Group IV Violation – *misconduct resulting in a violation of law, rule, policy or training that results in death or serious bodily injury to another person; or constitutes a willful and wanton disregard of Division values; or involves any act which demonstrates a serious lack of integrity, ethics or character related to an officer's fitness to hold the position of a police officer; or involves egregious misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law; or involves conduct which constitutes the failure to adhere to any contractual condition of employment or requirement of certification mandated by law.*

Mitigating Factors - relevant facts and circumstances that decrease the severity or culpability of a member's actions. Circumstances that constitute mitigating factors include, but are not limited to, intent, truthfulness, lack of prior corrective action, willingness to accept responsibility and acknowledge wrongdoing, circumstances under which the rule was violated, and *commendable* work history.

Untruthfulness - the act of being intentionally deceitful, the willful perversion of the truth to deceive, cheat, mislead or defraud.

Non-Disciplinary Action may take one of the following forms:

Verbal Counseling: *A formal discussion between the supervisor and the member where the member is advised and cautioned about unsatisfactory work performance or irregularities. Documentation of the Verbal Counseling shall be noted by completing a pre-structured Form-1 (Attachment A) titled Verbal Counseling (followed by the member's name/badge number) and forwarded through their chain of command via the Division's tracking Software, with all associated reports, to the Chief's Office.*

Letter of Reinstruction: *Any instruction or guidance issued by the Chief Director of Public Safety or Chief of Police to the member, where the member is advised of their action that needs correction and directing the member to review specific policies, procedures, or rules.*

Reinstruction – *Instruction at the District or Bureau level with a desired outcome of compliance with directives or improved performance.*

Retraining: *Any instruction or guidance ordered by the Chief Director of Public Safety, Chief of Police, or designee to be completed by a member designed to correct a performance deficiency or misconduct. Retraining will be conducted by the Training Section and may consist of classroom instruction or other job-related training. All retraining records shall be retained in the Training Section and the Personnel Unit, with copies forwarded to the Case Preparation Unit.*

Disciplinary Action may take one of the following forms:

Written Reprimand: *A written documentation presented to the member from the Chief Director of Public Safety or Chief of Police wherein the member is advised and cautioned about their unsatisfactory work performance or misconduct.*

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Suspension: A temporary prohibition of the member performing their duties due to the member's unsatisfactory work performance or misconduct issued by the Chief of Police or *Chief* Director of Public Safety. The suspension period shall be without pay *or permissible compensatory time to account for the remaining hours in that shift as permitted by the Collective Bargaining Agreement.*

Demotion: A reduction of the pay grade of a member with a corresponding change in job duties and responsibilities due to the member's unsatisfactory work performance or misconduct issued by the *Chief* Director of Public Safety.

Termination: An involuntary separation from employment initiated by the *Chief* Director of Public Safety as a result of the member's unsatisfactory work performance or misconduct.

I. Table of Corrective Action

- A. The Table of Corrective Action (Attachment B) shall establish a presumptive range of corrective action for designated types of Policy, Procedural, and Rule or Regulation violations, so that discipline for sustained violations may be imposed fairly and consistently. Mitigating or aggravating factors shall be considered and may result in adjusting the discipline administered within the corrective action range of the Group Violation identified.
1. Pursuant to the current Collective Bargaining Agreements (CBAs) with Cleveland Division of Police members, the Chief of Police may suspend an officer for ten days or fewer. If the Chief recommends a more significant penalty, the Chief Director of Public Safety will hear the charge filed against the officer and render judgment on such charge and set the corrective action penalty if any.
 2. *Pursuant to the current CBA with Cleveland Division of Police members, "when a member is accused of a Group I policy violation identified during an O.P.S. or internal investigation that was not the subject of the original citizen complaint or investigation, the member does not have current discipline or non-disciplinary corrective action, and mitigating factors outweigh any aggravating factors or there are no aggravating factors there shall be a presumption that the member will only be subjected to the corrective action of a non-disciplinary letter of reinstruction for the alleged violation. The presumption may be rebutted by evidence demonstrating aggravating factors outweigh any mitigating factors. In the absence of such rebuttal, the member may waive a hearing and accept the non-disciplinary letter of reinstruction as acknowledged and warning of the violation."*
 3. Pursuant to the current CBA with the Cleveland Police Patrolman's Association (C.P.P.A.), "...an employee who tests positive for the first time for alcohol and who cooperated and fulfilled the obligations of Voluntary Participation in a Dependence Program may be disciplined. The scope of such discipline shall be determined on a case-by-case basis but shall not exceed three (3) working days.... Employees must take part in the Voluntary Dependence Program to take advantage of the foregoing limitations on discipline." *Members are subject to additional discipline for other rule violations.*

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4. Pursuant to the current CBA Fraternal Order of Police, Lodge 8; Addendum A, "...an employee who tests positive for alcohol shall be subject to discipline up to and including dismissal, unless the employee agrees to participate in and satisfies the obligations of a treatment program.... An employee who agrees to participate and satisfies the obligations of this treatment program will be subject to discipline up to a three (3) day suspension (but is also subject to additional discipline for other rules violations)."
- B. The Table of Corrective Action will be reviewed annually and revised as necessary.
- C. Violations are divided into *four* groups based on their seriousness. The severity of the discipline administered shall fit the seriousness of the violation. If there are mitigating or aggravating factors of which they are aware, supervisors shall include them in their recommendation for corrective action.
- D. *It should be recognized that any matrix system can only be designed for the large majority of cases and that, on limited occasions, extraordinary circumstances would justify a penalty less than or greater than allowed under the matrix. In such cases, the justifying factors will be explicitly detailed in writing.*
- E. *When discipline has been issued twice previously in the same or higher group within three years, the discipline automatically progresses into the next higher group. Non-disciplinary Letters of Reinstructions and Verbal Counseling can be a "sustained violation" and are indicated in the Division's tracking software as such. However, non-disciplinary corrective actions are not used to escalate the discipline to the following Group range.*
- F. Multiple violations arising from a single event or *multiple incidents* may escalate the corrective action to the maximum group range.
- G. *A previous sustained finding of a Group II or III violation may escalate a Group I violation to the maximum Group I discipline range if the Group II or III violation is within three (3) years from the date the discipline was administered.*
- H. *Sustained violations against recruits or probationary status officers who engage in serious or intentional and deliberate misconduct will presumptively result in the termination of that member's employment.*
- I. *Termination will be the presumed discipline for racist, sexist, anti-LGBTQ+, anti-immigrant, national-origin-based, or otherwise bigoted conduct, harassment, slurs, or language used in the course and scope of employment, or, if the officer or Division of Police employee's speech is on a matter of public concern, where that officer or Division of Police employee's interest in commenting on matters of public concern does not outweigh the City's interests, as an employer, in promoting the efficiency of the public services it performs through its employees. The pertinent considerations for weighing these interests include whether the language (1) impairs discipline by superiors or harmony among co-workers, (2) has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, (3) impedes the performance of the officer or employee's duties or interferes with the regular operation of the enterprise, or (4) undermines the City or Division of Police's mission.*

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1. *In assessing the first consideration, City officials must consider the possibility that inaction by the City could be seen as an endorsement of the speech and impair future discipline of similar derogatory statements. In assessing the second consideration, City officials must consider whether the language is reasonably likely to impact close working relationships within the police force negatively or undermine trust. In assessing the fourth consideration, City officials must consider the need for the City to preserve the appearance of impartiality, the role and responsibilities of the officer or employee, and, when the role is public-facing, whether the danger to the successful functioning of the Division of Police will increase. This includes making a reasonable prediction about whether the language, when known to the public, would harm the Division of Police's mission; or undermine the community's respect, trust, or perception that the police enforce the law fairly, even-handedly, and without bias.*

J. *C.P.P.A. civilian members are subject to corrective action procedures outlined by the Bureau of Communications and Property Control. C.P.P.A. civilian members have specific contract language governing mandatory overtime requirements.*

K. A member may be subject to transfer if they are found guilty of a Group II or Group III violation based on the underlying conduct of the discipline and the minimum requirements of the assignment. The *Chief Director of Public Safety* or Chief of Police may also suspend or terminate secondary employment privileges, ceremonial team, special detail assignment, task force, Field Training Officer program privileges, and acting out-of-rank duties.

L. *Certain violations can result in a Group I, II, III or IV violation, as defined and indicated in this General Police Order or Manual of Rules.*

M. Pursuant to 18 U.S.C. § 922(g), if an officer is convicted of a misdemeanor offense that involves the use of physical force, attempted use of physical force, or threatened use of a deadly weapon against a person with whom the officer is or has been involved in a specified domestic relationship as defined by applicable law, the officer may no longer possess a firearm, including a service weapon. *18 U.S.C. §922(g) also includes an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)); or is subject to a court order that was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate; restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or who has been convicted in any court of a misdemeanor crime of domestic violence.* Therefore, it is a weapons disability, and the City will take appropriate corrective action as contemplated for Group IV violations.

1. A domestic relationship, as defined by 18 U.S.C. § 921(a) (33) (A), is one where the offender is the current or former spouse, parent, or guardian of the victim; the offender shares a child in common with the victim; the offender who is cohabiting

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with or has cohabitated with the victim as a spouse, parent, or guardian; or the offender is similarly situated to a spouse, parent, or guardian of the victim.

O. The following are examples of violations within each corrective action category. The violations listed are not intended to be all-inclusive. Specified violations may be increased to higher categories where the conduct is within the definition of a higher group violation.

1. Non- Disciplined Minor Infractions (as defined in GPO 1.07.05, Internal Complaints of Misconduct)

2. Group I Violations

- AWOL; one hour or less, no significant impact to operations
- Court failure to appear; (as defined in Group 1 violations)
- Discourtesy; rudeness
- Equipment; unauthorized; failure to adequately control or maintain
- Erroneous reporting
- Failure to attend required Division training when scheduled
- Failure to notify the supervisor of a Group I Violation *involving oneself or another member*
- Grooming and uniform violations (altering uniform or displayed information, use of non-approved emblems, patches, items and accessories for purpose to deceive or make inappropriate statements)
- Improper tow
- Leaving zone, district or City without supervisory approval
- Minor misdemeanor offenses as defined by O.R.C. 2901.02, excluding minor traffic violations
- Operating a motor vehicle with an expired driver's license
- Police vehicle; failure to properly maintain; preventable motor vehicle accidents
- Police vehicle operations; flagrant violations (e.g., excessive speed)
- Prisoners; failure to properly search resulting in the subsequent discovery of a weapon or contraband after member searched the prisoner.
- *Prisoners; improper conveyance, property held or booking (unintentional; does not result in damage to or loss of property or harm to individuals)*
- Reports; failure to submit or timeliness
- Response status; improper or unauthorized emergency response
- Secondary employment; unauthorized
- Social media policy violations; improper usage while on duty, sharing content that reflects poorly on the division (not related to bias), engaging with the public on social media in a rude or uncourteous manner.
- Tactics; unintentional violation of training that does not harm community or civilians and does not significantly impact CDP operations.
- Tardiness
- Unexcused absence for scheduled Division training
- Unsatisfactory performance; unintentional failure to perform duties to expected standards

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- Vehicular pursuit/emergency driving; unauthorized/improper
- Violation of a court order; unintentional; does not harm community or civilians and does not significantly impact CDP operations.
- WCS; improper usage (see GPO 4.06.04 Wearable Camera System)
- Other similar misconduct

2. **Group II Violations**

- AWOL; one hour or more, or a one hour or less AWOL that has a significant impact on operations.
- Abusive/demeaning language
- Calls for service; failure to respond, investigate, arrest, or adequately clear.
- Conduct unbecoming
- Computers; unauthorized or improper use/access (no LEADS violation)
- Court; failure to appear (as defined in Group II violations)
- Diminish the esteem of the Division; *unbiased* disparaging or offensive statements or conduct regarding the Division
- *Disrespectful, insolent or abusive language toward a superior officer (as defined in Group II violations)*
- Failure to notify the supervisor of a Group II Violation *involving oneself or another member*
- Failure to supervise subordinates
- Harassment
- Knowingly or intentionally violating WCS policy
- Prisoners; failure to search or secure resulting in escape or discovery of weapon or contraband
- *Prisoners; improper conveyance, property held or booking*
- Sleeping on duty; significantly disrupts CDP operations, results in harm to community, civilians, or CDP members
- Social media policy violations (*as defined in Group II violations*)
- Tactics; intentional violation of training, or unintentional violations of training that significantly disrupt CDP operations, or results in harm to community, civilians or CDP members.
- Violation of a court order; intentional, or unintentional violation of a court order that significantly disrupt CDP operations, or results in harm to community, civilians or CDP members.
- Other similar misconduct

3. **Group III Violations**

- AWOL; no call no show for entire shift or community event.
- *Bias-based policing (as defined in General Police Order 1.07.08 Bias-Free Policing)*
- Calls for service; failure to respond, investigate, arrest, or adequately clear.
- Computers, unauthorized or improper use/access, LEADS violation
- Dereliction of duty (as defined in ORC § 2921.44)

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- Discrimination
- *Disrespectful, insolent or abusive language toward a superior officer (as defined in Group III violations)*
- Drug-related violations (*Misdemeanor*)
- Engaging in sexual activities while on duty
- Excessive force; physical force not within policy that does not result in injury or death
- Failure to notify the supervisor of a Group III Violation *involving oneself or another member*
- *Failure to carry intermediate weapons when involved in the use of deadly force while on duty or at uniformed secondary employment.*
- Failure of a random alcohol test [See I. A. 2 and 3]
- Failure of random drug test
- Firearms violations that do not result in injury or death; unattended or careless handling
- *Gross immorality violations*
- Insubordination; actions taken against orders or advisement from superiors that results in serious harm to the public; physical harm to CDP members or community members; and/or significantly damages the reputation of the CDP and the relationship between CDP and the community.
- Mishandling or improper preparation of criminal case resulting in declination to prosecute or dismissal
- Operating a motor vehicle while privilege revoked or suspended
- Off-duty O.V.I. or related offenses (*first violation with no aggravating factors*)
- *Preventable motor vehicle crash resulting in serious injury or death as determined by T.S.A.P.*
- Secondary employment (revoked)
- Sexual *Misconduct*/Harassment (see General Police Order 1.1.07 Sexual Harassment Policy)
- *Sleeping on duty; that results in serious harm to the public; physical harm to CDP members or community members; and/or significantly damages the reputation of the CDP and the relationship between CDP and the community.*
- Social media policy violations; using *disrespectful, insolent or abusive language towards CDP members or members of the public on social media, sharing sensitive information on social media; harassing members of the public on social media.*
- *Soliciting preferential treatment not extended to the public.*
- Tactics; intentional violation of training that results in serious harm to the public; physical harm of CDP members or community members; and/or significantly damages the reputation of the CDP and the relationship between CDP and the community.
- Violation of a court order; intentional violation of a court order that results in serious harm to the public; physical harm of CDP members or community members; and/or significantly damages the reputation of the CDP and the relationship between CDP and the community.
- Workplace violence (see GPO 1.02.09 Violence in the Workplace)

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- Other similar misconduct

4. **Group IV Violations**

- *Alcohol/drug use or under the influence while on duty*
- *Any conviction resulting in a weapons disability **Domestic Violence Sustained Allegations/Arrest as defined in GPO 5.05.03 Domestic Violence Incidents Involving CDP Officers***
- *Any administrative, criminal law, or other types of a violation resulting in LEADSDENY (see GPO 7.02.04 LEADS/NCIC/Interface/Information Systems)*
- *Any conviction or protective order resulting in a weapons disability*
- *Communication of confidential information that may jeopardize a police action, disrupt operations, hinder accountability or severely impact working relationships with the community*
- *Drug-related violations (Felony)*
- *Excessive force; physical force not within policy that results in injury or death*
- *Exercise of authority while under suspension*
- *Failure to notify the supervisor of a Group IV Violation involving oneself or another member*
- *Failure to maintain O.P.O.T.A. certification or an offense that would disqualify the member from maintaining current certification.*
- *False report; false statement; untruthfulness; dishonesty*
- *Felonies and serious misdemeanor offenses*
- *Firearms violations resulting in death or injury*
- *Gross neglect of duty*
- *Insubordination; intentional resulting in serious injury or death of CDP members or members of the public, insubordination based on bias against the superior officer, and/or that results in illegal conduct.*
- *Off-duty O.V.I. or related offenses (second offense within ten years)*
- *Racist, sexist, anti-LGTBQ+, anti-immigrant, national origin-based, disability-based or otherwise bigoted conduct, slurs or language used in the course and scope of employment, or, if the officer or Division of Police employee's speech is on a matter of public concern, where that officer or Division of Police employee's interest in commenting on matters of public concern does not outweigh the City's interests, as an employer, in promoting the efficiency of the public services it performs through its employees*
- *Retaliation; coercion or intimidation*
- *Serious or intentional misconduct by a police recruit or probationary officer*
- *Vehicular pursuit/emergency driving; unauthorized; resulting in death or serious bodily injury.*
- *Violation of the Last Chance Agreement*
- *Workplace violence (see GPO 1.02.09)*
- *Other similar misconduct*

P. Ranges of Non-Disciplinary and Disciplinary Actions

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1. **Minor non-grouped violations** – corrective action shall range from verbal reinstruction, written reinstruction, coaching to referral to assistance.
2. **Group I Violations.** Corrective action shall range from a one-day to a three-day suspension without pay.
 - a. There shall be no consideration of circumstances for Group I offenses.
3. **Group II Violations.** Corrective action shall range from a six-day to a ten-day suspension without pay.
 - a) First Group II violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (5-day suspension without pay)
 - b) First Group II violation and mitigating or aggravating factors are absent or nor considered (6-day suspension without pay)
 - c) First Group II violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (7-day suspension without pay)
 - d) Second Group II violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (7-day suspension without pay)
 - e) First Group II violation and mitigating or aggravating factors are absent or nor considered (8-day suspension without pay)
 - f) Second Group II violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (9 to 10-day suspension without pay)
4. **Group III Violations.** Corrective action shall range from a ten-day suspension to demotion or termination.
 - a) First Group III violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (10-day suspension without pay)
 - b) First Group III violation and mitigating or aggravating factors are absent or nor considered (15-day suspension without pay)
 - c) First Group III violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (30-day suspension without pay and/or demotion or termination)
 - d) Second Group III violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (30-day suspension without pay)
 - e) Second Group III violation without mitigating factors will elevate to Group IV

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5. ***Group IV Violations.***

- a. Group IV violation, serious misdemeanor offenses, gross immorality violations, gross neglect of duty, mitigating factors outweigh any aggravating factors or no aggravating factors present (presumption of termination)
- b. Group IV violation, felony offenses (termination)
- c. Any conviction or protective order resulting in a Weapons Disability (termination)
- d. False Reports, false or misleading statements, untruthfulness, or dishonesty (each of which creates a rebuttable presumption of termination)

II. Procedures

- A. After the assigned Unit/Bureau completes a misconduct investigation, the Internal Affairs Superintendent or designee will review the investigation and forward it to the Chief of Police to determine if corrective action is warranted. Where discipline is deemed warranted, a charging letter shall be prepared, summarizing the underlying facts and alleged policy violations. The Case Preparation Unit will then schedule a pre-disciplinary hearing for the member.
- B. *The Chief Director of Public Safety, Chief of Police or designated representative will conduct the pre-disciplinary hearing for the charged member and allow the opportunity for the charged member and any pertinent witnesses to explain the circumstances of the incident. In any case, where new information is presented at a pre-disciplinary hearing, the Hearing Officer, Internal Affairs, or the Office of Professional Standards will determine whether the case needs to be returned for further investigation or consideration before the making of a final disposition.*
 1. The Hearing Officer will review the facts and evidence presented during the pre-disciplinary hearing and determine a finding of guilty or not guilty based on the preponderance of the evidence standard.
 2. The Bureau of Compliance will assist the Hearing Officer in determining the discipline group category in the specification(s).
 3. In cases where the Chief of Police or *Chief* Director of Public Safety is not the Hearing Officer, then the Hearing Officer will make a recommendation to the Chief of Police or *Chief* Director of Public Safety for a final determination and imposition of corrective action, if any, following this General Police Order. The Case Preparation Unit will notify the member of the final disposition of the pre-disciplinary hearing, including providing the member with the Chief or *Chief* Director's rationale in support of the final disposition.

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- C. The Division will not accept non-disciplinary corrective action as a substitute for discipline where the disciplinary matrix calls for the imposition of discipline. However, the Division will consider whether non-disciplinary corrective action (i.e., reinstruction, retraining or transfer) is appropriate in addition to discipline being imposed

- D. In cases where recommendations are made to the Chief of Police by the hearing officer the recommendation will also be sent to a Fairness and Consistency Committee for review. The Fairness and Consistency Committee will consist of:
 - One person from the City’s Human Resources Department or the Police Accountability Team;
 - Division members who are not bargaining association representatives from the Black Shield, the Hispanic Police Officers Association and the Greater Cleveland Emerald Society;
 - One at-large member of the Division who is not a member of the bargaining unit or a shift director;
 - A representative of the Civilian Police Review Board;
 - A representative of the Divisional Command staff;
 - The Police Inspector General.

The association members and at-large members cannot be board members of bargaining unions. Selectees can be union members but will be selected randomly on a quarterly basis.

The Commander shall also rotate on a quarterly basis. This shall be a broad, comparison-based, double-blind review process. Members of the Committee will not know who the officer facing discipline is, and the only publicly known member of the Committee will be the IG. This committee will review the hearing officers’ recommendations, arrive at a consensus among the members, and provide its recommendations to the Chief. The committee shall have access to past adjudicated discipline in the Division.

The committee shall meet regardless of whether or not all members attend. The goal of the committee is to ensure discipline is consistently applied (i.e., punishments are equal for similar offenses). The committee shall not re-investigate or review the quality of the investigations. The committee will also help detect patterns to find underlying issues and systemic faults such as training deficiencies, etc., and make recommendations to the chief on its findings.

III. Civilian Police Review Board Powers and Duties Pursuant to Charter Amendment 115: 3-4 (In Pertinent Part)

- A. *If the Civilian Police Review Board decides that discipline should be imposed on the officers or employees under the Chief of Police's management and control, the Board will submit its factual findings and recommendation to the Chief. The Chief and executive head of the police force must presume to be correct and defer to the Board's factual findings and recommendations, absent affirmative proof by clear-and-convincing evidence that the findings and recommendations are erroneous. Absent such explanation, within ten days after*

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receiving the Board's fact findings, and recommendation - the Chief or executive head of the police must impose at least the minimum discipline that the Board has recommended.

- B. *If the Chief or executive head of the police force believes that clear-and-convincing evidence exists that would justify disregarding or modifying the Board's fact-finding and corrective action recommendations, within ten days after receiving the Board's fact findings and recommendation, the Chief or executive head of the police force must notify the Board in writing of any refusal or lesser, alternative discipline to be imposed, detailing the reasons and providing the Board with the clear-and-convincing evidence justifying the decision. Precedents, patterns or practices, and discipline predating Charter Section 115's effective date, November 2, 2021, cannot constitute clear-and-convincing evidence justifying any decision by the Chief or executive head of the police force to impose lesser discipline than what the Board recommends or no discipline.*

- C. *If the Board then does not agree with the Chief's or executive head of the police force's refusal or alternative discipline, the Board, notwithstanding any provisions of Section 119 of the City Charter to the contrary, may, in its discretion, overrule the Chief or executive head of the police force, and order either of them to discipline the officer or employee, up to and including termination. The Chief or executive head of the police force must then comply. Regardless of whether the Board orders the officer or employee's suspension for ten working days or fewer, the Board shall immediately certify in writing the fact, together with the cause of the discipline, to the executive head of the police force, who will proceed as may be required under Charter Section 119, but consistent with Charter Section 115.*

- D. *Notwithstanding the above provisions, consistent with Charter Section 115-5, the Community Police Commission, at its discretion, has the authority to make the final decision for the City about whether to impose officer discipline where it was not imposed, to increase discipline when the Commission deems it insufficient or to decrease discipline of police officers only in circumstances in which the Commission determines that the officer is facing retaliation for protected activity or for whistleblowing about misconduct within the Division of Police. With this exception, nothing in Charter Section 115 will be construed as conferring a right by any officer to appeal that officer's discipline to the Commission.*

The Chief, the executive head of the police force, and the Board must notify complainants of their right to seek ultimate review by the Commission.

- E. *Nothing in Charter Section 115 may be interpreted as depriving city employees of due process.*

IV. Community Police Commission

- A. *Pursuant to City of Cleveland Charter Section 115, Community Police Commission has the authority to serve as the final City authority on whether the discipline of police officers imposed or not imposed by the Chief of Police, executive head of the police force, or Civilian Police Review Board is sufficient, with the discretionary authority, with due process afforded to a subject officer, to order that the Chief and executive head of the police force increase discipline; and to order that they impose discipline where none was imposed. The Commission may, at its discretion and upon notice, hold evidentiary hearings to review individual officer discipline following any proceedings and decisions by the Chief of Police,*

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executive head of the police force, and, as applicable, the Civilian Police Review Board. Any order by the Commission to increase or impose discipline will be final, and the Chief and executive head of the police force must follow it.

- B. *Order the Chief of Police to decrease discipline of police officers only in circumstances in which the Commission determines that the officer is facing retaliation for the protected activity or whistleblowing about misconduct within the Division of Police. With this exception, nothing in Charter Section 115 will be construed as conferring a right by any officer to appeal that officer's discipline to the Commission.*

V. Documentation of Divisional Corrective Action

- A To document the Division’s consistency in discipline and to demonstrate transparency in such matters; the Case Preparation Unit shall maintain files of all *corrective actions* imposed by the Division via the *Division’s tracking software*.
 - 1. Date of incident
 - 2. Date of corrective action
 - 3. Violations sustained
 - 4. Action taken
- B The Case Preparation *Unit* shall cause a Divisional Notice to be issued on an as-needed basis listing all corrective action decisions imposed by the *City*.
- C *Discipline records shall* be maintained in compliance with Ohio Public Records laws.

VI. Separation from Service with Pending Discipline

Cleveland Civil Service Rule 8.43 states, “Wherever an employee or officer in the classified service has resigned while charges of misconduct were pending, such resignation may not be withdrawn.”

Once begun, an investigation must continue when an employee or officer resigns, and the final determination and details of the corrective action must be maintained/documentated as are all other discipline records.

THIS ORDER SUPERSEDES ANY PREVIOUSLY ISSUED DIRECTIVE OR POLICY FOR THIS SUBJECT AND WILL REMAIN EFFECTIVE UNTIL RESCINDED OR SUPERSEDED.

D.A.D./bpc
Bureau of Compliance
Attachments

Attachment B. Table of Discipline

Group violation	Violation number	Mitigating/Aggravating	Corrective action range
No discipline	1		Verbal reinstruction
	2		Written reinstruction
	3		Advance to Group I
Group I	1		Written reinstruction for first-time violation
	2		One-day suspension
	3		Two-day suspension
	4		To Group II
Group II	1	Mitigating	Five-day suspension
	1	No mitigating or aggravating	Six-day suspension
	1	Aggravating	Seven-day suspension
	2	Mitigating	Seven-day suspension
	2	No mitigating or aggravating	Eight-day suspension
	2	Aggravating	Nine-day suspension
	3 or more		To Group III
Group III	1	Mitigating	10-day suspension
	1	No mitigating or aggravating	15-day suspension / demotion
	1	Aggravating	30-day suspension/termination/demotion
	2	Mitigating	30-day suspension/termination/demotion
	2		To group IV
Group IV	1		Termination