



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 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 justly.

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 ~~to re-enforce the right~~ 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.

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.

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.

Commented [BPC1]: Command Staff recommendation. This order has as much to do with non-disciplinary correction action as it does disciplinary action, and both are corrective action and integral to the purpose of the order. Titriling the order "Disciplinary Guidance" may give the impression that the Division favors discipline over non-discipline as it relates to corrective action. Finally, "Corrective Action Guidance" is a more accurate description of the order, and is a more impartial.

Commented [DOJ2]: The modern use of this term implies an evening of outcomes to account for past injustice or differing abilities. Discipline has a just cause basis, not an equitable leveling of outcomes, right?

Commented [MT3R2]: Monitoring Team agrees.

Commented [BPC4R2]: CDP accepts revision

PAGE: 2 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
------------------	--	--------------------

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:

Alternative Discipline - when a member forfeits time from banked leave time categories in place of time that the member spent on suspension, or the member remains on duty but is detailed to a community service assignment (including projects in the service of the public that may not be with the Division) in place of time spent on suspension or the member is temporarily assigned to a less desirable work shift for the Division's benefit or the member is mandated to satisfactorily complete an employee assistance program appropriate to the infraction and its cause, in place of suspension. The suspension may be held in abeyance until the program is completed, or "Paper" suspensions are imposed where there is no actual suspension or loss of pay. Still, there is an agreement that suspension exists for future progressive disciplinary processes. A member also may lose the privilege of secondary employment authorization in place of suspension. A member may lose privileged assignment status in place of suspension (i.e., Field Training Officer position). Alternative discipline is on a case by case basis and non precedent setting.

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 deceive, defraud or lie.

False Statement - a statement that is deliberately made and meant to 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.

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.

Commented [DOJ5]: This is the first time we've seen a reference to alternative discipline. Is this new, or has it been in place previously? Who decides whether alternative discipline is permitted and what are the criteria?

Commented [MT6R5]: This is the first the MT has heard of this proposal as well. We share DOJ's concerns and believe that the proposed language has the tendency to undermine CDP's managerial authority by suggesting that non-disciplinary actions can be considered to be a part of discipline as directed by the Matrix.

Commented [BPC7R5]: CDP accepts and removed

Commented [DOJ8]: Simply put, this is not discipline and violates CD Par. 246(f): "f. provides that CDP will not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline."
If there are non-disciplinary actions to take in addition to discipline, then the CD permits that in 246(g): "g. provides that CDP will consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed."

Commented [MT9R8]: Monitoring Team agrees.

Commented [BPC10R8]: CDP accepts and removed language

Commented [DOJ11]: Does CDP have a separate good-standing requirement to be eligible for secondary employment?

Commented [MT12R11]: Secondary employment prohibitions should never be used in lieu of the imposition of a suspension. Agree with this comment and DOJ's next comment as well.

Commented [BPC13R11]: CDP removed language

Commented [DOJ14]: This would not be a fair system when officers whose familial obligations do not provide time for secondary employment would face suspension but officers who are able to fit secondary employment into their schedule would avoid suspension.

Commented [BPC15R14]: CDP accepts and removed language

Commented [DOJ16]: Aren't there already good-standing requirements for such assignments?

Also, by making transfer from an assignment or revocation of FTO status a punishment, doesn't CDP give up the discretionary nature of such assignments as management prerogative and, instead, turn all such reassignments into grievable employment actions?

Commented [BPC17R16]: CDP accepts and removed language

Commented [DOJ18]: This is ripe for arbitrary application of alternative discipline and inconsistent with the requirements of CD Par. 246's requirement to "ensure consistency in the imposition of discipline."

Commented [MT19R18]: The language regarding "alternative discipline" should be removed for the reasons stated above.

Commented [BPC20R18]: CDP accepts and removed language

Commented [A21]: Former IG and Chief Safety Director recommendation

Cmdr. Carney

Commented [DOJ22]: Are these also part of the agreement that a suspension still exists for progressive discipline purposes? If so, we suggest moving the sentence on that to the end and editing it to say something like, "For all forms of Alternative Discipline, there..."

Commented [MT23R22]: Simply put, CDP should not give up the right to make determinations regarding secondary employment and privileged assignments outside of the disciplinary process.

Commented [BPC24R22]: CDP accepts and removed language

PAGE: 3 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
------------------	--	--------------------

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 which foreseeably 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.*

Commented [BPC25]: Command Staff recommendation

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, 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 ~~or monitored~~ 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.

Commented [BPC26]: A.C. Ryan addition

Commented [MT27R26]: We believe that these should be conducted by the Training Unit, not monitored by it.

Commented [BPC28R26]: Concur and accepted

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 or Director of Public Safety wherein the member is advised and cautioned about their unsatisfactory work performance or misconduct.

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

PAGE: 4 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
------------------	--	--------------------

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. ~~Paper suspensions or alternative discipline are on a case-by-case basis and non-precedent setting.~~

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 Discipline

- A. The Table of Discipline (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 (CBA) 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 ~~disciplinary~~ 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.*
 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

Commented [DOJ29]: See the above comment about the inconsistency of this proposal with the CD.

Commented [MT30R29]: Monitoring Team agrees.

Commented [BPC31R29]: CDP accepts and removed language

Commented [A32]: Chief Safety Director recommendation

Commented [BPC33R32]: Removed

Commented [BPC34]: Added for CBA amendment

Commented [DOJ35R34]: CDP: Please ensure that before enacting this manual, this language matches the final, approved CBA language after the City Council votes to approve the negotiated provision.

Commented [BPC36R34]: Agreed and understood

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 Discipline 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 for progressive disciplinary purposes 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. ~~*Multiple violations arising from a single or multiple incidents will presumptively result in separate suspensions for each sustained violation. These suspensions shall be imposed consecutively.*~~
- H. A previous ~~active and~~ sustained finding of a Group II or III violation ~~shall~~ *may* escalate a Group I violation to the maximum ~~group~~ *Group I* discipline range if the Group II or III violation is within three (3) years from the date the discipline was administered.
- I. *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.*
- J. *Termination will be the presumed discipline for racist, sexist, anti-LGBTQ+, anti-immigrant, national-origin-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. 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*

Commented [DOJ37]: Same or higher?
Commented [BPC38R37]: CDP accepts and revised language

Commented [DOJ39]: This directly conflicts with the alternative discipline definition, above.
Commented [BPC40R39]: Removed alternative discipline definition. Language was previously approved by the Court/DOJ/MT/CDP
Commented [BPC41]: Removed to comply with CBA amendment

Commented [BPC42]: City Law Department please review.
Commented [BPC43]: I recommend the language be removed
Commented [MT44R43]: We don't agree with the removal of this language. Multiple incidents or multiple violations should be treated separately and are a part of progressive discipline.
Commented [DOJ45R43]: Was this removal done after City Law Department review? What was the reason for removing it?
Commented [BPC46]: Only active discipline history will be considered.
Commented [MT47R46]: The term 'active' is unclear and not defined... Seems like 'a previous sustained finding...' is more definitive and appropriate. See paragraph 246b.
Commented [BPC48R46]: Discipline findings shall only be considered for 3 years for progressive disciplinary purposes pursuant to the CBA. See Article 6 of the CPPA CBA. Revised.
Commented [DOJ49]: Should this be "maximum discipline range?"
Commented [BPC50R49]: CDP accepts revision

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.

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.

~~K.~~ 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.

~~L.~~ 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.

~~M.~~ 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.

~~N.~~ 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.

Commented [DOJ51]: Since the management right to terminate these assignments is already preserved here, adding the language to disciplinary alternative, above, about reassignment conflicts with the additive power to reassign. Instead, the disciplinary alternative language changes this management power into an alternative to punishment.

Commented [MT52R51]: Agreed. Alternative disciplinary language should be removed.

Commented [BPC53R51]: CDP accepts recommendation. Alternative discipline language removed.

Commented [MT54R51]: Noting that these two points (new L and M) are missing from the 'clean' version of this policy. Is the intention to keep or delete them?

Commented [BPC55R51]: Oversight by me. CDP will keep the two additions.

Commented [DOJ56]: Should this say more about how the appropriate Group will be determined?

Commented [BPC57R56]: Discipline group definitions are defined on pp. 2-3. The group discipline lists are not inclusive of every possible violation.

Commented [DOJ58]: Does CDP have a separate policy on the Lautenberg disabilities for firearm use? If not, and these disabilities are only addressed here, then this drafting is too narrow. This drafting addresses only subpart (g)(9). Specifically, a protective order or addition to a controlled substance are two other disabilities within section (g) that are applicable.

Commented [BPC59R58]: CDP accepts and revised language to include controlled substance and protection orders

PAGE: 7 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
------------------	--	--------------------

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 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. **Group I Violations**
 - AWOL (*as defined in Group I violations*)
 - Court; failure to appear
 - 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
 - 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 discovery of weapon or contraband after member searched the prisoner.
 - *Prisoners; improper conveyance, property held or booking (as defined in Group I violations)*
 - Reports; failure to submit or timeliness
 - Response status; improper or unauthorized emergency response
 - Secondary employment; unauthorized
 - Social media policy violations (*as defined in Group I violations*)
 - Tactics; violation of training (*as defined in Group I violations*)
 - Tardiness
 - Unsatisfactory performance
 - Vehicular pursuit/emergency driving; unauthorized/improper
 - Violation of a court order (*as defined in Group I violations*)
 - WCS; improper usage (see GPO 4.06.04 Wearable Camera System)
 - Other similar misconduct

PAGE: 8 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
------------------	--	--------------------

2. **Group II Violations**

- AWOL (*as defined in Group II violations*)
- Abusive/demeaning language
- Calls for service; failure to respond, investigate, arrest, or adequately clear.
- Conduct unbecoming
- Computers; unauthorized or improper use/access
- 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
- Firearms violations that did not result in injury or death; unattended or careless handling
- Harassment
- Mishandling or improper preparation of criminal case resulting in declination to prosecute or dismissal
- Off-duty O.V.I. or related offenses (*first violation with no aggravating factors shall result in an eight-day suspension*)
- Prisoners; failure to properly search or secure resulting in escape or discovery of weapon or contraband
- *Prisoners; improper conveyance, property held or booking (as defined in Group II violations)*
- Sleeping on duty (*as defined in Group II violations*)
- Social media policy violations (*as defined in Group II violations*)
- Tactics; violation of training (*as defined in Group II violations*)
- Violation of a court order (*as defined in Group II violations*)
- Other similar misconduct

3. **Group III Violations**

- AWOL (*as defined in Group III violations*)
- *Bias-based policing (as defined in General Police Order 1.07.08 Bias-Free Policing)*
- Dereliction of duty
- 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
- Exercise of authority while under suspension
- Excessive force; physical force not within policy
- 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.***

Commented [DOJ60]: Do you need to distinguish in this list that such comments may raise to a higher level if they fall within the bias statements listed in Paragraph L, above?

Commented [MT61R60]: Agreed

Commented [BPC62R60]: A member may be subject to transfer if they are found guilty of ANY Group II or Group III violation based on the underlying conduct of the discipline and the minimum requirements of the assignment. Adding bias statements to paragraph may be unnecessary. Biased-based policing was added as a Group III violation, as defined in GPO 1.07.08. Furthermore, specific requirements are required for transfers pursuant to the CBAs and AAA Case: 01-16-0003-1497 and AAA Case: 01-16-0003-1498.

Commented [MT63R60]: Without including the suggested language, you are unintentionally diminishing the seriousness of biased policing...

Commented [BPC64R60]: I believe the DOJ reference was to J. 1? The comment referencing L. and transfer provisions caused confusion. Agreed and revised.

Commented [BPC65]: Command Staff recommendation.

PAGE: 9 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
------------------	--	--------------------

- Failure of a random alcohol test [See I. A. 2 and 3]
- Failure of random drug test
- Insubordination (as defined in Group III violations)
- Operating a motor vehicle while privilege revoked or suspended
- Off-duty O.V.I. or related offenses (second offense **not** within ten years)
- 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 (as defined in Group III violations)
- Social media policy violations (as defined in Group III violations)
- Soliciting preferential treatment **not extended to the public**
- Tactics; violation of training (as defined in Group III violations)
- Violation of a court order (as defined in Group III violations)
- Workplace violence (see GPO 1.02.09 Violence in the Workplace)
- Other similar misconduct

Commented [BPC66]: A.C. Ryan addition

4. Group IV Violations

- Alcohol/drug use on duty
- 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)
- 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 serious injury
- Gross immorality violations
- Gross neglect of duty
- Insubordination (as defined in Group IV violations)
- Off-duty O.V.I. or related offenses (second offense within ten years)
- Racist, sexist, anti-LGTBQ+, anti-immigrant, national origin-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

Commented [DOJ67]: Would this include an OVI on duty even if the ingestion occurred prior to duty?

Commented [BPC68R67]: Pursuant to the CBA, Exhibit F, an initial positive level of .03 grams per 210L of breath is considered positive, thereby authorizing the conduct of a confirming alcohol test. Employees are subject to disciplinary action, which may include termination, if they are found to have used illegal drugs, engaged in the illegal use of drugs, and/or misused alcohol as a result of a drug or alcohol test.

Furthermore, if an on-duty employee is arrested for OVI, the criminal adjudication process does not take into account whether the individual ingested alcohol while off-duty. In Ohio, Physical Control of a Motor Vehicle or an OVI conviction can result from a refusal to submit to testing or a Blood Alcohol Concentration (B.A.C.) of .08 or above.

Commented [DOJ69]: Or protective order?

Commented [BPC70R69]: CDP accepts and revised

PAGE: 10 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
-------------------	--	--------------------

- *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 (as defined in Group IV violations)*
- *Violation of the Last Chance Agreement*
- *Other similar misconduct*

P. Ranges of Non-Disciplinary and Disciplinary Actions

1. **Group I Violations.** Corrective action shall range from non-disciplinary verbal counseling to a five-day suspension without pay.
 - a. First Group I violation where mitigating factors outweigh aggravating factors (non-disciplinary verbal counseling to written reprimand).
 - b. First Group I violation where aggravating factors outweigh mitigating factors (one to two-day suspension without pay).
 - c. Second Group I violation where mitigating factors outweigh aggravating factors (two to three-day suspension without pay).
 - d. Second Group I violation where aggravating factors outweigh mitigating factors (three to five-day suspension without pay).
2. **Group II Violations.** Corrective action shall range from a six-day to a ten-day suspension without pay.
 - a. First Group II violation where mitigating factors outweigh aggravating factors (six to seven-day suspension without pay).
 - b. First Group II violation where aggravating factors outweigh mitigating factors (seven to eight-day suspension without pay).
 - c. Second Group II violation where mitigating factors outweigh aggravating factors (eight to nine-day suspension without pay).
 - d. Second Group II violation where aggravating factors outweigh mitigating factors (nine to ten-day suspension without pay).
3. **Group III Violations.** Corrective action shall range from an eleven-day suspension to demotion or termination.
 - a. First Group III violation where mitigating factors outweigh aggravating factors (11 to a 30-day suspension without pay).
 - b. First Group III violation where aggravating factors outweigh mitigating factors (13 to a 30-day suspension without pay, demotion, or termination).

PAGE: 11 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
-------------------	--	--------------------

- c. Second Group III violation where mitigating factors outweigh aggravating factors (15 to a 30-day suspension without pay).
- d. Second Group III violation where aggravating factors outweigh mitigating factors (18 to a 30-day suspension without pay, demotion, or termination).

4. **Group IV Violations.**

- a. *First Group IV violation (presumption of termination)*
- b. *Any conviction or protective order resulting in a weapons disability (termination)*
- c. *Felony offenses (termination).*

Commented [DOJ71]: Or protective order?
 Commented [BPC72R71]: CDP accepts and revised

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 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.
- 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

PAGE: 12 of 13	SUBJECT: CORRECTIVE ACTION GUIDANCE	NUMBER: 1.07.06
-------------------	--	--------------------

will consider whether non-disciplinary corrective action (i.e., reinstruction, retraining or transfer) is appropriate in addition to discipline being imposed.

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 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.F. *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 or to increase discipline when the Commission deems it insufficient. The Chief, the executive head of the police force, and the Board must notify complainants of their right to seek ultimate review by that Commission.*
- E.G. *Nothing in Charter Section 115 may be interpreted as depriving city employees of due process.*

Commented [DOJ73]: This is the appropriate use of non-disciplinary action as compared with the paper suspension, etc. outlined above in the new disciplinary alternative paragraph.

Commented [MT74R73]: Agreed.

Commented [BPC75R73]: Existing language from original 2018 GPO. No revisions necessary.

Commented [DOJ76]: Should CDP just put a defined date, here?

Commented [BPC77R76]: CPD accepts and revised

IV. Community Police Commission

- A. Pursuant to City of Cleveland Charter Section 115, Community Police Commission has the authority to serve ~~as~~ *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, 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*.
- 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. ~~Divisional~~ *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."

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

Commented [DOJ78]: We suggest deleting the reference to Charter section 115 in the heading and adding at the beginning of this section "Pursuant to City of Cleveland Charter Section 115, Community Police Commission has the authority to:"

Commented [MT79R78]: Agreed.

Commented [BPC80R78]: CPD accepts and revised

Commented [DOJ81]: Does this mean that the Case Prep Unit has the discretion to determine when discipline will be included in a DN or does this refer to how frequently Case Prep will issue DNs re: discipline? Are all disciplinary decisions included? If not, what are the criteria for inclusion?

Commented [MT82R81]: Suggest that Divisional disciplinary notices be on a monthly basis.

Commented [BPC83R81]: The Case Prep Unit's role primarily involves ensuring that all disciplinary corrective actions are appropriately documented and included in the DN. The discretion to determine whether discipline will be included in the DN is not within our purview; all disciplinary actions are automatically incorporated.

The Case Prep Unit, however, plays a crucial role in determining the frequency at which the DN is issued. CDP's approach is to issue DNs as needed and typically on a monthly basis. It's important to highlight that if there were no discipline dispositions during a particular month, mandating a monthly issuance of a disciplinary notice may seem unnecessary.

Given our commitment to efficiency and resource allocation, creating a policy that mandates the monthly issuance of a DN may not align with our operational priorities. Instead, we generally issue DNs every 1-2 months, which allows us to focus on other essential responsibilities while still meeting the broader objectives.

Commented [MT84R81]: Seems like the DOJ intended to ensure that it was clear that all decisions are being sent, so we've tracked in 'all' to make it clear that the expectation is that all will eventually be sent, no matter the frequency that Case Prep does so.

Commented [BPC85R81]: All disciplinary decisions are tracked and documented with the Divisional Notice. Please clarify what additional language is recommended if necessary.

Commented [DOJ86]: Should this be "Discipline records?"

Commented [BPC87R86]: CDP accepts and revised