

Disciplinary GPO/Matrix:
Initial Policy Recommendations

Cleveland Community Police Commission

May 1, 2017

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I. Cleveland Community Police Commission Members

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II. Description of Disciplinary GPO/Matrix Work Product

A. Consent Decree

According to the Consent Decree, Paragraphs 245-249:

245. CPD will ensure that discipline for sustained allegations of misconduct comports with due process, and is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented.

246. In order to ensure consistency in the imposition of discipline, CPD will review its current disciplinary matrix and will seek to amend it as necessary to ensure that it:

- a.** establishes a presumptive range of discipline for each type of rule violation;
- b.** increases the presumptive discipline based on an officer's prior violations of the same or other rules;
- c.** sets out defined mitigating and aggravating factors;
- d.** prohibits consideration of the officer's race, gender, national origin, age, ethnicity, familial relationships, or sexual orientation;
- e.** prohibits consideration of the high (or low) profile nature of the incident;
- f.** provides that CPD will not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and
- g.** provides that CPD will consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.

247. All disciplinary decisions will be documented in writing.

248. If amended, CPD will provide its disciplinary matrix to the Commission, the Police Inspector General, and the police unions for comment.

249. CPD will work with the unions to allow for sustained disciplinary findings to stay in an officer's record for ten years.

B. Monitoring Plan (as of March 13, 2017)

The Monitoring plan outlines the following timeline for the Disciplinary GPO:

- **March 17, 2017** -- CPD will submit its current disciplinary matrix to the Parties, CPC, OPS, PRB, Police Officer Organizations, and Monitoring Team to determine whether it is consistent with the requirements of the Consent Decree.
- **May 22, 2017** -- CPD revises the Draft to incorporate the feedback and expectations of the Monitor, Parties, CPC. In consultation with the Monitor and Parties, CPD submits a Final Draft plan that incorporates the feedback of the Parties, CPC, and the Monitor where appropriate.
- **June 23, 2017** -- CPC and the police officer unions/organization will provide comments on CPD's Final Draft disciplinary matrix.
- **July 28, 2017** -- The Monitor recommends approval or disapproval of the Final Disciplinary Matrix to the Court, either in whole or in part. The determination will be based on the extent to which the plan adequately addresses with the requirements of the Agreement, incorporates feedback of the Parties, and reflects the values and specific input of community and Division stakeholders.

C. Commission Deadline:

- Written Summary of Community Input -- April 24, 2017
- Deadline Extension for Written Summary -- May 1, 2017

III. Executive Summary of Recommendations

The Cleveland Community Police Commission, as per the Consent Decree,¹ is providing recommendations for the disciplinary guidelines GPO 1.1.11.

Our recommendations, highlighting parameters that are insufficiently addressed or not addressed at all, were informed by research of best practices and example disciplinary policies from police departments around the nation. Input also was sought and received from the community in two ways. Various groups and organizations such as SURJ (Standing Up for Racial Justice) and the ACLU (American Civil Liberties Union) provided written assessments, and community members from across the City of Cleveland have

¹ Consent Decree, Paragraph 248.

volunteered their feedback during break-out discussions and public comment periods at Commission meetings.

The revisions of this draft policy seek to do three things:

- Assure that the disciplinary matrix includes proactive measures, as well as responsive procedures, to improve interactions between the community and police.
- Assure that the disciplinary matrix is clear, enforceable, and achieves accountability in police-community interactions, including but not limited to violating the rights of community members, codes of conducts, and established protocols and policies.
- Assure that (a) preemptive measures to prevent the necessity for disciplinary action and (b) sustained rulings regarding actual misconduct comport with due process are consistently and fairly enforced, in order to build trust in the process by police and the community.

The Cleveland Division of Police's current draft of the Disciplinary GPO/Matrix begins to address some of these elements, but in a generic way. It provides insufficient details for guidance, as well as fails to fully delineate the standards and rationales that govern discipline. This will be important to provide officers with clarity, as well as build community trust.

In its current form, the draft GPO does not discuss or uplift the importance of building trust, confidence, legitimacy, and transparency with the community -- neither as a reaffirmation of the Cleveland Division of Police's grounding philosophy generally, nor as part of the governing ethos of establishing an enforceable discipline policy specifically. It is important that the CPD acknowledge the mistrust in the community when it comes to holding police officers accountable for misconduct.

Finally, while the draft GPO does attempt to address some of the content elements set forth in the Consent Decree, its written narrative form does not provide an actual matrix or chart that is easy to visualize and understand. Such a "visually accessible" matrix/chart should be constructed to accompany the written GPO in order to inform police officers and community members who seek to know how the CPD enforces discipline.

Other critical aspects of the disciplinary GPO are addressed below.

Clearer Definition of Terms:

Critical to providing a digestible and enforceable discipline GPO is clearly defining terms related to discipline, i.e. mitigating and aggravating factors. The current GPO lacks the clarity and specificity that would provide firm guidance and accountability, and therefore does not appropriately satisfy the word

and spirit of the Consent Decree mandates. Both civilians and police officers on the Commission agree that there needs to be further definitional and explanatory work done. For instance, the GPO needs to distinguish between disciplinary and non-disciplinary actions, including the procedures and related repercussions.

Explicit Incorporation of Preventive Measures and Interventions:

Work should also be done to assure that preventative measures, i.e. early intervention systems (EIS) and early warning systems (EWS) are included as a part of this disciplinary policy. A focus on prevention also should include determining and encouraging explicit and limited non-punitive opportunities for mentorship and formative assessment in the event of a minor rule infraction. In Cleveland, the policing professional needs to always work to grow in their career, learning from mistakes and improving practices. An environment needs to be created where officers can freely discuss best practices in the line of duty to enhance their personal and organizational performance prior to the need for formal non-disciplinary and disciplinary reprimands. There also needs to be an environment developed where officers commit to best practices and understand that when misconduct happens, it is in every officer's interest to report such conduct in order to assure other officers' and community members' safety, and to advance fair, consistent, and substantial discipline as the standard.

Better Categorization of Offenses:

A major part of the detail in the draft policy labels the severity of misconduct by cataloguing actions into three Groups of Offenses with the first being the lowest level of offenses. Certain minimum and maximum disciplinary and non-disciplinary actions are noted. Further clarity and/or rationale is needed for determining what these groups of offenses mean in both definition and in relation to the discipline that should take place commensurate with the level of the offense.

Discipline and Collective Bargaining Units:

The draft GPO attempts to provide an improved, clearly stated procedure for discipline as well as documentation for disciplinary acts. For example, the Consent Decree requires that due process for the accused officer be recognized in the policy. While due process is important, there needs to be further explanation as to the role of the various police unions and collective bargaining agreements (CBA) as it relates to the administration of this discipline policy. One of the most consistent points collected as feedback from the community by the Commission is that there is concern that, in Cleveland, police collective bargaining agreements have too much power as it relates to the ability or inability to discipline officers whose charges of misconduct were sustained. Where do the lines between the CBA's role and the discipline prescribed in the policy begin and end? What assurances do the public have that -- with this revised policy -- officers who should be disciplined for misconduct are appropriately disciplined, whether through administrative or criminal proceedings? This is a point of contention that if not

properly addressed will be noted by community members as not only a missed opportunity, but also a dangerous nod and flagrant dismissal of the communities' concerns and recommendations.

Disciplinary GPO and Civilian Complaint Processes:

The Consent Decree does not explicitly require that there be coordination between the language in the disciplinary GPO and the forms and investigative language in the Office of Professional Standards (OPS)² and the Civilian Police Review Board (CPRB).³ The definitions, classification of offense, level and severity of offense, and disciplinary/non-disciplinary action language need to be consistent in order to guide enforcement of disciplinary standards and performance of the various investigative and deliberative duties by the CPD, CPRB and OPS, including all forms and documents. Consistency between these three entities will allow for the language and process of discipline to be clearly communicated both internally and externally to the community at large.

Instruction on Draft GPO and Full Compliance:

The final Disciplinary GPO must include within it expectations, and accountability mechanisms, to ensure instruction and full compliance to the Disciplinary GPO/Matrix. This includes all City and police personnel, including but not limited to line officers and supervisors, who are subject to as well as responsible for enacting the administrative rules and procedures of the GPO, investigating reprimands and violations that may lead to administrative or criminal proceedings, and assessing the effectiveness and suggesting future revisions to the GPO. Rules and penalties should be established for those abrogating their responsibilities and duties as delineated in the Disciplinary Matrix/GPO.

Conclusion:

The revised draft of the discipline guidelines attempts in many respects to meet the standards as set out in the Consent Decree. The policy, as written, however, is not yet the document of transformative reform in disciplinary practice and philosophy that it could or should be.

The recommendations of the Cleveland Community Police Commission are not only responsive to the Consent Decree's mandate, but are also importantly consistent with its mission to work with the people of Cleveland to develop recommendations for police practices that reflect an understanding of the values and priorities of Cleveland residents. The Commission does this with the expectation that its recommendations be not just considered, but also adopted in the next iteration of the policy.

IV. Statement of Research

² OPS is the office that investigates non-criminal civilian complaints against the police.

³ CPRB is the board that adjudicates charges of non-criminal police misconduct.

The Commission conducted independent research, gathering information from various reports, including:

- City of Madison Police Dept Discipline Matrix⁴
- City of New Orleans Discipline Matrix⁵
- Denver Police Department Handbook Discipline Guidelines⁶
- Police Accountability -- Findings and National Implications of an Assessment of the San Diego Police Department⁷

V. Statement of Community Feedback Process

The Commission gathered information from the community through its regularly held public meetings and suggestions submitted by organizations and individuals. In addition, the Commissioners also reviewed their previous Commission meeting minutes and reports and incorporated, as appropriate, relevant information. (See below)

- March 28 Full Commission Meeting
- April 11 Policy and Procedure Assessment Committee Meeting
- April 25 Full Commission Meeting
- Suggestions Submitted by Organizations/Individuals
 - Recommendations from SURJ
 - Recommendations from ACLU-Ohio

VI. Commission Initial Recommendations

A. Premises

The Commission's initial recommendations for the Cleveland Division of Police's Disciplinary GPO/Matrix:

⁴ <http://tinyurl.com/mdbj8hl>

⁵ <http://tinyurl.com/l62lfb3>

⁶ See Appendix

⁷ <https://ric-zai-inc.com/Publications/cops-w0756-pub.pdf>

- Places a premium on providing the most updated best practices that undergird policies and procedures, decision-making, and accountability.
- Recognizes that critical to building community trust, confidence, and legitimacy are disciplinary policies that clearly articulate and result in enforceable repercussions, punishments, and disciplines for law enforcement persons violating policies, procedures, standards, and principles.
- Articulates that discipline must be delivered fairly, consistently, and in a timely manner.
- Requires clearly delineated definitions, expectations, processes, and penalties that advance fairness and procedural justice -- all of which should be presented in an accessible matrix format to guide police officers and inform the public. This should include the full range of discipline from administrative to criminal proceedings.
- Aligns with community values and expectations.

B. How to Read the Charts

The GPO/Matrix Policy Recommendations chart has four (4) columns:

- **“Commission Recommendations”**: What must be done.
- **“In GPO”**: Identifies what exists or does not exist in the current GPO based on the recommendations provided.
- **“Research”**: Indicates whether the recommendations also emerged through independent research of policies, best practices, other cities’ GPOs, reports, etc.
- **“Feedback Process”**: Indicates whether the recommendations also emerged through the community feedback process. This includes issues identified through community input at Commission meetings, local expert feedback and submitted recommendations, and Commissioners’ input.

C. Disciplinary GPO/Matrix Recommendations

<u>COMMISSION RECOMMENDATIONS</u>			
<u>GENERAL: MATRIX</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
Provide an actual Matrix in tabular or chart form.		X See New Orleans Police Department Operations Manual (hereafter "NOPD").	X "A matrix presentation would make the information easier to understand." ⁸
In addition to the official matrix in tabular and chart form, there should be disciplinary chart that is less technical in language that can be understood by community members.		X See section 12.0: Development of Discipline Matrix- p. 15 of the Denver Police Department's Disciplinary Guidelines.	X "Police officers may understand the different categories and offenses, but community members find it difficult to comprehend. Having a chart might make the GPO easier to

⁸ Statement is from community feedback gathered at the March 2017 Full Commission Meeting

			understand.” ⁹
<u>CPD PURPOSE STATEMENT</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
There should be some commitment to mention “transparency” in the purpose statement.			
<u>CPD POLICY STATEMENT</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
Include policy statement making clear that the matrix will cover the lowest, presumptive, and maximum penalties -- with the presumptive penalty defined as the penalty that must be imposed unless there are mitigating or aggravating circumstances.		X	X
This language should be adjusted to take into consideration “the nature of the incident” and its level of severity -- or “egregiousness” as well as “notoriety” -- that may result in a high or low profile status.	Current statement: “All disciplinary or non-disciplinary outcomes shall be decided without consideration of high or low profile nature of the incident.”	X NOPD Operations Manual. (p.1 of 23, re: Egregious offense”) (p. 5 of 23, re: notoriety as an aggravating circumstance)	
This language should be adjusted to reflect and abide by -- with accountability -- the language in the Consent Decree about the disciplinary matrix restarting the	Current statement: “Supervisors shall follow the contractual procedures of the respective bargaining		

⁹ Ibid.

<p>clock on disciplinary standards and expectations.</p> <p>Concern: The current language does not clearly move us beyond the problem of “grandfathering behaviors” versus establishing a new set of standards and expectations on a fresh time clock, as required in the Consent Decree.</p>	<p>units. <i>The discipline matrix applies to both sworn and non-sworn members of the Division, unless there are contractual exceptions.</i>”</p>		
<p>Add “sex” to this statement: “disciplinary or non-disciplinary outcomes shall not be decided based on...”</p> <p>Concern: Sex and gender are different from one another and should be noted as so.</p> <p>Concern: Gender is included in this list. Can it be confirmed that gender includes transgender as it relates to this policy?</p>	<p>“disciplinary or non-disciplinary outcomes shall not be decided based on race, gender, national origin, age, familial relationships or sexual orientation.”</p>		
<u>DEFINITIONS SECTION</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
<p>Definitions need to be added, clarified, or elaborated upon.</p> <p>The list below provides examples but is not exhaustive:</p>			<p>“There needs to be better definitions of the alleged offences in the categories, and some of the definitions should be moved to different categories.”¹⁰</p>
<ul style="list-style-type: none"> • “Add and define” presumptive 			

¹⁰ Ibid.

<ul style="list-style-type: none"> • “Add and define” egregious offense 		X NOPD Operations Manual (p. 1 of 23)	
<ul style="list-style-type: none"> • “Add explicit examples” to the Aggravating and Mitigating definitions to elaborate upon those definitions provided 			
<ul style="list-style-type: none"> • “Add and define”: Unsatisfactory work performance 			
<ul style="list-style-type: none"> • Consider adding to the language of “prior discipline” -- “sustained violations” and define <p>Concern: This needs greater clarity. What does the language of “prior discipline” capture exactly? Does it capture “disciplinary proceedings” that resulted in non-disciplinary actions or reprimands, as well as sustained violations? Does it capture not only the range of behaviors and conduct investigated through administrative and criminal proceedings?</p>	Current: Prior discipline		
<p><i>The “time limits” within the category “prior discipline” under definitions needs to be delineated based on the Consent Decree mandates</i></p>	Current: “Prior Discipline: ... associated levels of discipline (within time limits) and any other notations ...” “Within time limits” is vague, referent unclear.		
<u>DEFINITIONS Continued:</u>	<u>In Current DRAFT GPO</u>	<u>Research &</u>	<u>Community</u>

<u>NON-DISCIPLINARY VS. DISCIPLINARY ACTION</u>		<u>Consent Decree</u>	<u>Feedback Process</u>
Need to clearly define what “non-disciplinary” means. Does this mean that it will not be identified as a violation with an accompanying penalty?	No written definitions.		
<p>Consider using more nuanced, as well as clearly defined language to categorize different corrective actions. Police officers need explicit guidance:</p> <p>E.g., What are the differences between a reprimand, a penalty, a sustained violation, a non-disciplinary action, a disciplinary action?</p> <p>E.g., Would it be clearer to use the language: reprimand resulting in non-disciplinary action?</p> <p>E.g., is “verbal counseling” a reprimand, even if it does not result in formal disciplinary action?</p> <p>E.g., Would it be clearer to use the language: Reprimand resulting in a sustained violation that results in disciplinary action?</p>		<p>X</p> <p>See NOPD Operations Manual. (p. 3 of 23)</p>	
Need to clearly state if there is a threshold -- with regard to number -- of “non-disciplinary” actions that will ultimately result in discipline.			
Need to clearly state how “non-			

disciplinary” actions are related to the early intervention system (EIS) and early warning system (EWS) to either prevent or flag chronic issue that need attention and/or discipline.			
<u>EXAMPLES/SCENARIOS</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
Examples should be provided in order to make the policy, definitions, and matrix clear throughout. e.g., provide an example that explains “lowest, presumptive, and maximum penalties,” what each is given a certain offense, and how mitigating and aggravating circumstances might play a role.	N/A	X See NOPD Operations Manual.	
<u>GROUPS OF OFFENSES</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
General: In its current form, the Disciplinary GPO/Matrix is hard to grasp. It is also unclear how effective the matrix is without being able to reference the “Use of Force” GPOs and other relevant GPOs and Rules		X See NOPD Operations Manual	“It was difficult to determine how useful a matrix would be because there was a lack of connection within this GPO to the Use of Force policies.”
Promotion Denials or Assignment Request Denials should be noted as a disciplinary action, as appropriate.		X The Consent Decree states that, “Officers with a	

<p><i>E.g., Non-assignment to Internal Affairs (as stipulated in the Consent Decree) should be noted due to excessive use of force, discrimination, or dishonesty</i></p> <p><i>NOTE: "Dishonesty," when listed under each of the different "group" levels, needs to be clearly defined.</i></p>		<p>sustained history of civilian complaints of, or who have been disciplined for, excessive use of force, discrimination, or dishonesty will be presumptively ineligible for assignment to Internal Affairs.¹¹</p>	
<p>Intimidation, Retaliation, Discouragement, Coercion, Adverse Action against any person, civilian or officer, "who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct" should be included as an offense worthy of disciplinary action per the Consent Decree.</p>		<p>X Consent Decree, Paragraph 191</p>	
<p>Need clearer explanation and/or rationale for what a Group I, Group II or Group III offense is.</p> <p>That is, are the Groups categorized by increasing severity?</p> <p>That is, are the Groups categorized by rule violations, which means there could be increased levels of severity within each Group that would then need appropriate penalties aligned to indicate the levels of severity? Etc.</p> <p>Example: Group I Offenses are "xyz."</p>	<p>No definition or rationale offered for why specific offenses fall into each Group.</p>	<p>X</p> <p>See NOPD. Lists each offense by Rule, provides a description of the Rule, and the accompanying penalty level in the matrix.</p> <p>See Denver PD Guidelines Sections 13.0, 14.0, 15.0</p>	<p>"Not all the offences were in the proper categories."</p>

¹¹ Consent Decree Paragraph 179.

<p>Need clearer definition of the specific offenses that fall in each Group.</p> <p>Example: "Tactics..." -- Define, identify. What are the specific tactics violations that would fall under Group I versus Group 2 or Group 3?</p>	<p>Current Example: Group I. "Tactics. Not approved by the Division, Unsafe, Reckless, violation of training."</p> <p><i>The above is vague. Not clearly defined.</i></p> <p>Current Example: Group I. "Prisoners, Improper Booking, DNA Collection."</p> <p><i>What does the above list mean? What is the offense(s)? How are all these connected, given they are listed in the same 'bullet point.'</i></p> <p>Current Example: Group II.</p> <ul style="list-style-type: none"> ● Abusive/Demeaning language. ● Conduct Unbecoming ● Harassment. <p><i>Vague. How are the three offenses above different?</i></p> <p><i>Is "Abusive/demeaning ..." a reference to discourtesy or rudeness? Does "conduct unbecoming" include abusive/demeaning language, and/or what else? How does "harassment" relate to the other two bullets. If you are harassing someone couldn't that include abusive/demeaning language and also result</i></p>		
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	<i>in conduct unbecoming?</i>		
<p>Need to more clearly distinguish between “levels” or increasing severity of offenses in each Group AND/OR between each Group.</p> <p>Example: Group I Offenses</p> <ul style="list-style-type: none"> ● Provide levels and clearly identify in order of severity. 	<p>Current Example: “Tactics. Not approved by the Division, Unsafe, Reckless, violation of training.”</p> <p><i>Vague. Level differentiation non-existent.</i></p>		
<p>Specific Questions Re: Group Offenses</p> <p>Group I Offenses:</p> <ul style="list-style-type: none"> ● Should Grooming be included? ● Leaving district/city without approval a failure to notify supervisor- should be Group 2 offense instead of Group 1 <p>Group II Offenses:</p> <ul style="list-style-type: none"> ● Would disparaging the CPD include comments about reform process? This should be clarified in order to exclude such an interpretation. ● Re: Careless handling of firearm, when does careless become negligent? <p>General:</p> <ul style="list-style-type: none"> ● Does the outcome of the situation impact the determination of how serious the offense is? (e.g., such as accident as 			

<p>the result of not maintaining vehicle)?</p> <ul style="list-style-type: none"> ● Concern that committing the same offense twice may not result in higher penalties for a second similar offense. It should. ● Concern that committing certain offenses once or twice and having them sustained as violations, particularly those rising to the level of egregious behavior (e.g., sexual harassment and sexting and/or excessive use of force, deadly force), may only lead to suspension. This should result in automatic termination. ● Some offenses should be in a separate category beyond the 3 groups of offenses: e.g., sexual assault/harassment, murder etc. ● Penalties for such categories should reflect the severity of the incident. Officers should be dealt with appropriately, e.g., they should be fined; take pension 			
<p>Re-consider whether 3 Groups of Offenses are enough and offer clear guidance to police officers and community.</p>			
<p>Once clearly stated, defined, and ranked according to level of</p>		<p>X</p>	

severity, <u>offenses should then be clearly aligned with lowest, presumptive, and maximum penalties.</u>			
<u>DISCIPLINARY MATRIX & COLLECTIVE BARGAINING AGREEMENTS</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
Clearly state (as per the Consent Decree) that this new Disciplinary Matrix will reset the standards and expectations related to charges and discipline.			
Concern: the categorization of violations into Group Offenses do not matter because union will beat the claim, unless there is accompanying reform of the contracts, at minimum as indicated in the Consent Decree			
<u>RANGES OF NON-DISCIPLINARY AND DISCIPLINARY ACTIONS</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
This entire section could be made clearer by: <ul style="list-style-type: none"> ● Use of a table/chart that is a visual of the matrix ● Organizing the offenses in each group according to rule, and severity, and then aligning those with specific penalties -- lowest, presumptive, and maximum 			
There should be a way for officers to receive mentoring or formative feedback for a limited		<i>See Denver PD Sections: 4.3-Mentoring,</i>	

<p>number of determined “low level group offenses” without having a form attached and without punitive elements attached to the feedback.</p> <p><i>E.g. informal verbal counseling or formative counseling.</i></p>		<p><i>4.4-Early Intervention Systems, 4.6-Mentoring 5.0-Specific Notice Regarding Practices in Support of the Disciplinary System</i></p>	
<p>Programs and practices outside the discipline system, such as triage (also known as “filtering”), mediation, early intervention systems, education, training, mentoring, etc, which assist officers in (a) adhering to Department standards and (b) modifying behaviors, should be promoted and utilized to their fullest extent.</p>			
<p><u>PROCEDURES</u></p>	<p><u>In Current DRAFT GPO</u></p>	<p><u>Research & Consent Decree</u></p>	<p><u>Community Feedback Process</u></p>
<p>There needs to be a procedure clearly outlining the process for determining the categorization, as well as “group level,” of an offense before a policy has been violated.</p>			
<p>The following procedural questions related to after an offense has been committed need to be addressed:</p> <ul style="list-style-type: none"> At what point of the process does the commanding or responsible officer determine where it falls within the already established offenses? 			

<ul style="list-style-type: none"> • Who in the chain of command determines what the offense is for a policy violation? • What tools, questioning, investigation is used to determine the offense group level? • Does the accused offender have a right to appeal a group level determination? 			
<p>Officers should be offered due process. A requirement for meetings with supervisors has been taken out of the GPO; this should be added back in.</p>			
<p><u>DOCUMENTATION OF DIVISIONAL DISCIPLINARY ACTION</u></p>	<p><u>In Current DRAFT GPO</u></p>	<p><u>Research & Consent Decree</u></p>	<p><u>Community Feedback Process</u></p>
<p>“If an officer is not disciplined to the severity prescribed in the discipline matrix due to mitigating factors, explicit acknowledgement of the rule or policy violation must still be documented and reflected clearly in written documentation, as well as what the mitigating factors are.”</p>	<p>“Mitigating factors may result in less than the generally imposed penalty according to the disciplinary matrix, but shall be documented in the disciplinary disposition letter to amend the specification(s) to a lesser offense if necessary.”</p>		
<p>Documentation of Verbal Counseling:</p> <p>Add a line on Form-1 acknowledging that the officer has seen the form, as well as a line declaring whether an officer</p>	<p>“If a member disputes any aspect of the verbal counseling the member may indicate so by declining to sign the Form-1”</p>		

disputes or “vetoes” any aspects of the verbal counseling report. This should replace simply declining to sign the form.			
Further explanation of the impact of having discipline records in an officer's file should be provided. E.g. What are the consequences of having disciplinary or non-disciplinary actions in an officer's file? E.g. What period of time is appropriate for records of disciplinary or non-disciplinary actions to affect promotion?			
<u>GPO/MATRIX RELATIONSHIP TO PRB/OPS/Other City Entities</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
It should be clearly stated how/if the Disciplinary GPO/Matrix relates to the findings of OPS/CPRB.			
OPS/CPRB Investigation forms should include language that is compatible with this Disciplinary GPO/Matrix.			
There needs to be a clear, transparent guideline and selection criteria for appointment to the Critical Incident Review Committee (CIRC).			
For the CIRC, there needs to be clearly established standards of operation, procedures governing deliberations, standards of assessment for finding violations,			

<p>etc., similar to those recently established for OPS and CPRB.</p>			
<p>There should be mention of coordination between CPD discipline investigators and the City of Cleveland Human Resources Department or the Department of Law.</p>			<p>“These other city professionals are there to advise on fairness, discrimination and other employee relations law. Cleveland officers have successfully sued the city for discrimination in application of discipline. Arbitrators have used this against the city as well to overturn actions. Supervisors need to be able to reach out to a neutral party for advice and also have oversight by HR or legal to ensure correct application of this process. Not just internal to the chief’s office.”</p>
<p><u>CRIMINAL PROCEDURES</u></p>	<p><u>In Current DRAFT GPO</u></p>	<p><u>Research & Consent Decree</u></p>	<p><u>Community Feedback Process</u></p>
<p>If an investigator finds probable cause in connection with a violation of policy, rules or law that supervisor should immediately refer the offense to the [county] prosecutor.</p>			<p>“If probable cause is found in an investigation of an administrative offense that a supervisor believes meets the elements of a</p>

			crime in the ORC or Cleveland Charter then the offense should be immediately referred to a prosecutor or under extreme circumstances i.e. Felonies an immediate arrest should be made. Failure to do so may result in criminal or administrative offenses for the investigating officer.”
<u>ROLE OF EARLY INTERVENTION IN DISCIPLINE REPORTING</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
Early intervention techniques should be noted in the process of determining mitigating and aggravating factors?			
<u>DISCIPLINE CONSIDERATIONS FOR VULNERABLE POPULATIONS</u>	<u>In Current DRAFT GPO</u>	<u>Research & Consent Decree</u>	<u>Community Feedback Process</u>
For example, Youth: When officers are disciplined for conduct involving a child, any discipline incident should receive heightened review, and include consideration by someone who has child and adolescent development expertise. Others vulnerable populations should be similarly considered			X

and included.			
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VII. Select Bibliography

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ADDENDA