



CLEVELAND DIVISION OF POLICE
CPC MODEL DRAFT 2020 V2



EFFECTIVE DATE: DRAFT	CHAPTER: 1 - Administrative	PAGE: 1 of 10	NUMBER: 1.07.06
SUBJECT: DRAFT CPC MODEL DISCIPLINARY GUIDANCE 2020			
CHIEF:			

This General Police Order has been revised in its entirety

PURPOSE: Each employee of the Cleveland Division of Police must have an understanding of the Division’s values, rules and expectations for conduct while on and off duty. Employees must also understand the processes and outcomes associated with judgmental errors that are in conflict with the Division’s values and rules. In conjunction with the Manual of Rules this policy serves to re-enforce the right set of values and behavioral standards for **all** employees, regardless of rank or authority in the organization, in an equal, fair and consistent manner.

POLICY: Employees of the Cleveland Division of Police are expected to conduct themselves, both in interactions with each other and with the public, in a manner that conveys respect, honesty, integrity, and dedication to public service. In turn, employees of the department can expect to be treated fairly, honestly and respectfully, by their peers and other employees of the department who hold positions of greater or lesser organizational authority.

The integrity of the Cleveland Division of Police is measured by the highest standards of personal conduct. All employees shall without exception:

- Comply 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 Cleveland Division of Police
- Adhere to all criminal laws in the jurisdictions in which they may be travelling

It is recognized and understood that employees of the department will make judgmental errors from time to time in carrying out their responsibilities. The discipline system, which is often necessary when judgmental errors occur, reflects the values of the Division while protecting the rights of both officers and citizens. While each error in judgment offers an opportunity for the department and the individual to learn, it is also understood some errors will have greater consequences than others will for the public, the department and the employee. The division has an obligation to make its expectations as clear as possible to employees. The department has an equal obligation to make the consequences for failing to meet those expectations clear. Clarity in this context centers around three concepts; **transparency, consistency and fairness.**

Transparency is achieved through sharing of factual information about the discipline process with both the public and members of the division. 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 purposes

of correcting misinformation, organizational learning and growth. Sharing of information should be done in a manner that respects privacy when warranted and does not incur unnecessary internal shaming of an employee who has been disciplined.

For the Cleveland Division of Police **consistency** is defined as holding everyone equally accountable for unacceptable behavior and **fairness** is applying consequences according to the Disciplinary Guidance Matrix. The Matrix is designed to list prohibited behaviors and the presumptive range of consequences for violating those behaviors. A KEY component of the matrix is that it works on the following principal: as the seriousness of the bad behavior increases so does the range of discretion in which management can apply consequences. Offenses in the lower Group I, which are the majority, will have little room for discretion and circumstances associated with the offense are given no weight. Offenses in the higher groups (II, III & IV) will consider circumstances known to aggravate or mitigate the situation and allow management to consider a broader range of punishment up to an including termination.

Regardless of the offense level:

- 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.

DEFINITIONS:

Aggravating Factors are 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), loss or damage to the city or private property and prejudicial or biased conduct.

Mitigating Factors are 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 prior work history.

Corrective Action is any non-disciplinary or disciplinary action.

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Dishonesty is to act without honesty: to deliberately deceive, defraud or lie.

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

Group I Violation is conduct 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 is conduct that is contrary to the values of the Division, or that interferes with its mission, operations or professional image, or that involves a demonstrable serious risk to officer or public safety.

Group III Violation is conduct 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 officer or public safety or to the professionalism of the Division. Any violation of law, rule, policy or training which foreseeably results in death or serious physical harm to another person; or constitutes a willful and wanton disregard of Division values; or involves any act which demonstrates a lack of the integrity, ethics or character related to an officer's fitness to hold the position of 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 any conduct which constitutes the failure to adhere to any contractual condition of employment or requirement of certification mandated by law.

Group IV Violation is the most egregious and heinous misconduct that exceeds the descriptive criteria of a group III violation AND also carries with it a presumption of termination from the division

Untruthfulness is the act of being intentionally deceitful, the willful perversion of the truth in order to deceive, cheat, or defraud.

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

Coaching: is a process that is designed to assist motivated individuals in making changes to further their professional development. Coaching could including additional time with a supervisor or peer group coving an area of performance deficiency or explaining a rule.

Verbal Counseling: A 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 in Blue Team (with all associated reports) to the Chief's Office.

Letter of Reinstruction: Is any instruction or guidance issued by the 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.

Remedial Training: Any instruction or guidance ordered to be completed by a member designed to correct a performance deficiency or misconduct. Remedial training may consist of classroom reinstruction or other job-related training. All remedial training records shall be retained in the Training Section and the Personnel Unit, with copies forwarded to the Case Preparation Officer.

Mandatory Referral to Employee Assistance: A referral to City of Cleveland Human Resources for connection with Employee Assistance services including private counseling and assistance with minor behavioral issues or dependencies. See city HR policy for additional details.

Disciplinary Action may take one of the following forms:

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

Suspension: A temporary prohibition of the member performing his/her duties as a result of the member's unsatisfactory work performance or misconduct issued by the Chief of Police or Director of Public Safety. The suspension period shall be without pay and served on consecutive working days, unless otherwise ordered by the Chief.

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

Termination: An involuntary separation from employment initiated by the appointing authority 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/protocol/rule violations, so that discipline for sustained violations may be imposed in a fair and consistent manner. Mitigating or aggravating factors shall be considered and may result in the adjustment of the discipline administered within the disciplinary range of the Group Violation identified.

1. Pursuant to the Cleveland Police Patrolmen's Association, Article XXIX and the Fraternal Order of Police Lodge 8, Article IV, Collective Bargaining Agreements, the Chief of Police may suspend an officer for ten (10) days or less.

If the Chief recommends a greater penalty, the Director of Public Safety will hear the disciplinary charge filed against the officer and render judgment on such charge and set the disciplinary penalty if any.

2. Pursuant to Cleveland Police Patrolmen’s Association, Exhibit G, *“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 in order to take advantage of the foregoing limitations on discipline.”*
 3. Pursuant to the 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 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. The table describes how sustained violations occurring in the same group within a three-year period automatically progresses the discipline into the next higher group as follows:
- Group I, four or more
 - Group II, three or more
 - Group III, two or more
- E. Multiple violations arising from a single event or incident may escalate the disciplinary action to the maximum group range.
- F. A member may be subject to transfer if he/she is 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 of Police may also suspend or terminate secondary employment privileges, ceremonial team/special detail assignment/task force/FTO program privileges and acting out of rank duties.
- ~~G. AWOL (absence from duty without leave), social media policy violations, tactical and training violations, failure to notify a supervisor or violation of a court order can result in a Group I, II or III violation, as defined in this General Police Order.~~
- H. 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. Therefore, it is a weapons disability, and

the City will also take appropriate disciplinary 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 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.

- I. The following are examples of violations within each disciplinary category. The violations listed are not intended to be all-inclusive.

1. **Non- Disciplined Minor Violations**

- Abusive Language (internal)
- Tardiness
- Discourteous rudeness first offense to public
- Maintenance related Grooming & uniform violations
- General equipment violations
- General unsatisfactory performance

2. **Group I Violations**

- AWOL
- Diminish the esteem of the Division (disparaging or offensive statements or conduct regarding the Division)
- Grooming & Uniform Violations (altering uniform or displayed information, use of non-approved emblems, patches, items and accessories for purpose to deceive or make inappropriate statements)
- Negligent equipment violations
- Unexcused absence for Division training when scheduled
- Failure to notify supervisor of Group I Violation
- Secondary employment, Unauthorized
- Improper tow
- Leaving district, zone, or city without supervisory approval
- Minor misdemeanor offenses (as defined by ORC 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)
- Reports, failure to submit or timelines
- Tactics, violation of training
- Vehicular pursuit/emergency driving, unauthorized/improper
- Violate the City's HR rules on social media- unauthorized use on duty

- WCS, Improper usage

3. Group II Violations

- Discourteousness and rudeness, second offense
- Failure to appear in court without notice
- Failure to notify supervisor of a group II violation
- Failure to search prisoners for contraband
- Failure to secure prisoners
- Failure to supervise subordinates
- Harassment, internal
- Knowingly or intentionally violating WCS policy
- Sleeping on Duty
- Violate the City's HR rules on social media
- Violation of a court order
- Violation of prohibited tactics
- Other serious violations

4. Group III Violations

- Calls for Service, failure to respond, investigate, arrest, and/or properly clear, failure to check for warrant
- Computers, Unauthorized or improper use/access, LEADS violations
- Discrimination, Bias Policing
- Failure of a random alcohol test [see I. A. (2&3)]
- Failure of a random drug test
- Failure to notify supervisor of a Group III violation
- Failure to search prisoners for weapons
- Firearms violations resulting in death or serious injury
- Firearms violations, unattended careless handling
- Gross immorality violations
- Harassment, external
- Insubordination
- Mishandling or improper preparation of criminal case
- Off-duty O.V.I. or related offenses
- Operating a motor vehicle while privilege revoked or suspended
- Secondary employment (revoked)
- Sexual Harassment (GPO 1.1.07)

5. Group IV Violations

- Alcohol/drug use on duty
- Any conviction resulting in a weapons disability
- Communication of confidential information that may jeopardize a police action

- ^ Dereliction of Duty (ORC def.)
- ^ Engaging in sexual activities while on duty
- ^ Excessive force, physical force not within policy
- ^ Exercise of authority while under suspension
- ^ False Report, False Statement, Untruthfulness, Dishonesty
- ^ Felonies and serious misdemeanor offenses
- ^ Gross neglect of duty
- ^ Retaliation, Coercion or Intimidation
- ^ Vehicular pursuit/emergency driving, unauthorized improper resulting in death or serious bodily injury
- ^ Workplace violence (GPO 1.02.09)

6. **Minor Non Grouped Violations** – Corrective action shall range from verbal reinstruction, written reinstruction, coaching or referral to assistance.
7. **Group I Violations** - Corrective action shall range from a 1-day to a 3-day suspension without pay.
 - a. There shall be no consideration of circumstances for group I offenses.
8. **Group II Violations** - Corrective action shall range from a 5-day to a 10-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)
9. **Group III Violations** - Corrective action shall range from a 10-day suspension to demotion or termination.

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- 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 not 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

10. 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 resulting in a Weapons Disability (termination)
- d. False Reports, false statements, untruthfulness, or dishonesty (each of which creates a rebuttable presumption of termination)

K. Divisional records will be maintained in compliance with Ohio Public Records laws.

II. Procedures

- A. After a misconduct investigation is completed by the assigned Unit/Bureau, 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 Office will then schedule a pre-disciplinary hearing for the member.
- B. The 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.

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.

The Case Preparation Officer will assist the Hearing Officer to determine the discipline group category contained in the specification(s).

In cases where the Chief of Police or Director of Public Safety is not the hearing officer, then the hearing officer will make a recommendation to the Chief of Police or Director of Public Safety for a final determination and imposition of corrective action, if any, in accordance with this General Police Order. The Case Preparation Office will notify the member of the final disposition of the pre-disciplinary hearing.

C. 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 form the City's Human Resources Department,
- ^ Two non-bargaining association representatives (presently, someone from the Black Shield and the Hispanic Police Officers Association)
- ^ A Civilian Police Review Board (CPRB) Representative
- ^ The Police Inspector General

The association 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 is a broad, comparison based review process. It is double blind. Members of the Committee will not know who the officer facing discipline is, and the only publicly known member of the Committee is the IG.

This committee will review, on a blind basis (without knowing who the officer being charged is) the hearing officer's recommendations, and provide their own recommendations to the Chief. This recommendation is arrived at via a consensus of the five Committee members. The committee shall have access to past adjudicated discipline on the department. The goal of the committee is to make sure that discipline is consistently applied (i.e., punishments are equal for offenses). The committee shall NOT re-investigate or review quality of the investigation. The committee will also help detect patterns to find underlying issues and systematic faults such as training deficiencies, etc. and make recommendations to the chief on its findings.

CI. 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., training, remedial training, classroom instruction or transfer) is appropriate in addition to discipline being imposed.

III. Documentation of Divisional Disciplinary Action

- A. To document the Division’s consistency in discipline and to demonstrate transparency in such matters, the Case Preparation Officer in the Chief’s Office shall maintain files of all disciplinary actions imposed by the Division. Documentation shall consist of the following information:
1. Date of incident;
 2. Date of discipline or non-disciplinary action;
 3. Violations sustained;
 4. Action taken.
- B. The Case Preparation Officer shall cause a Divisional Notices to be issued on an as-needed basis. Any notice shall be in compliance with the transparency component of this procedure and shall be for the purposes of correcting misinformation, organizational learning and growth. Sharing of information should be done in a manner that respects privacy when warranted and does not incur unnecessary internal shaming of an employee who has been disciplined.

IV. Separation from Service with Pending Discipline

- A. 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.”*

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		One day suspension
	2		Two day two suspension
	3		Three day suspension
	4 or more		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

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