

CLEVELAND COMMUNITY POLICE COMMISSION

**Proposed Changes to the CDP's
Disciplinary Matrix Policy**

June 22, 2020

City's Current GPO text:

To establish guidelines for the imposition of corrective action within the Cleveland Division of Police. Written guidelines provide all members of the Division the assurance that corrective action will be imposed in an equitable manner while providing management with the discretion necessary to maintain fairness and the good order of the Division.

CPC Proposed Changes

<p>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 reinforce 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.</p>	<p>Section / Notes: Purpose</p>
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City's Current GPO text:

To ensure compliance to 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 integrity of the Cleveland Division of Police is measured by the highest standards of personal conduct. The discipline system reflects the values of the Division while protecting the rights of both officers and citizens. The disciplinary 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 Disciplinary 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 or III policy violations.
3. Outline the presumptive discipline ranges within those categories and for specific policy violations based upon 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.

CPC Proposed Changes

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

Section / Notes:

Policy

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 principle: 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 and 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.

Added:

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.

Section / Notes:

Definitions

<p>Added: Coaching: is a process that is designed to assist motivated individuals in making changes to further their professional development. Coaching could include additional time with a supervisor or peer group covering an area of performance deficiency or explaining a rule.</p>	<p>Section / Notes: Definitions</p>
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<p>Added: 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.</p>	<p>Section / Notes: Definitions</p>
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City’s Current GPO text:

D. Three or more sustained violations occurring in the same group within a three year period automatically progresses the discipline into the next higher group.

CPC Proposed Changes

<p>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:</p> <ul style="list-style-type: none"> • Group I, four or more • Group II, three or more • Group III, two or more 	<p>Section / Notes: Procedure I. Table of Discipline</p>
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City's Current GPO text:

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.

CPC Proposed Changes

Deleted	Section / Notes: Procedure I. Table of Discipline
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City's Current GPO text:

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 III violations.

CPC Proposed Changes

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.	Section / Notes: Procedure I. Table of Discipline
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Added: Non- Disciplined Minor Violations <ul style="list-style-type: none">● Abusive Language (internal)● Tardiness● Discourteous rudeness first offense to public	Section / Notes: Procedure I. Table of Discipline Section I Disciplinary Groups
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- Maintenance related Grooming & uniform violations
- General equipment violations
- General unsatisfactory performance

City's Current GPO text:

Group I Violations

- Absence from duty without leave (AWOL)
- Court, Failure to Appear
- Discourtesy, Rudeness
- Equipment, Unauthorized, Failure to properly control or maintain
- Erroneous reporting
- Failure to attend required Division training when scheduled
- Failure to notify supervisor of a Group I Violation
- Grooming and Uniform violations
- Improper tow
- Leaving district, zone or city without supervisory approval
- Minor misdemeanor offenses (as defined by O.R.C. 2901.02) excluding minor traffic violations
- Operating motor vehicle with expired driver 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 discovery of weapon or contraband after member searched the prisoner, Improper booking, DNA collection
- Reports, Failure to submit or timeliness
- Response status, Improper or unauthorized emergency response
- Secondary employment, Unauthorized
- Social media policy violations
- Tactics, Violation of training
- Tardiness
- Unsatisfactory performance
- Vehicular pursuit/emergency driving, Unauthorized/improper
- Violation of a court order
- WCS, Improper usage (see GPO 4.06.04 Wearable Camera System)
- Other similar misconduct

CPC Proposed Changes

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

Section / Notes:

Procedure I. Table of Discipline Section I Disciplinary Groups

City's Current GPO text:

Group II Violations

- Absence from duty without leave (AWOL)
- Abusive/demeaning language
- Calls for Service, Failure to respond, investigate, arrest, and/or properly clear
- Conduct Unbecoming
- Computers, Unauthorized or improper use/access, LEADS violations
- Diminish the esteem of the Division (disparaging or offensive statements or conduct regarding the Division)

- Failure to notify supervisor of a Group II Violation
- Failure to supervise subordinates
- Firearms violations (did not result in injury or death), unattended 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
- Prisoners, Failure to properly search or secure resulting in escape or discovery of weapon or contraband when the prisoner was not searched.
- Sleeping on duty
- Social media policy violations
- Tactics, Violation of training
- Violation of a court order
- Other similar misconduct

CPC Proposed Changes

<p>Group II Violations</p> <ul style="list-style-type: none"> • 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 	<p>Section / Notes: Procedure I. Table of Discipline Section I Disciplinary Groups</p>
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City's Current GPO text:

Group III Violations

- Absence from duty without leave (AWOL)
- 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

- Discrimination, Bias Policing
- Drug-related violations
- Engaging in sexual activities while on duty
- Excessive force, Physical force not within policy
- Exercise of authority while under suspension
- Failure to notify supervisor of a Group III Violation
- Failure of a random alcohol test [See I. A. (2 & 3)]
- Failure of random drug test
- False Report, False Statement, Untruthfulness, Dishonesty
- Intentionally omitting or concealing information related to misconduct
- Felonies and serious misdemeanor offenses
- Firearms violations resulting in death or serious injury
- Gross immorality violations
- Gross neglect of duty
- Insubordination
- Off-duty O.V.I. or related offenses (second offense)
- Operating motor vehicle while privilege revoked or suspended
- Retaliation, Coercion or Intimidation
- Secondary employment (revoked)
- Sexual Harassment (as defined by General Police Order 1.1.07: Sexual Harassment Policy)
- Social media policy violations
- Tactics, Violation of training
- Violation of a court order
- Vehicular pursuit/emergency driving, Unauthorized/improper (resulting in death or serious bodily injury)
- Workplace violence (as defined by GPO 1.02.09 Violence in the Workplace)
- Other similar misconduct

CPC Proposed Changes

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

Section / Notes:

Procedure I. Table of Discipline Section I
Disciplinary Groups

- 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)

Added:

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)

Section / Notes:

Procedure I. Table of Discipline Section I Disciplinary Groups

Added:

Minor Non Grouped Violations – Corrective action shall range from verbal reinstruction, written reinstruction, coaching or referral to assistance.

Section / Notes:

Procedure I. Table of Discipline Section I/J Ranges of Non-disciplinary and Disciplinary actions

City's Current GPO text:

Group I Violations - Corrective action shall range from non-disciplinary Verbal Counseling to a 5-day suspension without pay.

- a. First Group I violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (non-disciplinary Verbal Counseling to Written Reprimand)
- b. First Group I violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (1 to 2-day suspension without pay)
- c. Second Group I violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (2 to 3-day suspension without pay)
- d. Second Group I violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (3 to 5-day suspension without pay)

CPC Proposed Changes

<p>Group I Violations - Corrective action shall range from a 1-day to a 3-day suspension without pay.</p> <ul style="list-style-type: none">a. There shall be no consideration of circumstances for group I offenses.	<p>Section / Notes: Procedure I. Table of Discipline Section I/J Ranges of Non-disciplinary and Disciplinary actions</p>
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City's Current GPO text:

Group II Violations - Corrective action shall range from a 6-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 (6 to 7-day suspension without pay)
- b. First Group II violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (7 to 8-day suspension without pay)
- c. Second Group II violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (8 to 9-day suspension without pay)
- d. Second Group II violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (9 to 10-day suspension without pay)

CPC Proposed Changes

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 not 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 not 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)

Section / Notes:

Procedure I. Table of Discipline Section I/J Ranges of Non-disciplinary and Disciplinary actions

City's Current GPO text:

Group III Violations - Corrective action shall range from a 10-day suspension to demotion or termination.

- a. First Group III violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (10 to 30-day suspension without pay)
- b. First Group III violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (13 to 30-day suspension without pay and/or demotion or termination)
- c. First Group III violation, serious misdemeanor offenses, gross immorality violations, gross neglect of duty, mitigating factors outweigh any aggravating factors or no aggravating factors present (20 to 30-day suspension without pay and/or demotion or termination)
- d. First Group III violation, serious misdemeanor offenses, gross immorality violations, gross neglect of duty, aggravating factors outweigh any mitigating factors or no mitigating factors present (25 to 30-day suspension without pay and/or demotion or termination)
- e. First Group III violation, felony offenses (termination)
- f. Second Group III violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (15 to 30-day suspension without pay)

- g. Second Group III violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (18 to 30-day suspension without pay and/or demotion or termination)
- h. Second Group III violation, serious misdemeanor offenses, gross immorality violations, gross neglect of duty, (presumption of termination)
- i. Any conviction resulting in a Weapons Disability (termination)
- j. False Report, false statement, untruthfulness, or dishonesty (each of which creates a presumption of termination)

CPC Proposed Changes

<p>Group III Violations - Corrective action shall range from a 10-day suspension to demotion or termination.</p> <ul style="list-style-type: none"> 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 	<p>Section / Notes: Procedure I. Table of Discipline Section I/J Ranges of Non-disciplinary and Disciplinary actions</p>
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<p>Added:</p> <p>10. Group IV Violations</p> <ul style="list-style-type: none"> 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 Report, false statement, untruthfulness, or dishonesty (each of which creates a presumption of termination) 	<p>Section / Notes: Procedure I. Table of Discipline Section I/J Ranges of Non-disciplinary and Disciplinary actions</p>
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Added:

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 from 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 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 the 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.

Section / Notes:

Procedure II.
Procedures

City's Current GPO text:

B. The Case Preparation Officer shall cause a Divisional Notice to be issued on an as- needed basis listing disciplinary decisions imposed by the Division.

CPC Proposed Changes

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.

Section / Notes:
Procedure III.
Documentation of
Divisional Disciplinary
Action

Additional Notes:

Substantial changes were made to the disciplinary charts as well. To save space here, please see the relevant attached documents.