



GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE



ORIGINAL EFFECTIVE DATE: March 1, 2002	REVISED DATE: January 1, 2014	NO. PAGES: 1 of 10	NUMBER: 1.1.11
SUBJECT: <p style="text-align: center;">DISCIPLINARY GUIDANCE</p>			
ASSOCIATED MANUAL: Manual of Rules		RELATED ORDERS:	
CHIEF OF POLICE: <p style="text-align: center;"><i>Michael McGrath, Chief</i></p>			

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

POLICY: 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.

An effective discipline system is one that is based on the principles of fairness and consistency. It reflects the values of the Division while protecting the rights of both officers and citizens. The system strives to encourage respect and trust among members of the Division and the community in overseeing the Division's employees' adherence to laws, policies, procedures, and directives. The establishment of Disciplinary Guidance is intended to create a culture of public accountability and promote individual responsibility while maintaining the highest standards of professionalism in policing.

Supervisors shall follow the contractual procedures of the respective bargaining units.

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 specific policy violations.

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3. Outline specific discipline ranges within those categories and for specific policy violations based upon the severity of offenses.
4. Give notice to officers and the community of the likely sanction for a particular violation.
5. Identify aggravating and acceptable mitigating circumstance requirements.
6. Provide the framework for consistent and fair discipline

DEFINITIONS:

Commendations are documented incidents of outstanding performance and service to the Division and community occurring in the previous five year period.

Circumstances (Surrounding the Incident) addresses the following questions: Was the employee acting within the course and scope of their employment with the City (e.g. responding to a call, making an arrest, etc.)? Was the employee acting in the best interest of the Division/community and/or with due regard for safety? Did the employee recklessly disregard factors that a reasonable person would have considered or did the employee act negligently?

Culpability involves an evaluation of whether the employee acted intentionally or with knowledge that the behavior is or may reasonably be considered a violation of policy.

Employee Attitude toward the infraction is a mitigating factor when considering discipline. Discipline can be effective only if employees accept responsibility for their actions and continually strive to conduct themselves within the guidelines of Division policy.

Liability is the legal responsibility imposed upon the City of Cleveland for the actions or inactions of its employees acting within the course and scope of their City employment.

Performance Evaluations includes both scheduled and unscheduled documentation of an employee's work habits, productivity, efficiency and effectiveness.

Prior Discipline is previously sustained allegations and associated levels of discipline (within time limits) and any other notations regarding the specific behavior in question as outlined in supervisory notes (recent training and/or warnings specific to the behavior).

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Rank is a pay grade wherein employees of higher rank may be held to a higher standard of conduct and knowledge of Divisional policies based on the virtue of their positions.

Seniority is length of service in the Division. The tenure that an employee has as a member of the Division may be weighed against the behavior in question based upon the factors surrounding the incident, such as experience, training, culpability, and circumstances of the event.

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

Irregularity Observed: is any instruction or guidance issued by the Chief of Police or Inspections Unit to the employee, where the employee is advised/cautioned about unsatisfactory work performance or misconduct. Irregularity Observed forms will not be placed in the employee's personnel file. Irregularity Observed forms with attached Form-1 reports shall be forwarded through their chain of command to the Inspections Unit with copies sent to the Case Preparation Office.

Verbal Counseling: A discussion between the supervisor and the employee where the employee is advised and cautioned about unsatisfactory work performance or misconduct. Verbal Counseling will not be placed in the employee's personnel file. Documentation of the Verbal Counseling shall be noted by completing a pre-structured Form-1 (Attachment) titled Verbal Counseling (followed by the employee's name/badge number) and forwarded through their chain of command (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 employee, where the employee is advised of their action that needs correction and directing the employee to review specific policies, procedures, or rules. Letters of Reinstruction will not be placed in the employee's personnel file.

Re-Training: Any instruction or guidance ordered to be completed by an employee designed to correct a performance deficiency or misconduct. Re-training may consist of classroom reinstruction or other job-related training. All re-training records shall be retained in the Training Section with copies forwarded to the Case Preparation Officer.

Disciplinary Action may take one of the following forms:

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

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Recommendations for a written reprimand shall be forwarded through the chain of command and placed in the employee's personnel file if sustained by the Chief of Police.

Suspension: A temporary prohibition of the employee performing his/her duties as a result of the employee's unsatisfactory work performance or misconduct issued by the Chief of Police or Director of Public Safety. The suspension period shall be without pay. Documentation regarding the suspension will be placed in the employee's personnel file.

Demotion: A reduction of the pay grade of an employee and a change in job duties and responsibilities as a result of the employee's unsatisfactory work performance or misconduct issued by the Director of Public Safety. Documentation regarding the demotion will be placed in the employee's personnel file.

Termination: An involuntary separation from employment initiated by the employing authority as a result of the employee's unsatisfactory work performance or misconduct issued by the Director of Public Safety. Documentation regarding the dismissal will be placed in the employee's personnel file.

I. Table of Discipline

- A. The Table of Discipline shall outline guidelines for discipline for specific types of policy/procedural/protocol/rule violations so that discipline for sustained violations may be imposed in a fair and consistent manner. Exacerbating or mitigating factors may result in discipline being imposed that is greater or lesser than that which will generally be imposed according to the disciplinary matrix and will be documented in the disciplinary letter.
1. All final decisions regarding discipline up to and including a 10-day suspension rest with the Chief of Police. The Chief of Police reserves the right to hold any number of suspension days in abeyance for 2 years, and may impose those days in addition to any subsequent disciplinary action in the intervening 2 years.
 2. All final decisions regarding discipline greater than a 10-day suspension, demotion, and termination rest with the appointing authority (Director of Public Safety). The Director of Public Safety also reserves the right to hold any number of suspension days in abeyance for 2 years, and may impose those days in addition to any subsequent disciplinary action in the intervening 2 years.

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- B. The Table of Discipline will be reviewed and revised as necessary on an annual basis by the Case Preparation Officer with the consultation of the Chief of Police to ensure that it represents current law enforcement values and standards.
- C. Unacceptable conduct is divided into three groups of offenses based on its seriousness. The severity of the discipline chosen shall fit the seriousness of the offense. If there are mitigating circumstances, supervisors shall include them in their request for discipline.
- D. Three or more sustained violations in a lower category occurring within two years of the first sustained violation automatically progresses the discipline into the next higher group.
- E. Multiple offenses arising from a single event or incident may escalate the discipline action to the maximum group range.
- F. Procedural steps for imposing discipline are set forth below. The failure of a supervisor to follow these procedural steps will not, by itself, make the discipline invalid or improper, but an employee may separately grieve a supervisor's failure to follow appropriate procedure, provided that such grievance is filed in a timely manner. The sole remedy for such grievance shall be correction of the procedural error.

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

1. **Group I Offenses**

- Absence from duty without leave
- Court, Failure to Appear
- Discourtesy
- Equipment, Failure to properly control or maintain
- Equipment, Unauthorized
- Erroneous daily duty report
- Failure to notify supervisor
- Firearms, Unattended, careless handling (no injury)
- Grooming and Uniform regulations, Violations of
- Leaving district, or city without supervisory approval
- Mishandling or improper preparation of criminal or traffic case resulting in prosecutorial declination to prosecute or dismissal
- Parking, Illegal parking of police vehicle

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- Police vehicle, Failure to properly maintain, preventable motor vehicle accidents on duty
- Police vehicle operations, flagrant violations (e.g. excessive speed)
- Prisoners, Improper booking failure to properly secure, search, handcuff
- Reports, Failure to submit or timeliness, failure to notify supervisor
- Response status, improper or unauthorized emergency response
- Secondary employment, unapproved (1 day suspension for first offense)
- Tardiness
- Traffic laws, Violation of minor traffic laws
- Unsatisfactory performance
- Vehicular pursuit/Emergency Driving, Unauthorized/Improper
- Zone, leaving without supervisory approval
- Other similar violations

2. **Group II Offenses**

- Abusive/demeaning language
- Calls for Service, Failure to respond, investigate, arrest, and/or properly clear
- Conduct unbecoming
- Harassment
- Insubordination
- Misconduct, to other officers or citizens
- Prisoners, Failure to properly search or secure resulting in escape or discovery of weapon or contraband
- Sleeping on duty
- Social media policy, violations of
- Other similar violations

3. **Group III Offenses**

- Alcohol-related offenses
- Criminal law offenses
- Alcohol/Drug use on duty
- Drug-related offenses
- Firearms violations, Careless handling resulting in injury
- Firearms violations, (e.g. unreported discharges)
- Force, Excessive use of
- Gross immorality
- Neglect of Duty
- Operating motor vehicle while privilege revoked or suspended

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- Police vehicle, Operation of after consuming alcohol and/or drugs
- Reports, False
- Statements, False
- Engaging in sexual activities while on duty
- Other similar violations

D. Ranges of Non-Disciplinary and Disciplinary Actions

1. **Group I Offenses** - Disciplinary action shall range from non-disciplinary Verbal Counseling to a 5 day suspension without pay. Suspension days, including any number of which may be held in abeyance, shall be determined at the discretion of the Chief of Police.
 - a. First offense, mitigating factors, no prior disciplinary or non-disciplinary action (non-disciplinary Verbal Counseling-Written Reprimand)
 - b. First offense, aggravating factors, no prior disciplinary or non-disciplinary action (1 to 2 day suspension without pay)
 - c. Second offense, mitigating factors (2 to 3 day suspension without pay)
 - d. Second offense, aggravating factors (3 to 5 day suspension without pay)
2. **Group II Offenses** - Disciplinary action shall range from a 6 day to a 10 day suspension without pay. Suspension days, including any number of which may be held in abeyance, shall be determined at the discretion of the Chief of Police.
 - a. First offense, no prior discipline or non-disciplinary action (6 to 8 day suspension without pay)
 - b. Second offense (8 to 10 day suspension without pay)
3. **Group III Offenses** - Disciplinary action shall range from a 10 day suspension to temporary or permanent demotion to termination. Suspension days, including any number of which may be held in abeyance, shall be determined at the discretion of Director of Public Safety.

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- a. First offense, no prior discipline or non-disciplinary action (up to 30 day suspension without pay)
 - b. First offense, criminal law offenses, drug offenses, drinking on duty, gross immorality offenses, gross neglect of duty, probationary status employees (up to 30 day suspension without pay, demotion, termination)
 - c. Second offense (up to 30 day suspension without pay, demotion, termination)
- E. The ranges of discipline indicated serve as a guide only. Actual discipline for each range may vary. However, the Division shall ensure that discipline is applied consistently within that range. For example, two employees with identical first-time Group II infractions without any mitigating circumstances should not result in one employee being disciplined with a 6 day suspension and the other with a 20 day suspension.
- F. For members of the Cleveland Police Patrolmen's Association (CPPA), written reprimands shall not be considered after six (6) months from the date the discipline was administered. Suspensions shall not be considered after two (2) years from the date the discipline was administered.
- G. For members of the Fraternal Order of Police, Lodge 8 (FOP), all disciplinary actions or penalties will not be considered after two (2) years from the date of action.

II. Procedures

- A. A supervisor (of a higher rank than the offending member) shall investigate suspected violations of rules, regulations or procedures. If discipline is warranted, the supervisor shall complete a Form-1 and forward same through the chain of command. If the employee is a civilian, the supervisor shall consult with the Case Preparation Officer.
- B. If the investigation reveals that a non-disciplinary action is warranted, the investigating supervisor shall complete a pre-structured Form-1 (**Attachment**) titled Verbal Counseling (followed by the employee's full name and badge number) and forward the Form-1 and all associated documentation through their chain of command to the Chief's Office. A copy shall be retained at the District/Bureau.

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1. If a member disputes any aspect of the verbal counseling the member may indicate so by declining to sign the Form-1.
 2. The supervisor shall indicate the member's failure to sign the Form-1 by indicating so in the space provided and forwarding a copy of the Form-1 to the commander (or first command staff member in member's chain of command) with the original forwarded to the Chief's Office.
 3. The command staff member shall schedule a conference with the member within 30 calendar days to discuss the circumstances of the verbal counseling. The outcome of the conference shall be documented and forwarded to the Chief's Office.
- C. If the investigation reveals that discipline action is warranted, the investigating supervisor shall prefer Divisional charges and prepare a Form-1 report describing the incident and separately detail each violation by specification (e.g. Specification #1: On Wednesday, January 1, 2014, while assigned to 5B28, you (P.O. Zyx) were observed by a superior officer sleeping on duty at the location of East 4th and Euclid Avenue). The investigating supervisor shall also list all policies, procedures, and/or rules violated.
- D. Members of the Division shall also be guided by the Manual of Rules for the Conduct and Discipline of Employees of the Cleveland Division of Police, Section II Administrative Compliance, to wit:

Rule 2.13: Superior officers shall recommend disciplinary action whenever personnel are alleged to have violated the rules or directives of the Division of Police. Command or Superior officers shall relieve from duty for cause any officer or employee of the Division of Police found to be unfit for duty, promptly notify their superior officer of such action and forward a report giving full details concerning the matter.

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

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2. Date of discipline or non-disciplinary action
 3. Violations sustained
 4. Action taken
- B. The Case Preparation Officer shall cause a Divisional Notice to be issued on an as needed basis listing disciplinary actions imposed by the Division.
- C. All disciplinary or non-disciplinary outcomes shall be decided without favor/disfavor or regard to position/assignment, race, gender, or seniority.

IV. 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.”