



# CLEVELAND DIVISION OF POLICE

## GENERAL POLICE ORDER



EFFECTIVE DATE:	CHAPTER:
SUBJECT:	CORRECTIVE ACTION
CHIEF:	
COMMUNITY POLICE COMMISSION:	

*This General Police Order has been revised in its entirety*

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### PURPOSE

Each member 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. Members 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 members, regardless of rank or authority in the organization, in an equal, fair and consistent manner.

### POLICY OVERVIEW

Members 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, members of the division can expect to be treated fairly, honestly and respectfully by their peers and other members of the Division 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 members 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, and jurisdictions where they travel.

It is recognized and understood that members of the Division will make judgmental errors from time to time in carrying out their responsibilities. The corrective action system, which is often necessary when judgmental errors occur, reflects the values of the Division while protecting the rights of both officers and members of the public. While each error in judgment offers an opportunity for the Division and the individual to learn, it is also understood some errors will have greater consequences than others for the public, the division and the member. The Division has an obligation to make its expectations as clear as possible to members. The Division 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 corrective action process with both the public and members of the division. The Division shall comply with Ohio public records laws with respect to requests for disciplinary information.

For the Division, **consistency** is holding everyone equally accountable for unacceptable behavior and **fairness** is applying consequences according to the Corrective Action Matrix. The Matrix is designed to list prohibited behaviors and the range of outcomes to correct those behaviors. Non-Disciplined and Group I violations will have little room for discretion and circumstances associated with the offense are given no weight. The Division will consider aggravating and mitigating circumstances as outlined in the Corrective Action Matrix.

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 Corrective Action Matrix applies to both sworn and non-sworn members of the Division, unless there are contractual exceptions.

**The Corrective Action Matrix will be reviewed annually and revised as necessary.**

## 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 of the corrective action for 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.

**Dishonesty** is to act without honesty; to deliberately mislead, deceive, defraud or lie.

**A False Statement** is a statement that is deliberately made and meant to mislead or deceive or a statement that is knowingly untrue.

**A 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.

**A 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.

**A 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 that could reasonably be expected to result in serious physical harm to another person; constitutes a willful and wanton disregard of Division values; or involves any act that demonstrates a lack of the integrity, ethics or character related to an officer's fitness to hold the position of police officer; involves egregious misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law.

**A Group IV Violation** is the most egregious and heinous misconduct, including conduct that could reasonably be expected to result in the death of another person, and/or exceeds the descriptive criteria of a group III violation 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 violations carry the presumption of termination from the division.

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

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

- A. **Coaching**: A process that is designed to assist 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.
- B. **Verbal Counseling**: A formal discussion between the supervisor and the member where the member is advised and cautioned about unsatisfactory work performance or irregularities. Documentation of the Verbal Counseling shall be noted by completing a pre-structured Form-1 (Attachment A) titled Verbal Counseling (followed by the member's name/badge number) and forwarded through their chain of command in Division tracking software (with all associated reports) to the Chief's Office.
- C. **Letter of Reinstruction**: Any instruction or guidance issued by the Chief of Police or the Chief Director of Public Safety 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.
- D. **Re-training**: Any instruction or guidance ordered to be completed by a member designed to correct a performance deficiency or misconduct. Retraining shall be conducted by the Training Unit and 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 Unit.

**Disciplinary Action** may take one of the following forms:

- A. **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 their unsatisfactory work performance or misconduct.
- B. **Suspension**: A temporary prohibition of the member from performing their 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 or permissible compensatory time usage as permitted by the Collective Bargaining Agreement and served on consecutive working days, unless otherwise ordered by the Chief for the purpose of preventing serious operational disruptions. There shall be no deviations from consecutive suspensions.
- C. **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.
- D. **Termination**: An involuntary separation from employment initiated by the appointing authority as a result of the member's unsatisfactory work performance or misconduct.

## FRAMEWORK

1. The Corrective Action Matrix shall establish a presumptive range of corrective action for designated types of policy/procedural/protocol/rule violations, so that corrective action for sustained violations may be imposed in a fair and consistent manner. Mitigating and aggravating factors shall be considered in Violation Groups II and III and may result in the adjustment of the corrective action administered within the group's disciplinary range. All corrective action shall conform to the current Collective Bargaining Agreements of the respective bargaining units representing members of the Division of Police.
2. A foundational purpose of this policy is to explicitly define which penalties will be administered so that officers know exactly what the ramifications are for their behaviors – to take out the unnecessary unknowns in their day-to-day work. While the violation list is not all-inclusive – as every possible infraction cannot be predicted – the penalties shall remain consistent with the ranges listed in this policy, including the application of mitigation or aggravation.
3. Violations are divided into four groups based on their seriousness. The severity of the corrective action 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.
4. Unless otherwise stated, the Matrix describes how sustained violations occurring in the same group or higher within a three-year period – including those arising from a single event or incident – automatically progresses the corrective action into the next higher group as follows:
  - Group I: Four or more violations.
  - Group II: Three or more violations.
  - Group III: Two or more violations.
5. The Division will not accept non-disciplinary corrective action as a substitute for discipline where the Corrective Action Matrix calls for the imposition of discipline. However, the Division will consider whether non-disciplinary corrective action (i.e., coaching, verbal counseling, letter of reinstruction, re-training, and/or referral to Employee Assistance) is appropriate in addition to discipline being imposed.
6. Sustained violations involving recruits or probationary status officers who engage in serious or intentional and deliberate misconduct will presumptively result in the termination of that member's employment.
7. C.P.P.A. civilian members are subject to corrective action procedures outlined by the Bureau of Communications and Property Control. C.P.P.A. civilian members have specific contract language governing mandatory overtime requirements.
8. A member may be subject to transfer if they are found guilty of a Group II or Group III violation based on the underlying conduct of the corrective action 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.
9. Pursuant to Title 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

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a service weapon. Title 18 U.S.C. §922(g) also includes an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)); or is subject to a court order that was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate; restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or who has been convicted in any court of a misdemeanor crime of domestic violence. Therefore, it is a weapons disability, and the City will also take appropriate disciplinary action as contemplated for Group IV violations.

- A. 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.

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

11. 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.”

12. Once begun, an investigation must continue when a member resigns, and the final determination and details of the corrective action must be maintained/documented in the discipline record.

## **VIOLATIONS**

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

### **A. Non-Disciplined Violations**

- Abusive Language (internal)
- Tardiness (1-3 offenses per calendar quarter)
- Discourteous and/or rudeness to public, or co-workers (first offense)
- Maintenance-related grooming & uniform violations
- General equipment violations
- General unsatisfactory performance
- Improper usage of WCS (first offense)
- Leaving zone without supervisory approval

### **B. Group I Violations**

- Tardiness (4 or more incidents per quarter)
- AWOL (1 hour or more without calling)
- Discourteousness and/or rudeness to the public, co-workers or supervisors (2 or more offenses)
- Non-maintenance 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)

- Improper tow
- Leaving district 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
- Failure to properly maintain police vehicle and/or preventable motor vehicle accidents (not resulting in injury or serious damage to property)
- Flagrant violations of police vehicle operations (e.g., excessive speed)
- Untimely or failed submission of a report
- Sleeping on duty
- Violation of tactics training
- Unauthorized and/or knowingly improper vehicular pursuit and/or knowingly improper emergency driving (excluding injury or serious damage to property)
- Violation of the City's HR rules on social media and/or unauthorized use on duty (first offense)
- Negligently improper usage of WCS
- Failure to respond, investigate, arrest, and/or properly clear, failure to check for warrant in response to a call for service (first offense)

### **C. Group II Violations**

- Discourteousness and/or rudeness to the public, co-workers or supervisors (3 or more offenses)
- Failure to appear in court without notice
- Knowingly failed to notify supervisor of a Group II violation
- Failure to search arrestee
- Failure to secure prisoners
- Knowingly failed to supervise subordinates
- Harassment (internal)
- Insubordination
- Knowingly violating WCS policy
- Violation of the City's HR rules on social media and/or unauthorized use on duty (2 of more offenses)
- Violation of a court order
- Violation of prohibited tactics that does not result in significant injury
- Other serious violations
- Preventable motor vehicle accidents (resulting in injury or serious damage to property)
- Unauthorized and/or knowingly improper vehicular pursuit and/or knowingly improper emergency driving (resulting in injury or serious damage to property)
- Failure to respond, investigate, arrest, and/or properly clear, failure to check for warrant in response to a call for service (2 or more offenses)
- Operating a motor vehicle while privilege revoked and/or suspended
- Off-duty O.V.I. or related offenses
- Unattended, careless handling of firearms
- Any use of force categorized as Level 1 that is determined, after investigation as outlined in GPOs 2.01, to be inconsistent with GPO 2.01.05.

### **D. Group III Violations**

- Unauthorized or improper use/access of computers and/or LEADS violations
- Discrimination and biased policing
- Failure of a random alcohol test [see I. A. (2&3)]



- Failure of a random drug test
- Knowingly engaged in revoked secondary law enforcement employment
- Knowingly failed to notify supervisor of a Group III or Group IV violation
- Firearms violations resulting in death or serious injury
- Gross immorality violations on duty
- Harassment (external)
- Mishandling a criminal case or improperly preparing for a criminal case
- Knowingly initiating or engaging in an improper vehicular pursuit and/or improper emergency driving (resulting in death or serious bodily injury)
- Tactics; violation of training that results in serious harm to the public; physical harm of CDP members or community members; and/or significantly damages the reputation of the CDP and the relationship between CDP and the community
- Engaging in sexual activities while on duty
- Sexual Harassment (GPO 1.1.07)
- Workplace violence (GPO 1.1.08) (first offense excluding physical attacks)
- Any use of force categorized as Level 2 that is determined, after investigation as outlined in GPOs 2.01, to be inconsistent with GPO 2.01.05

## E. Group IV Violations

- Alcohol/drug use on duty, including being under the influence of alcohol/drugs while on duty
- Any conviction or protective order resulting in a permanent weapons disability
- Communication of confidential information that may jeopardize a police action
- Dereliction of Duty (as defined in ORC § 2921.44)
- Any use of force categorized as Level 3 that is determined, after investigation as outlined in GPOs 2.01, to be inconsistent with GPO 2.01.05
- Exercise of authority while under suspension
- Knowing untruthfulness or dishonesty (including but not limited to reports and statements)
- False Report, false statement, untruthfulness, and/or dishonesty
- Felonies and serious misdemeanor offenses, such as 18 U.S.C. § 922(g) and 18 U.S.C. § 921(a) (33) (A)
- Willful gross neglect of duty
- Retaliation, coercion, or intimidation
- Failure to fully cooperate with the Cleveland Community Police Commission in performing its duties
- Workplace violence (GPO 1.1.08) (1 offense including physical attacks; 2 or more offenses not including attacks)

## RANGES OF CORRECTIVE ACTIONS

- **Non-Disciplined Violations** – Corrective action for non-disciplined violations shall range from coaching, verbal counseling, letters of reinstruction, re-training, and/or referrals to Employee Assistance.
- **Group I Violations** - Corrective action shall range from written reprimand to two-day suspension without pay.
  - a. There shall be no consideration of aggravating or mitigating circumstances for Group I violations.
- **Group II Violations** - Corrective action shall range from a three-day to an



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eight-day suspension without pay.

- a. First Group II violation and mitigating factors outweigh any aggravating factors (three-day suspension without pay)
  - b. First Group II violation and mitigating and aggravating factors are equal (four-day suspension without pay)
  - c. First Group II violation and aggravating factors outweigh any mitigating factors (five-day suspension without pay)
  - d. Second Group II violation and mitigating factors outweigh any aggravating factors (six-day suspension without pay)
  - e. Second Group II violation and mitigating or aggravating factors are equal (seven-day suspension without pay)
  - f. Second Group II violation and aggravating factors outweigh any mitigating factors (eight-day suspension without pay)
- **Group III Violations** - Corrective action shall range from a 9-day suspension to demotion.
  - a. First Group III violation and mitigating factors outweigh any aggravating factors (nine-day suspension without pay)
  - b. First Group III violation and mitigating or aggravating factors are equal (15-day suspension without pay)
  - c. First Group III violation and aggravating factors outweigh any mitigating factors (30-day suspension without pay and/or demotion)
  - d. Second Group III violation and mitigating factors outweigh any aggravating factors (30-day suspension without pay and/or demotion)
  - e. Second Group III violation without mitigating factors will elevate to Group IV
- 5. **Group IV Violations**
  - a. Group IV violations will result in termination.

## PROCEDURE

- A. After a misconduct investigation is completed (for violations in Groups I, II, III and IV) by the assigned Unit/District, 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 corrective action 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

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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.

In any case where new information is presented at a pre-disciplinary hearing, the Hearing Officer, Internal Affairs, or the Office of Professional Standards will determine whether the case needs to be returned for further investigation or consideration before the making of a final disposition. In cases where the Chief of Police or Director of Public Safety is not the Hearing Officer, the Hearing Officer will make a recommendation to the Chief of Police or Director of Public Safety for a final determination of guilty or not guilty based on the preponderance of the evidence standard.

The Case Preparation Unit will notify the member of the final disposition of the pre-disciplinary hearing. All corrective action hearing decisions will be sent to the Fairness and Consistency Committee for review prior to corrective action issuance.

C. The Fairness and Consistency Committee will consist of:

- Three Division members appointed by the Chief of Police. The Chief must first solicit one Cleveland Police representative from each of the following non-bargaining associations: the Black Shield, the Hispanic Police Officers Association, and the Greater Cleveland Emerald Society. If one or more of these associations declines committee membership, the Chief will replace that appointment with an officer who is currently assigned to Basic Patrol holding the position of Patrol Officer One.
- No members of the Division who serve as bargaining board members may represent the Division on the Fairness and Consistency Committee.
- Optional membership: The Public Safety Inspector General, one representative of the Civilian Police Review Board, one representative of the Community Police Commission and one representative from the City of Cleveland's Human Resources Department may participate in the Committee with full membership and voting rights if they so choose.

The non-bargaining union members of the Committee cannot be board members of bargaining unions. All eligible members of the non-bargaining associations are members of the bargaining unions. New Division members of the Committee will be selected every six months. A Division member may not serve more than one term in a five-year period.

This is a broad, comparison-based review process. It is double blind. Members of the Committee will not know who the officer facing corrective action is, and the only publicly known member of the Committee is the Public Safety Inspector General.

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 Committee members, who shall have access to past adjudicated corrective action of the Division. The goal of the Committee is to make sure that corrective action is consistently applied (i.e., corrective actions are equal for the same violations). The committee shall not re-investigate or review quality of the investigation. The committee will help detect patterns to find underlying issues and systemic faults such as training deficiencies, etc., and make recommendations to the chief on its findings. The Committee may meet live or conduct its business by email as needed. Committee recommendations will also be sent to the CPC and the Office of the Public Safety

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Inspector General.

- D. The Division will not accept non-disciplinary corrective action as a substitute for discipline where the Corrective Action Matrix calls for the imposition of discipline. However, the Division will consider whether non-disciplinary corrective action (i.e., coaching, verbal counseling, letters of reinstruction, re-training) is appropriate in addition to discipline being imposed.
- E. To document the Division's consistency in corrective action and to demonstrate transparency in such matters, the Case Preparation Officer in the Chief's Office shall maintain files of all corrective 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.
- F. The Case Preparation Officer shall cause 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.

**THIS ORDER SUPERSEDES ANY PREVIOUSLY ISSUED DIRECTIVE OR POLICY FOR THIS SUBJECT AND WILL REMAIN EFFECTIVE UNTIL RESCINDED OR SUPERSEDED.**

## CORRECTIVE ACTION MATRIX

Group Violation	Violation Number	Mitigating/Aggravating	Corrective Action Range
Non-Disciplined Violations	1 & 2		Coaching, verbal counseling, letter of reinstruction, re-training, and/or referral to Employee Assistance
	3		Advance to Group I
Group I	1		Written reprimand
	2		1-day suspension
	3		2-day suspension
	4 or more		To Group II
Group II	1	Mitigating	3-day suspension
	1	No mitigating or aggravating OR mitigating and aggravating are equal	4-day suspension
	1	Aggravating	5-day suspension
	2	Mitigating	6-day suspension
	2	No mitigating or aggravating OR mitigating and aggravating are equal	7-day suspension
	2	Aggravating	8-day suspension
	3 or more		To Group III
Group III	1	Mitigating	9-day suspension
	1	No mitigating or aggravating OR mitigating and aggravating are equal	15-day suspension and/or demotion
	1	Aggravating	30-day suspension and/or demotion
	2	Mitigating	30-day suspension and/or demotion
	2 or more		To group IV
Group IV	1		Termination