

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 1:15-CV-01046
)	
Plaintiff,)	
)	JUDGE SOLOMON OLIVER, JR.
vs.)	
)	<u>AMENDED MOTION REGARDING</u>
CITY OF CLEVELAND)	<u>CLEVELAND DIVISION OF POLICE</u>
)	<u>DISCIPLINARY MATRIX</u>
Defendant.)	
)	
)	

Pursuant to Paragraphs 245 through 249 of the Consent Decree, a number of the Decree’s other substantive requirements, and the Revised Second-Year Monitoring Plan in the above-captioned matter, the City of Cleveland (the “City”), on behalf of the Cleveland Division of Police (“CDP” or “Division”), submitted a proposed revised Disciplinary Guidance General Police Order 1.1.11 (with an attached Form-1 titled Verbal Counseling) and Group Violation Chart (together, the “Proposed Disciplinary Matrix”) to the Monitor, attached hereto as Exhibits A and B, respectively.

The Monitoring Team has carefully reviewed the Proposed Disciplinary Matrix. It has determined that it provides sufficiently clear guidelines around, among other things, (1) the types of CDP misconduct violations that are subject to discipline; (2) the appropriate amount of

discipline for first-time and successive violations; (3) the mitigating and aggravating factors that are relevant to the determination of discipline; and (4) the circumstances that may not be considered in determining discipline. The product of extensive discussions among the City, CDP, the Department of Justice (collectively, “the Parties”), and the Monitoring Team, the Proposed Disciplinary Matrix is an important step towards ensuring that discipline of Division employees is fair, consistent, and comports with due process. The Monitor therefore recommends that the Court approve CDP’s Proposed Disciplinary Matrix in its entirety.

I. SUMMARY OF CONSENT DECREE REQUIREMENTS REGARDING DISCIPLINE

The Consent Decree obligates CDP to “ensure that discipline for sustained allegations of misconduct comports with due process, and is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented.” Dkt. 7-1 at ¶ 245. To that end, the Division “will review its current disciplinary matrix and will seek to amend it as necessary[.]” *Id.* Specifically, CDP must ensure that the new disciplinary matrix:

- “establishes a presumptive range of discipline for each type of rule violation;”
- “increases the presumptive discipline based on an officer’s prior violations of the same or other rules;”
- “prohibits consideration of the officer’s race, gender, national origin, age, ethnicity, familial relationships, or sexual orientation” as well as “the high (or low) profile nature of the incident;” and
- “provides that CDP will not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline” but may consider non-disciplinary corrective action “in a case where discipline has [already] been imposed.” *Id.* at ¶ 246.

Along with the requirements above, CDP must document all disciplinary decisions in writing and must “work with the unions to allow for sustained disciplinary findings to stay in an officer’s record for ten years.” *Id.* at ¶¶ 247, 249.

II. PROCEDURAL HISTORY

Well before the Consent Decree became effective, CDP had started work on a new disciplinary guidance matrix. Its purpose was to improve consistency, fairness, and transparency in the Division’s administration of discipline. These efforts resulted in a revised General Police Order 1.1.11 that was issued on January 1, 2014. The new policy enumerated three groups of offenses, promulgated formal disciplinary procedures, and featured a Table of Discipline that outlined discipline for different types of violations. When the Consent Decree became effective on May 26, 2015, the Parties and the Monitor thereafter set about revising the General Police Order 1.1.11 to ensure that it complied with the provisions laid out in the Decree.

Under the Decree and the Court-approved Revised Second-Year Monitoring Plan, the Monitor will, upon receiving CDP’s final disciplinary matrix, recommend the matrix’s approval or disapproval, either in whole or in part, “based on the extent to which the plan adequately addresses with [sic] the requirements of the [Consent Decree], incorporates feedback of the Parties, and reflects the values and specific input of community and Division stakeholders.” Dkt. 147-1 at 13.

Virtually every word in the Proposed Disciplinary Matrix is the product of comprehensive discussion and negotiation. Reaching a consensus was exacting, with the Department of Justice and Monitoring Team advising and negotiating with the City and CDP through numerous drafts. The Parties and the Monitoring Team devoted particular time and attention to determining what types of misconduct should be included in each Group Violation,

the definitions of mitigating and aggravating factors, the definition and use of non-disciplinary action, and the use of the term “presumptive range of corrective action.”

Along with the views of the Department of Justice and the Monitoring Team, the Proposed Disciplinary Matrix reflects the input of other critical stakeholders. The Office of Professional Standards and the Citizen Police Review Board provided their comments on April 21, 2017. Those comments were incorporated into later drafts. On August 22, 2017, the Cleveland Community Police Commission (“CPC”) held a community meeting for Cleveland residents to share their feedback on a draft of the disciplinary matrix. The CPC subsequently conferred with the Division to provide its comments and insights. Additionally, the Cleveland Police Patrolmen’s Association (“CPPA”) expressed its concerns in an April 21, 2017 letter to CDP regarding proposed revisions to the disciplinary matrix and recommended additional changes for the Division to consider. While there are conflicting accounts on whether subsequent in-person meetings to address the matrix occurred between CDP and the CPPA, the Division appears to have held internal meetings to review the CPPA’s suggestions.

After reaching agreement on the policy’s provisions, the Division circulated the current Proposed Disciplinary Matrix to the Parties and the Monitoring Team on December 8, 2017. The Department of Justice and City have reviewed and approved the Proposed Disciplinary Matrix.

III. STANDARD OF REVIEW

The Monitor’s role is to “assess and report whether the requirements” of the Consent Decree “have been implemented.” Dkt. 7-1 at ¶ 351; *accord id.* ¶ at 352 (requiring the Monitor to “review . . . policies, procedures, practices, training curricula, and programs developed and implemented under” the Decree). The task of the Monitor here is to determine whether the

Proposed Disciplinary Matrix submitted to the Monitor on December 8, 2017 complies with the Consent Decree's requirements. As always, the Monitoring Team's assessment of these elements is informed substantially by the discipline policies of other police departments across the country and the experience and technical backgrounds of Monitoring Team experts, some of whom have served as police chiefs and oversaw their departments' administration of discipline.

IV. ANALYSIS OF THE PROPOSED DISCIPLINARY MATRIX

The Proposed Disciplinary Matrix sets forth critical guidelines for the imposition of corrective action within the Cleveland Division of Police. It establishes three categories of violations—Groups I, II, and III—that are ranked sequentially according to the severity of the violation. *See* Ex. A. at 2-3. For example, Group I Violations (“conduct that has a negative impact on the operations or professional image of the Division”) include a CDP employee's failure to appear in court, failure to maintain equipment, failure to submit timely reports, and unsatisfactory performance. Ex. A. at 2, 6. Group III Violations (“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 of public safety”) include discriminatory policing, firearms violations resulting in death or serious injury, false statements, and violation of training tactics. *Id.* at 3, 8.

Each Group Violation has, in accordance with the Consent Decree, “a presumptive range of discipline[.]” Dkt. 7-1 at ¶ 246(a). For example, an officer with his or her first sustained Group I Violation (where mitigating factors outweigh any aggravating factors) faces a presumptive corrective action ranging from non-disciplinary verbal counseling to written reprimand. *See* Ex. A at 8; Ex. B. Moreover, the Proposed Disciplinary Matrix “increases the presumptive discipline based on an officer's violation of the same or other rules[.]” Dkt. 7-1 at ¶

246(b). For instance, whereas an officer's *first* Group II Violation with no mitigating factors results in a 7 to 8 day suspension without pay, a *second* Group II Violation with no mitigating factors results in a 9 to 10 day suspension without pay. *See* Ex. A. at 9; Ex. B. That type of successive disciplinary increase is consistent across each Group Violation.

To comply with the Consent Decree's requirement, *see* Dkt. 7-1 at ¶¶ 245, 246(c), the Proposed Disciplinary Matrix states, "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." *See* Ex. A. at 4. The definitions for Mitigating and Aggravating Factors are robust—listing numerous circumstances that exemplify each type of factor—and should reduce confusion around the situational and/or behavioral circumstances that may be considered in determining a Division employee's discipline. *See* Ex. A. at 2.

Further, the Proposed Disciplinary Matrix states that discipline "shall be decided without consideration to the member's race, religion, gender, sex, national origin, age, ethnicity, familial relationships or sexual orientation." *Id.* at 1. The new policy also states that discipline "shall be decided without consideration of the high or low profile nature of the incident." *Id.*

Additionally, the Proposed Disciplinary Matrix states that "[t]he Division will not accept non-disciplinary corrective action as a substitute for discipline where the disciplinary matrix calls for the imposition of discipline." *Id.* at 11. Nonetheless, "the Division will consider whether non-disciplinary corrective action . . . is appropriate in addition to discipline being imposed." *Id.*

The Consent Decree requires that "[a]ll disciplinary decisions will be documented in writing." Dkt 7-1 at ¶ 247. Accordingly, the Proposed Disciplinary Matrix mandates that "the Case Preparation Officer in the Chief's Office shall maintain files of all disciplinary actions imposed by the Division." Ex. A. at 11. The documentation shall include the date of the

incident, the date of the disciplinary action, the violations sustained, and the action taken. *See id.* Disciplinary records “will be maintained in compliance with Ohio Public Records retentions laws.” *Id.* at 10.

The Monitor is confident that these provisions, put together, will help the Division “ensure that discipline for sustained allegations of misconduct comports with due process, and is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented.” Dkt. 7-1 at ¶ 245. For that reason, the Monitoring Team concludes that the provisions and requirements of the Proposed Disciplinary Matrix represent substantial progress toward meeting the Consent Decree’s requirements around discipline.

V. CONCLUSION

The task of the Monitoring Team is to duly consider whether the City’s submitted Proposed Disciplinary Matrix satisfies the terms of the Consent Decree. The Monitoring Team concludes that the Proposed Disciplinary Matrix meets the terms of the Consent Decree. Accordingly, the Monitor approves the Proposed Disciplinary Matrix in its entirety and requests that this Court order it effective January 1, 2018.

Respectfully submitted,

/s/ Matthew Barge

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CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2018, I served the foregoing document entitled Amended Motion Regarding Cleveland Division of Police Disciplinary Matrix via the court's ECF system to all counsel of record.

/s/ Matthew Barge
MATTHEW BARGE

Exhibit A



GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE



ORIGINAL EFFECTIVE DATE: January 1, 2014	REVISED DATE: January 1, 2018	NO. PAGES: 1 of 11	NUMBER: 1.1.11
SUBJECT: DISCIPLINARY GUIDANCE			
ASSOCIATED MANUAL: Manual of Rules		RELATED ORDERS: Misconduct GPO	
CHIEF OF POLICE:			

PURPOSE: 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.

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.

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 to 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:

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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.

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.

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.

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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 serious 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.

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

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) 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.

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.

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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.

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 employing authority as a result of the member's unsatisfactory work performance or misconduct issued by the Director of Public Safety.

I. Table of Discipline

A. The Table of Discipline 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

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

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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. **Group I Violations**

- Absence from duty without leave (AWOL)
- Court, Failure to Appear
- Discourtesy, Rudeness
- Equipment, Unauthorized, Failure to properly control or maintain
- Erroneous daily duty report
- 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 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 WCS G.P.O: 3.2.20)
- Other similar misconduct

2. **Group II Violations**

- Absence from duty without leave (AWOL)
- Abusive/demeaning language

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- 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 prisoner was not searched.
- Sleeping on duty
- Social media policy violations
- Tactics, Violation of training
- Violation of a court order
- Other similar misconduct

3. **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 Reports, False Statements, Untruthfulness, Intentionally omitting or concealing information related to misconduct
- Felonies and serious misdemeanor offenses
- Firearms violations resulting in death or serious injury
- Gross immorality violations

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- 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 1.1.08: Violence in the Workplace)
- Other similar misconduct

J. Ranges of Non-Disciplinary and Disciplinary Actions

1. **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 aggravating factors present (3 to 5 day suspension without pay)
2. **Group II Violations** - Corrective action shall range from a 6 day to a 10 day suspension without pay.

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- 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)
3. **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)

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- 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, (rebuttable presumption of termination)
 - i. Any conviction resulting in a Weapons Disability (termination)
- K. Divisional records will be maintained in compliance with Ohio Public Records retentions 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 potential 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.

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- C. 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 Notice to be issued on an as needed basis listing disciplinary decisions imposed by the Division.

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."

CDW/bpc
Chief's Office
Attachment

Exhibit B

Group Violation	Violation number	Mitigating or Aggravating Factors	Presumptive Corrective Action Range
I (a)	First Group I Violation	Mitigating factors outweigh any aggravating factors OR No aggravating factors present	Non-disciplinary Verbal Counseling to Written Reprimand
I (b)	First Group I Violation	Aggravating factors outweigh any mitigating factors OR No mitigating factors present	1 to 2 day suspension without pay
I (c)	Second Group I Violation	Mitigating factors outweigh any aggravating factors OR No aggravating factors present	2 to 3 day suspension without pay
I (d)	Second Group I Violation	Aggravating factors outweigh any mitigating factors OR No mitigating factors present	3 to 5 day suspension without pay
II (a)	First Group II Violation	Mitigating factors outweigh any aggravating factors OR No aggravating factors present	6 to 7 day suspension without pay

II (b)	First Group II Violation	Aggravating factors outweigh any mitigating factors OR No mitigating factors present	7 to 8 day suspension without pay
II (c)	Second Group II Violation	Mitigating factors outweigh any aggravating factors OR No aggravating factors present	8 to 9 day suspension without pay
II (d)	Second Group II Violation	Aggravating factors outweigh any mitigating factors OR No mitigating factors present	9 to 10 day suspension without pay
III (a)	First Group III Violation	Mitigating factors outweigh aggravating factors OR No aggravating factors present	10 to 30 day suspension without pay
III (b)	First Group III Violation	Aggravating factors outweigh any mitigating factors OR No mitigating factors present	13 to 30 day suspension without pay and/or demotion OR termination

III (c)	First Group III Violation	<p>Serious misdemeanor offenses, gross immorality violations, gross neglect of duty</p> <p>AND</p> <p>Mitigating factors outweigh aggravating factors</p> <p>OR</p> <p>No aggravating factors present</p>	20 to 30 day suspension without pay and/or demotion or termination
III (d)	First Group III Violation	<p>Serious misdemeanor offenses, gross immorality violations, gross neglect of duty</p> <p>AND</p> <p>Aggravating factors outweigh mitigating factors</p> <p>OR</p> <p>No mitigating factors present</p>	25 to 30 day suspension without pay and/or demotion or termination
III (e)	First Group III Violation	Felony offenses	Termination

III (f)	Second Group III Violation	Mitigating factors outweigh aggravating factors Or No aggravating factors present	15 to 30 day suspension without pay and/or demotion or termination
III (g)	Second Group III Violation	Aggravating factors outweigh any mitigating factors OR No mitigating factors present	18 to 30 day suspension without pay and/or demotion or termination
III (h)	Second Group III Violation	Serious misdemeanor offenses, gross immorality violations, gross neglect of duty	Rebuttable presumption of termination
III (i)	Group III Violation	Any conviction resulting in a Weapons Disability	Termination