



NEWARK POLICE DIVISION GENERAL ORDER



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| SUBJECT: DISCIPLINARY PROCESS AND MATRIX | GENERAL ORDER NO. 18-26 |
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| SUPERSEDES: General Order 93-2 | DATED: September 9, 2019 |
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- Related Memoranda & General Orders:**
- A. Department of Public Safety’s Police Division – Mission Statement;
 - B. Law Enforcement Code of Ethics;
 - C. Newark Police Division Rules and Regulations;
 - D. Newark Police Division Special Orders, General Orders, Memorandums, Training Bulletins;
 - E. Newark Police Division General Order 94-4 (Revised): Sick Leave Policy and Procedures;
 - F. Newark Police Division General Order 10-02: Performance Monitoring Program;
 - G. Newark Police Division General Order 18-25 (Revised): Complaint Intake & Investigation Process;
 - H. Newark Police Division General Order 19-05, IAPro & BlueTeam;
 - I. City of Newark PDP – 19 (Disciplinary Actions – Employees with Permanent Status);
 - J. New Jersey Administrative Code – Title 4A;
 - K. Federal and State Laws, Traffic Laws, City Ordinances;
 - L. NPD Rules & Regulations.

- I. POLICY**
- II. PURPOSE**
- III. DISCIPLINARY PHILOSOPHY**
- IV. DISCIPLINARY PROCESS**
- V. RESPONSIBILITY FOR COMPLIANCE**
- VI. DEFINITIONS**
- VII. SPECTRUM OF DISCIPLINE**
- VIII. SPECIFIC DISCIPLINARY PROCESS**



NEWARK POLICE DIVISION GENERAL ORDER



- IX. DOCUMENTATION PROCESS**
- X. RECORDING**
- XI. PLEAS**
- XII. APPEAL PROCEDURE**
- XIII. DISCIPLINARY MATRIX**
- XIV. REVIEW OF DISCIPLINARY SYSTEM AND SUSTAINED FINDINGS**
- XV. IMMEDIATE AND INDEFINITE SUSPENSION POLICY**
- XVI. CATEGORIES AND ISSUING DISCIPLINE**
- XVII. EFFECT OF THIS ORDER**

I. POLICY

To ensure the Newark Police Division's goals of engaging constructively with the community, ensuring collaborative problem-solving, and increasing community confidence in the Division, there must be trust between the police and the people they serve. To safeguard that trust, all Police Division employees, sworn and non-sworn, have a duty to serve the public fairly, lawfully, and to the best of their abilities, and the Division must ensure a culture that holds employees accountable for improper conduct.

It shall be the policy of the Newark Police Division to employ an open, effective and efficient philosophy of discipline by application of a Disciplinary Matrix. Progressive discipline will be an integral component of this disciplinary system. Discipline shall be administered objectively, without favoritism or bias in any form.

II. PURPOSE

The purpose of the Disciplinary Matrix policy is to ensure a fair, consistent, and equitable disciplinary process. The tenet of the Disciplinary Matrix is to provide a formal, written, presumptive range of penalties for sustained violations of rules, regulations, policies or General Orders, and/or procedures. The penalty ranges will vary based on the type of misconduct, which shall include the consideration of any known aggravating or mitigating circumstances.



NEWARK POLICE DIVISION GENERAL ORDER



III. DISCIPLINARY PHILOSOPHY

The Disciplinary Matrix is a guide for fairness, consistency, and equitable distribution of penalties and/or corrective action. When using the Matrix, an officer's violations of different rules within the same section rather than just repeated violations of the same rule must be taken into account. The Matrix does not abrogate the Public Safety Director's authority and discretion to impose any appropriate discipline when he/she believes the officer's actions exhibited a lack of fitness for duty and/or an egregious failure of performance. Any action or deviation from the Matrix will be taken only under exceptional circumstances, which shall be properly documented.

IV. DISCIPLINARY PROCESS

This document produces a disciplinary process that meets the Division's need to apply discipline in a timely manner by the managers directly responsible for the officer's conduct. Moreover, the managers are also the individuals most familiar with the employee, the employee's Supervisor, the particulars of the offense and the overall environment wherein the offense occurred. The disciplinary process itself is multifaceted in that discipline is divided into two kinds of offenses: Minor and Major. An employee can be subjected to one of two review processes: a Disciplinary Conference at the Precinct/Command level for Minor Offenses, or a Trial Board hearing for Major Offenses.

V. RESPONSIBILITY FOR COMPLIANCE

All Police Division members shall be responsible for complying with this policy. Command and Supervisory Officers will review, understand and comply with this policy and shall also ensure that all subordinate personnel read and acknowledge understanding of this directive.

VI. DEFINITIONS

- A. Acts of Insubordination: Any egregious act of abusive or insolent language, disrespect, defiance or disobedience to any superior officer for any proper and lawful order or command.
- B. Administrative Charge: Filing a complaint against personnel charging the employee with violation of internal rules, regulations, policies or procedures.
- C. Aggravated Insubordination: An act of insubordination which involves physical force or the threat of physical force.
- D. BlueTeam: Computer program used to enter information into IAPro. BlueTeam shall also be the computer program designated for complaint intake. *Refer to General Order 19-05, IAPro & BlueTeam for details.*



NEWARK POLICE DIVISION GENERAL ORDER



- E. **Bureau Commander**: Member with the rank of Deputy Chief, who is in charge of a Bureau which consists of multiple Divisions, Commands, Precincts or Units.
- F. **Command Rank Officer**: Member with the rank of Captain or above, who is in charge of a Precinct/Division; a Precinct Commander.
- G. **Complaint Against Personnel Form (CAP)**: A form used to document and describe sustained administrative charges after a complete and thorough investigation.
- H. **Demonstration of Respect**: Any lower form of disrespect or defiance displayed towards a superior, such as failing to address a superior by rank, non-verbal actions or other lesser discourteous behaviors or gestures.
- I. **Discharge/Termination**: Separation from employment with the City of Newark, Police Division.
- J. **Disciplinary Conference**: (also known as Command Conference): An administrative review of sustained disciplinary violation/s held by a Precinct/Division Commander or Executive Officer, (in Commander's absence) for minor offenses.
- K. **Disciplinary Conference Officer**: The Precinct/Division Commander who usually chairs the Disciplinary Conference.
- L. **Disciplinary Matrix**: A uniform guide used to impose discipline in a progressive manner for all violations of Division policy as defined herein. The Disciplinary Matrix is a guide used for fairness and consistency. It accounts for the seriousness of the infraction, prior disciplinary history of the personnel involved and aggravating and mitigating circumstances.
- M. **Division Policy**: All-inclusive of Rules, Regulations, Memoranda and General Orders.
- N. **Final Notice of Disciplinary Action (FNDA)**: A written notice served on an employee, after a Disciplinary Conference or Trial Board, which imposes the Disciplinary Action for the offenses he/she has been found guilty of (DPF-31B).
- O. **IAPro**: Case management computer program used in tracking and analyzing information such as complaints, charges, hearings, discipline, grievances, firearms discharges, police pursuits, police-involved accidents, use of force, awards, commendations, training, and various monitoring levels of individual employees.
- P. **Investigation of Personnel (I.O.P.)**: An objective inquiry into alleged offenses of improper procedures, neglect of duty, breaches of integrity, and misconduct. An IOP may lead to a Complaint Against Personnel Form (CAP).
- Q. **Major Offense**: Serious violation/s of Division rules, regulations, policy or procedures which includes any criminal violation of Federal or State Laws. This includes any serious



NEWARK POLICE DIVISION GENERAL ORDER



breaches of city ordinances or motor vehicle violations. **Major Offenses shall be the subject of a Trial Board.** A pattern exhibiting Minor Offenses of similar nature or accumulation of multiple Minor Offenses can be used to upgrade a Minor Offense to a Major Offense. This process shall be properly documented. A penalty for violation/s of Major Offenses shall be more than five (5) working days at any one time.

- R. Minor Offense:** Lower-level violation/s of Division rules, regulations, policy, or procedures. Examples include demeanor/discourtesy (devoid of profanities or other egregious language), tardiness, uniform violations, motor vehicle collisions (minor damages, no unusual circumstances), low-level neglect of duty incidents and other low-level policy violations. This also includes non-serious incidents of city ordinances or motor vehicle violations (parking/minor moving violations) and not subject to job forfeiture. **Minor Offenses shall be the subject of a Disciplinary Conference by Precinct/Unit Commanders.** A penalty for Minor Offense violation/s may include up to, but not exceeding, five (5) working days' suspension at any one time.
- S. New Jersey Administrative Code:** The New Jersey Administrative Code (N.J.A.C.) is the codification of all rules and regulations made by the executive branch agencies of New Jersey. Newly proposed rules are published for comment in the New Jersey Register, which is published twice a month. Once the new rules are officially adopted, they are published in the Code. Responsibility for the compilation, publication, and updating of the N.J.A.C. applies with the New Jersey Office of Administrative Law (OAL). All rules and regulations must be made in accordance with the New Jersey Administrative Procedure Act and the OAL's Rules for Agency Rulemaking. Title 4(A) of the N.J.A.C. applies to Civil Service employees.
- T. Oral Reprimand:** A spoken censure or reproof meant to be correctional in nature. Considered the lowest form of discipline, and may be issued at a Disciplinary Conference or by a Supervisor during the course of regular police business. It cannot be taken into account in the progressive discipline model if more than 1-year-old.
- U. Preliminary Notice of Disciplinary Action (PNDA):** A written notice served on an employee where disciplinary action is contemplated (DPF-31A).
- V. Pre-Trial Conference:** A review of an administrative charge to determine if a plea bargain would be appropriate. Present at the pre-trial conference may be, but is not limited to the following:
1. Assistant Corporation Counsel
 2. Defense Counsel
 3. Office of Professional Standards representative
 4. Trial Board
 5. Union representative

A pre-trial conference is held five (5) days before the trial itself. The place and time is determined by the Trial Board chairperson.



NEWARK POLICE DIVISION GENERAL ORDER



W. **Preponderance of Evidence**: The standard used in determining guilt or innocence at a Disciplinary Conference or Trial Board, specifically: a rational reference or belief based on objective facts and/or circumstances found to exist upon inquiry which would induce a reasonably intelligent and prudent person to believe that it is more probable than not that a certain act occurred. The standard is met if the proposition is more likely to be true than not be true.

X. **Progressive Discipline**: A disciplinary system where the sanctions for substandard performance or violation of rules becomes increasingly harsher upon repeat occurrences of the infraction by personnel.

Generally, progressive discipline starts at the lowest level of discipline relative to the Division violation; however subsequent infractions can lead to other levels of discipline such as an oral reprimand, warning notice, training, performance monitoring, a written reprimand, suspension, demotion, and finally termination.

The criteria for determining the discipline level chosen for a particular infraction will depend on a variety of factors that include, but are not limited to, the seriousness of the infraction, the prior disciplinary history, the frequency of the infraction and aggravating and/or mitigating factors specific to the incident.

Progressive discipline does **not** abrogate the Public Safety Director's discretion to impose appropriate discipline if he or she believes that the employee's misconduct demonstrates a lack of fitness for duty or egregious performance or conduct. The Public Safety Director does **not** have to follow the progressive discipline system in those cases. However, action or deviation from the Matrix will only be taken under exceptional circumstances which shall be properly documented.

Y. **Radio Discipline**: A breach of radio discipline is defined as any intentional interception, interference or disruption of radio transmissions that would jeopardize, or otherwise put at risk, a police officer or citizen's safety, or impugn the reputation and professional standards of the Division. Examples of this include, but not limited to, comments about another officer, other than normal transmissions, racial, religious, sexual epithets, etc.

Z. **Sanctions**: Penalties imposed for breaches of discipline. Sanctions used by the Newark Police Division include the following, in order of progression:

1. Oral Reprimand;
2. Warning Notice;
3. Written Reprimand;
4. Suspension;
5. Demotion;
6. Discharge/Termination.

AA. **Suspension**: Relieved of active duty, with or without pay, at the discretion of the Public Safety Director.



NEWARK POLICE DIVISION GENERAL ORDER



- BB. Suspension in Abeyance:** At the discretion of the Public Safety Director, a suspension is given to an employee, but is not served for a certain period of time. If the employee does not incur any disciplinary charges during that period of time, the suspension time will not be served, however suspension days held in abeyance will be considered as part of the application of progressive discipline, when considering future disciplinary matters.
- CC. Trial:** An examination to determine the validity of charges involving Major Offenses with the appropriate disposition recommendations to the Public Safety Director. A Trial or Disciplinary Conference date must be requested within five (5) days and no more than thirty (30) days after the employee receives the Preliminary Notice of Disciplinary Action.
- DD. Trial Board:** A three-member panel consisting of the Public Safety Director or designee, and two other Command rank officers. A Trial Board shall hear all Major Offenses.
- EE. Unauthorized Discharge of Firearms:** Any deviation in the use of firearms from those standards and policies established under: (i) Newark Police Division Rules and Regulations or written policy, (ii) the Attorney General's Guidelines in the Use of Force, or (iii) the use of deadly force by law enforcement personnel as defined under New Jersey Criminal Statutes.
- FF. Warning Notice:** A written notice of warning to an employee who fails to meet the standards of performance as it relates to Division Orders, Rules and Regulations. Corrective action time periods are documented on the warning notice. May be placed in employee's personnel file. Requires Investigation of Personnel number.
- GG. Written Reprimand:** A formal written notice detailing an unauthorized act or omission noted by entry into the IAPro computer database. A written reprimand cannot be taken into account in the progressive disciplinary process if more than 2 years old.
- HH. 45-Day Rule:** Disciplinary charges alleging a violation of Division rules, regulations, policies or procedures must be filed within 45 days of the date the person filing the charge/s, the Public Safety Director, obtained sufficient information to do so.

VII. SPECTRUM OF DISCIPLINE

Violations of Rules, Regulations, Policy or Procedures are divided into two classes depending upon the severity of the offense: *Major Offenses* or *Minor Offenses*.

- A. Major Offenses:** Major Offenses are those offenses whereby the penalty imposed may be:
1. Suspension of *more than five (5) working days* at any one time up to six (6) months; *unless subject to criminal charges or indictment (refer to Section XV).
 2. Demotion; or
 3. Termination.



NEWARK POLICE DIVISION GENERAL ORDER



- B. The following are considered **Major Offenses** which may include, but are not limited to:
1. All criminal offenses or serious motor vehicle violations (*e.g.*, DWI/hit & run);
 2. Insubordination or Aggravated Insubordination;
 3. Unauthorized discharge of firearms;
 4. Refusal to submit to a drug screening;
 5. Failed drug screening;
 6. Violations of radio discipline;
 7. Excessive/Unauthorized/Improper Use of Force;
 8. Improper or Unlawful Arrest;
 9. Improper Entry;
 10. Improper Search;
 11. Differential or discriminatory treatment based upon a person's characteristics;
 12. Sexual harassment;
 13. Biased policing;
 14. Intoxication on duty (alcoholic beverages or narcotic use);
 15. Sleeping on duty;
 16. Unfit for duty;
 17. Accumulation of several similar minor incidents;
 18. Neglect of Duty; refer to Matrix; and
 19. Any other complaint designated by the Chief of Police or Public Safety Director.

C. **Minor Offenses**

All violations of Division rules, regulations, policies and procedures of a lower level nature. Examples include but are not limited to demeanor/discourtesy (devoid of profanities or other egregious language), tardiness, uniform violations, motor vehicle collisions, (without significant damages or unusual circumstances), low-level neglect of duty incidents and other minor administrative matters. Minor Offenses are subject to *suspension of up to five (5) working days or less*, and are adjudicated through a Disciplinary Conference.

VIII. SPECIFIC DISCIPLINARY PROCESS

New Jersey State Statute 40A:14-147 requires that a complaint against a Law Enforcement Officer, which is based on a violation of the internal rules of a Law Enforcement Agency, be filed within 45 days from the date the person having the responsibility of filing the charges obtained sufficient information to file charges in which the complaint is based. In the Newark Police Division, the person having such responsibility is the Public Safety Director.

This 45-day requirement does not apply to the filing of a complaint by private individuals nor does it apply to an investigation of a police officer involved in the violation of any criminal law. All administrative charges shall be processed within these guidelines and law. This time requirement is commonly referred to as the ***"45-day Rule"*** and shall be adhered to.



NEWARK POLICE DIVISION GENERAL ORDER



To determine whether a breach of discipline has occurred, an Investigation of Personnel (IOP) is initiated and entered into BlueTeam, (*in the absence of BlueTeam, a standard IOP report shall be completed and forwarded according to established Division guidelines). In the absence of a superior officer, a police officer shall conduct this task.

In order to maintain control and track allegations of improper police conduct, all investigations are referred to as an IOP and shall have an IOP number assigned to them by the Office of Professional Standards. Thus, all reports submitted throughout the Division, which involve the alleged misconduct of police personnel, require an IOP number. **Note:** An Event number shall be obtained when any internal or external complaint is initiated. The Event number shall correspond with the OPS Investigation of Personnel number.

When investigation findings reveal violations of rules, regulations, policy or procedures, a Complaint Against Personnel (CAP) number will be assigned from the Office of Professional Standards. The Advocate Section shall prepare formal charging documents and a Preliminary Notice of Disciplinary Action (PNDA). The complete package shall be forwarded to the Public Safety Director without delay for signature and acknowledgement of formal charges and the PNDA. The Office of Professional Standards shall be responsible for monitoring and maintaining compliance with the "45-day Rule."

All completed IOPs shall be forwarded to the Office of Professional Standards for review and proper entry to employees' disciplinary history.

A. Discipline Process:

For those offenses that are categorized as Minor Offenses, a Disciplinary Conference shall be conducted at the Precinct/Command level.

Offenses categorized as Major Offenses shall be referred to a Trial Board Hearing.

1. When a Minor Offense violation is brought to the attention of the employee's Commander, (supervisory observation or otherwise), the Commander shall ensure a BlueTeam entry is made documenting all pertinent facts and/or evidence. The entry shall be forwarded to the Office of Professional Standards for review and assignment.
2. When a Major Offense violation is brought to the attention of the employee's Commander, (supervisory observation or otherwise), the Commander or Commander's designee shall notify the Office of Professional Standards. A Blue Team entry shall be made at the direction of OPS.
3. If a Division Commander is the direct recipient of an alleged offense or is the offender, the Bureau Commander shall order an investigation and serve as the Disciplinary Conference Officer.
4. Upon determination that an offense can be substantiated, the Commander of the Office of Professional Standards shall authorize the drawing of a CAP number. The



NEWARK POLICE DIVISION GENERAL ORDER



OPS Commander/designee shall also review the employee's previous Disciplinary Record to determine if the employee is subject to a Trial Board or Disciplinary Conference. All investigation reports shall be forwarded to the Advocate Section for formal Trial Board/Disciplinary Conference processing.

5. The Advocate Section is the central repository for all internal investigations and is responsible for maintaining Division accountability. It shall have staff supervision over all internal investigations including subpoenaing witnesses and serving PNDA & FNDA notices. The Advocate Section shall also establish control and record keeping of investigations of personnel. Furthermore, the Advocate Section is responsible for ensuring that disciplinary matters are routed to the proper venue for hearing, Disciplinary Conference or Trial Board.
6. The PNDA shall be served upon the employee by the Advocate Section and shall include:
 - a. Minor Offense: time and date of Disciplinary Conference;
 - b. Major Offense: case referred to Trial Board for formal hearing;
 - c. Specification of charges;
 - d. Notice that employees have a right to a hearing within 30 days of the issuance of the PNDA.
7. A Trial or Disciplinary Conference Date may be requested by an employee within five (5) days of receiving the PNDA.
8. Hearings shall be held within 30 days. (*Sworn personnel only*).

B. Disciplinary Conferences and Trial Boards

Disciplinary Conferences and Trials shall be informal and administrative. The sole purpose of the Disciplinary Conference and Trial Board is to determine the facts and circumstances surrounding a case. The rights of all parties involved shall be protected. Officers and Supervisors shall be afforded all due process rights consistent with the New Jersey Attorney General Guidelines and New Jersey Administrative Code. The rules of evidence as observed by law shall not apply. Evidence, which reasonable persons are accustomed to relying on in conducting their affairs may be considered. Reliable hearsay evidence may be admissible; however, this will require legally competent evidence to support its findings to an extent sufficient to provide assurances of reliability, to avoid the fact or appearance of arbitrariness. Findings of guilt shall not be predicated solely on hearsay evidence, (N.J.A.C. 1:1-15.5).

Unduly repetitious evidence may be excluded and documentary evidence in the form of copies or excerpts are admissible. All evidence, written, oral and physical which is considered relevant to reason shall be considered. Simply put, determining the truth shall be the goal of a Disciplinary Conference and Trial Board.



NEWARK POLICE DIVISION GENERAL ORDER



1. Attendance at the **Disciplinary Conference** will consist of:
 - a. Commanding Officer or Executive Officer in Commander's absence;
 - b. Accused Employee;
 - c. One (1) Union Representative;
 - d. One (1) other Superior Officer as a witness to be chosen by the Precinct/Unit Commander; and
 - e. Witnesses.

2. Attendance at the **Trial Board** shall consist of:
 - a. Public Safety Director, or designee;
 - b. Two (2) Command Rank Officers;
 - c. Representative of the City's Corporation Counsel;
 - d. Attorney of the accused;
 - e. Representatives of the Office of Professional Standards;
 - f. Witnesses;
 - g. Union Representative; and
 - h. Court stenographer/reporter – if requested, to be supplied at the expense of the accused. The City also reserves the right to supply a court stenographer/reporter at its expense.

3. When an officer is charged with a Minor Offense violation, and the officer pleads "Not Guilty", the Superior Officer or any other person who witnessed the infraction shall be subpoenaed to the Disciplinary Conference as a witness.

4. The Union Representative shall be an observer at a Disciplinary Conference or Trial Board. This representative serves as a witness to the due process provisions of this Order. The Disciplinary Conference Officer determines the protocol of the session. The Union Representative may confer with the accused employee to assist with the presentation of the employee's side of the alleged offense, while maintaining a professional decorum during the process.

5. The Disciplinary Conference officer should ensure that notes are taken in order to collect information for the completion of the determination and recommendation for discipline (DP1:1974) if there is to be any recommendations for sanctions.

6. There are no formal rules of evidence during a Disciplinary Conference or Trial Board. The Disciplinary Conference Officer may establish further reasonable rules to expedite the Disciplinary Conference. Again, the Disciplinary Conference Officer and Trial Board Officer determine the protocol of the session.

7. Employees who are the subject of any disciplinary action are entitled to receive all discovery materials including all reports, and all documents on which the City will rely at the hearing. Employees attending a Trial Board will have discovery materials no later than five (5) days before the trial. Employees attending a



NEWARK POLICE DIVISION GENERAL ORDER



Disciplinary Conference will have discovery materials provided within three (3) days of a Disciplinary Conference. Requests for discovery materials shall be accompanied by an Administrative Report, DP1:1001.

8. The process of determining the recommendation for a particular sanction shall include a review of the employee's computerized disciplinary history (IAPro), nature of offense including aggravating or mitigating circumstances, and letters of commendations. The Commander shall utilize the Disciplinary Matrix and determine the appropriate sanction.
9. Upon review and determination of guilt, guilty plea or innocence by a preponderance of the evidence, the Disciplinary Conference Officer or Trial Board Chairperson shall complete a Determination and Recommendation for Discipline (DP1:1974). A Disciplinary Conference shall only be convened by an officer's Captain or Executive Officer. The decision of the Captain or Executive Officer at a Disciplinary Conference shall be final and binding on the Public Safety Director. Captains and Executive Officers shall ensure their decisions are based on fairness, consistency, equity and progressive discipline.

Note: A Disciplinary Conference at the Command level may determine that the penalty to be imposed would be in excess of five (5) days. In this instance, the Disciplinary Conference shall terminate. Due to the time constraints under the "45-day Rule", the Disciplinary Conference Officer shall, by next business day, forward all Investigatory and Disciplinary Conference Forms to the Office of Professional Standards for Trial Board processing.

10. The Office of the Public Safety Director, upon final determination of penalty, shall inform the Commander of the Office of Professional Standards/Advocate Section, who shall then issue the Final Notice of Disciplinary Action (FNDA) to the employee and forward a copy to the respective Union Representative.
11. A rationale for recommending discipline shall be conveyed to the Bureau Commander within five (5) days of Disciplinary Conference. In cases of Trial Boards, recommendations are forwarded directly to the Public Safety Director within five (5) days of the trial.
12. The Advocate Section shall serve as clerk to the Trial Board. The Commander of the Advocate Section shall ensure all Preliminary Notice of Disciplinary Actions (PNDA) and FNDA notices are completed.

IX. DOCUMENTATION PROCESS

Documentation is the foundation of the disciplinary process. It creates a history of various infractions that allow for a fair and objective evaluation of an employee's performance.



NEWARK POLICE DIVISION GENERAL ORDER



Furthermore, it forms the basis and justification for various levels of punishment when sanctions are employed.

A. Responsibility of Advocate Section

The **Advocate Section** is responsible for ensuring that all disciplinary sanctions are documented. This must be accomplished by written entry into the IAPro computer database.

1. Only items relating to the Disciplinary Process shall be entered into the IAPro computer database.
2. An Officer's personnel record is part and parcel of the Disciplinary Process. An officer's prior record shall be used to determine the appropriateness of a disciplinary sanction, if any is to be imposed.
3. Commanding Officers shall ensure that copies of any Division commendations and/or memoranda are given to the employee and placed into the employee's personnel record. An employee may produce these types of letters/memos during the Disciplinary Process at the Command level only to substantiate a certain level of performance. All letters and commendations are a permanent part of the employee's personnel file.
4. The Advocate Section shall enter Trial Board and Disciplinary Conference dispositions into IAPro.
5. The Advocate Section is responsible for documenting any deviations from the Disciplinary Matrix. They shall **submit monthly reports** to the Commander of OPS citing all matters where there was a deviation from the Matrix. The reports shall be maintained at the Office of Professional Standards.

X. RECORDING

- A. A separate audio recording shall be made of each Trial and Disciplinary Conference. The Trial Board Officer shall ensure that each recording contains, at the beginning of the proceedings:
 1. Counter reading from tape recorder (in the absence of other recording device);
 2. Time, date, location and those present;
 3. Reference to the Personnel Order and CAP form;
 4. Specific charges; and
 5. At the conclusion of the proceedings, the tape shall have the ending counter number recorded.



NEWARK POLICE DIVISION GENERAL ORDER



- B. The Trial Board Officer and Disciplinary Conference Officer shall be responsible for packaging and forwarding the Trial or Disciplinary Conference recordings to the Office of Professional Standards. Each recording shall:
 - 1. Be packaged in a small property envelope.
 - 2. Have affixed to it the personnel order, recommendation of charges number, starting and ending counter number from recorder and the date.
- C. The Office of Professional Standards/Advocate shall maintain all recordings for the career of the officer plus five (5) years. In any criminal matter resulting in the arrest of an officer, recordings shall be maintained for 75 years. **Recordings pertaining to criminal homicide shall be permanently maintained.**
- D. Copies of recordings from Trial and Disciplinary Conferences will be provided to the accused upon his/her request and at his/her own expense, through the Office of the Public Safety Director.
- E. A certified Court Stenographer or Court Reporter may be employed at the expense of the accused to be part of the Trial Board Process. An audio recording shall still be maintained. The accused shall supply the City with a copy of the transcript or recording upon the City's request and the City's expense.

XI. PLEAS

- A. Upon receipt of the PNDA, an employee shall submit on an administrative submission acknowledging such receipt and entering a plea of guilty or not guilty.
- B. At the discretion of the Public Safety Director, a dismissal of all charges may be entered in cases involving lost and/or damaged equipment and/or monies. Any disciplinary charge may be settled by the Public Safety Director and the accused without the imposition of discipline if the facts and circumstances warrant such a settlement with good cause. However, this action or deviation from the Matrix by the Public Safety Director will only be taken under exceptional circumstances. Any such action shall be properly documented by the Public Safety Director.

XII. APPEAL PROCEDURE

- A. The formal appeal process, (grievance/Office of Administration of Law) will continue to be an alternative for an employee who challenges the investigative findings and/or disciplinary sanctions. However, it is believed that most employees who have engaged in misconduct would like the opportunity to acknowledge their behavior and accept responsibility with a reasonable sanction so they can move forward with their careers. Many occurrences of misbehavior are mistakes in judgment that can be corrected by a reasonable corrective or disciplinary action, so the employee can go forward as a productive and contributing member of the Police Division.



NEWARK POLICE DIVISION GENERAL ORDER



- B. An appeal letter must be filed with the Merit System Board within 20 days of receipt of the Final Notice of Disciplinary Action.
 - 1. Sanctions imposed for Major Offenses may be appealed through the Office of Administrative Law (OAL).
 - 2. Sanctions imposed for Minor Offenses may be appealed through established Division grievance procedures.

XIII. DISCIPLINARY MATRIX

The goal of adopting a Disciplinary Matrix includes providing a uniform manner of addressing progressive and corrective discipline. In addition, the goals of the Matrix are to provide a more effective disciplinary process that supports the achievement of the agency's expectations, to motivate employees toward positive change, and to avoid grievances and retaliation claims. The Disciplinary Matrix provides the decision maker with a guideline for disciplinary decisions to ensure a fair, equitable and consistent process. The Matrix will be used in all sentencing decisions and shall be the basis of all sanctions imposed for both Minor and Major discipline rendered at a Disciplinary Conference or Trial Board.

Disposition Guidelines:

The Disciplinary Matrix provides a range of sanctions for proven or admitted allegations of misconduct.

- A. Upon completion of the investigation, the Investigating Supervisor, along with his/her chain of command (up to and including the Commander with concurrence of the Public Safety Director), will determine the appropriate level of the severity of the offense.
- B. The Precinct/Division Commander will make a final Precinct or Division level recommendation, which will be subject to the review of the Public Safety Director (or his/her designee). In the event of disagreement as to the proposed sanctions, supervisors at any level may document their rationale in a correspondence to be attached to the recommendation.
- C. In those situations where an employee challenges the investigative findings, and/or challenges the recommended disciplinary sanctions, (Disciplinary Conference or Trial Board) the Hearing Officer shall identify in writing, the factors that were considered in determining the rationale for upholding Division charges, rules, regulations, policies, procedures and/or practices in which the employee was found to be responsible. The Hearing Officer shall also document the application of any mitigating and/or aggravating factors in determining the sanction that will be imposed. This shall be done via the DP1:1974.
- D. The Trial Board as well as the Commander adjudicating the Command Conference shall find the charge in the section entitled "Disciplinary Categories - Rules of Discipline," and review the disciplinary record of the personnel charged in order to ascertain if any prior similarly sustained charges exist.



NEWARK POLICE DIVISION GENERAL ORDER



- E. The Progressive Discipline system should be utilized when imposing a disposition. Under this theory, several factors are used to determine the disposition including, but not limited to: (i) the seriousness of the infraction, (ii) prior disciplinary history, (iii) frequency of the infraction, as well as (iv) aggravating and (v) mitigating factors.
1. **Aggravating and mitigating circumstances shall be considered when rendering a disposition. These circumstances may justify a deviation from the established Disciplinary Matrix. All deviations from the presumptive Matrix must be justified in writing.**
 2. If there are aggravating circumstances, a sanction can be one offense/degree category greater than the presumptive. If there are mitigating circumstances, the sanction can be one offense/degree category lesser than the presumptive. If this is the first offense and there are mitigating circumstances, the matter can be remanded to a Disciplinary Conference.
- F. If the conduct charged renders the personnel unfit for duty, or demonstrates an egregious failure of performance, Major Discipline may be imposed. In cases such as these, the principles of progressive discipline are not applicable and need not be considered.

XIV. REVIEW OF THE DISCIPLINARY SYSTEM AND SUSTAINED FINDINGS

- A. The Compliance Unit, or equivalent unit authorized by the Public Safety Director shall conduct a **quarterly review** of sustained findings and the application of the appropriate levels of discipline, pursuant to the NPD's disciplinary guidelines as defined in this policy. A **quarterly report** documenting their findings shall be submitted to the Public Safety Director for his/her assessment.
- B. The Compliance Unit, or equivalent unit authorized by the Public Safety Director shall also conduct a **bi-annual review** of the NPD's disciplinary process and actions, including an analysis of the implementation of a progressive discipline model, and whether the discipline systems mitigating and aggravating factors are appropriate and effectively applied. A **bi-annual** and **annual report** documenting their findings shall be submitted to the Public Safety Director for his/her assessment.

XV. IMMEDIATE/INDEFINITE SUSPENSION POLICY

This policy has been established to codify the existing process for the **immediate or indefinite suspension** of a police officer and to clarify the expectations and responsibilities of Superior Officers. The immediate suspension of any officer must be objectively determined on a case by case basis, and **may only** be authorized by the Public Safety Director.

- A. **Determination for Immediate Suspension**



NEWARK POLICE DIVISION GENERAL ORDER



It should be clear that suspending an officer before an investigation is completed or the criminal matter is disposed is serious. An immediate suspension may be necessary, for example, in the instance of a police officer reporting to work under the apparent influence of drugs or alcohol. In other instances, the immediate suspension may follow a preliminary investigation into a matter. In either case, one of the below criteria must be met in order to suspend an employee without a hearing:

1. The officer is found to be unfit for duty;
2. The officer is a hazard to any person if permitted to remain on the job;
3. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services. (*See N.J.A.C. 4A:2-2.5*);
4. The officer has been formally charged with a crime of the first, second, or third degree (or while off duty in one's private life); or
5. The employee has been formally charged with a first, second, third or fourth degree crime or a disorderly person's offense committed while on duty, or the act touches upon his/her employment. (*See N.J.A.C. 4A:2-2.7*).

B. Commander's Procedures

Upon notification that a member of the Police Division may be subject to immediate suspension, the Commander must:

1. Ensure that the Office of Professional Standards is notified;
2. Ensure assistance in the preliminary investigation being conducted as directed by OPS Commander/designee;
3. Ensure the employee's Division issued equipment is safeguarded until further notice;
4. Upon confirmation that the subject officer has met at least one of the suspension criteria, the affected Bureau's Commander must be notified. The Bureau Commander must in turn notify the Public Safety Director of the incident;
5. If the Public Safety Director conveys to the Bureau Commander that an immediate suspension is authorized, then the Commander, in conjunction with Professional Standards must collect and secure the following Division property issued to the suspended officer:
 - Badge
 - Service weapon w/ issued magazines
 - Identification card
 - Hand held radio
6. Ensure appropriate health care treatment/services are provided to the officer when confronted with cases involving fitness for duty or other potential hazards;



NEWARK POLICE DIVISION GENERAL ORDER



7. At the direction of OPS, ensure the employee's conduct is documented on the appropriate report(s): Incident Report, Domestic Violence Reports, Administrative Report, etc.; and
8. Ensure the execution of a BlueTeam entry.

C. **Bureau Commander's Responsibility**

Upon notification that a member of the Police Division may be subject to suspension, the Bureau Commander, after conferring with the OPS Commander, must immediately notify the Public Safety Director of the incident. If the suspension is authorized by the Public Safety Director, the Bureau Commander must:

1. Authorize the Office of Professional Standards Commander/designee to proceed with the suspension.
2. Notify the Chief of Police of the suspension.

D. **The Office of Professional Standards**

Upon notification from any source, that a member of the Police Division may be subject to an immediate suspension, the Office of Professional Standards shall:

1. Respond and conduct a preliminary investigation;
2. Inform the Public Safety Director relative to the circumstances of the incident and preliminary investigation;
3. Ensure the Advocate Section adheres to established protocols with regards to Civil Service Law and hearing requirements which shall include serving the PNDA on the affected officer within five (5) days of the suspension, (DPF-31A);
4. Advise the individual in writing – (by use of the “Suspension Notice”) and verbally, why an immediate suspension is being sought, the charges and general evidence in support of the charges. In the event the individual refuses to accept the notice, a copy must be provided to the officer's collective bargaining representative as soon as possible;
5. Complete and forward **all required reports** (Preliminary Investigation, Suspension Notice, Suspension Summary Report, all supporting documents) to the Advocate Section who then shall be responsible for the adherence of established protocol with regards to Civil Service Law and hearing requirements under NJAC 4A:2-2.7;
6. Complete and forward the “Administration Suspension Summary Report” to:
 - a. The Office of the Public Safety Director.



NEWARK POLICE DIVISION GENERAL ORDER



- b. The Human Resources Unit which shall be responsible for the issuance of a Personnel Order indicating “Immediate Suspension” and notifications to the Business Office to cease payment of the suspended officer; and
7. Ensure all documentation and notifications of the approval of the suspension are recorded on the Suspension Notice, Suspension Summary Report and entered into BlueTeam.

E. Suspended Officer’s Responsibilities

1. The officer also must surrender the following Division issued equipment:
 - Badge
 - Service weapon
 - All issued magazines
 - Identification Card
 - Radio
2. The suspended officer is reminded that during the suspension period, he or she remains bound by all Police Division Rules and Regulations and is required to obey all Orders. Failure to do so will result in further disciplinary action.
3. Within five (5) days of receipt of the PNDA (DPF-31A), the officer may request a Division hearing on the charges set forth.
4. The individual will not be allowed to wear a Newark Police Division uniform, display any Newark Police Division identification, or represent him or herself as a Police Officer while suspended from duty.

XVI. CATEGORIES AND ISSUING DISCIPLINE

- A. Discipline shall be grouped into major categories to determine punitive measures according to a “Disciplinary Matrix.” Upon a finding of guilt, the Hearing Officer or Chair of the Police Trial Board shall rely upon the Disciplinary Matrix to determine the appropriate level of penalty. The following shall be the main levels of violations:

Section 1 – General Conduct

- a. General Conduct (Chapter 3)
 1. Confidential Information (3:3.1)
 2. Loyalty (3:1.2-1)
 3. Cooperation (3:1.2-2)
 4. Efficiency and Cooperation (3:1.2-3)
 5. Cooperation with Other Authorities (11:2.27)
 6. Acts of Immorality (18:25)



NEWARK POLICE DIVISION GENERAL ORDER



- b. Outside Activities (Chapter 4)
- c. Standards of Conduct (Chapter 5)
 - 1. Conduct (5:1.1)
 - 2. Attention to Duty (18:13)
 - 3. Personal Appearance (18:26)
 - 4. Indecent Language (18:27)
 - 5. Demeanor (5:1)
 - 6. Payment of Debts (5:6.1)
 - 7. Unfavorable Conduct (18:5)
 - 8. Disobedience of Orders (18:14)
- d. Public Disparagement (18:7)
- e. Indecent Language (18:27)
- f. Any other rule, regulation, or provision governing inappropriate conduct, including, but not limited to, provisions of NPD Rules & Regulations under Chapters 3, 4, 5, and 18.

Section 2 – Misconduct Generally, Conduct Unbecoming a Public Employee

- a. Any violation or offense not properly chargeable against a Division member under any other rule shall be charged with “Misconduct Generally” (18:28).
- b. Any other rule, regulation, or provision governing conduct unbecoming a public employee, including, but not limited to, provisions of NPD Rules & Regulations under Chapters 3, 4, 5, and 18.

Section 3 – Absence Without Leave (AWOL), Sick Leave Violations

- a. Prompt Report of Sickness or Injury (6:4.1)
- b. Accessibility to Department Surgeons and Superior Officers (6:4.6)
- c. Return from Sick or Injury Leave (6:4.7)
- d. Unauthorized Absence (6:4.8)
- e. Absence Without Official Leave (AWOL) (18:2)
- f. Disobedience of Orders - Sick Leave Policy (G.O. 94-04) (18:14)
- g. Sick Leave Residence Restriction (18:3)
- h. Malingering (Feigning illness or injury) (18:11)
- i. Any other rule, regulation, or provision governing sick or injured leave, including but not limited to provision of NPD Rules & Regulations under Chapters 6 and 18.

Section 4 – Neglect of Duty, Acts or Omissions

- a. Acts or Omissions (18:4)
- b. Neglect of Duty (18:6)
 - 1. Violations concerning general acts of neglect of duty (18:6.1)
 - 2. Violations concerning failure to take required action (18:6.2)



NEWARK POLICE DIVISION GENERAL ORDER



3. Violations concerning failure to take required action (including, but not limited to, failure to write a report) regarding complaints on investigations of domestics and or child abuse (18:6.3)
 4. Violations concerning inadequate performance of duty (18:6.4)
 5. Violations concerning failure to perform duty (18:6.5)
 6. Violations concerning accuracy or completeness of reports (18:6.6)
 7. Violations concerning failure to submit appropriate reports or information as required (18:6.7)
 8. Violations concerning failure to report matters of misconduct as required (18:6.8)
- c. Police Officer Duties (Chapter 7)
1. Attention to Duty (18:13)
 2. Proper Patrol of Posts (18:15)
- d. Probationary Period (7:1)
- e. Responsibilities of Each Police Officer (7:2)
- f. Firearms (Chapter 8)
- g. Courtesies and Recognition (Chapter 9)
- h. Courts and Court Procedures (Chapter 10)
1. Answering Subpoena in Court (10:5)
- i. Legal Process (Chapter 11)
- j. Subpoenas (11:1)
- k. Arrests and Detentions (Chapter 12)
1. Improper Arrest (Chapter 12)
 2. Improper Entry (Chapter 11 & 12)
 3. Improper Search (Chapter 11 & 12)
- l. Juvenile Arrests and Detention (12:2)
- m. Prisoner Process (12:5)
1. Maltreatment of Prisoners or Other Persons (18:18)
 2. Safekeeping of Prisoners (18:20)
- n. Public Assemblages and Emergencies (Chapter 13)
- o. Licenses and Permits (Chapter 14)
- p. Death by Criminal Violence, Casualty and Suicide, Crime Scenes (Chapter 16)
- q. Communications (Chapter 17)
- r. Personal Appearance (18:26)
- s. Any other rule, regulation, or provision governing acts of neglect, including but not limited to, provision of NPD Rules & Regulations under Chapters 7-13, 16-18.

Section 5 – Care of Property

- a. Uniform and Equipment (Chapter 15)
1. Care of Property (15:1.4)



NEWARK POLICE DIVISION GENERAL ORDER



- b. Any other rule, regulation, or provision governing acts of care of department property, including but not limited to, provision of NPD Rules & Regulations under Chapters 15 and 18.

Section 6 – Acts of Insubordination

- a. Acts of Insubordination (18:8)
 - 1. Demonstration of Respect (3:1.2-4)
 - 2. Derogatory Reference (3:1.2-5)
 - 3. Obedience to Orders (5:4.1)
 - 4. Respect Accorded Certain Positions and Rank (9:1.7)
 - 5. Saluting Regulations (9:2)
 - 6. When the Salute is required (9:3)
 - 7. Any other rule, regulation, or provision governing acts of insubordination, including but not limited to, provision of NPD Rules & Regulations under Chapters 3, 5, 9, and 18.

Section 7 – Fitness for Duty

- a. Alcoholic Beverages (18:9)
 - 1. In Uniform, On and Off-Duty (18:9.1)
 - 2. Off-Duty (18:9.2)
 - 3. Transporting Alcoholic Beverages (18:9.3)
 - 4. Entering Liquor Establishment (18:9.4)
 - 5. Intoxicants in Police Buildings (18:9.5)
 - 6. Intoxication or Illegal Use of Drugs (18:9.6)
 - 7. Examination of Unfit Police Officer (18:9.7)
 - 8. Mental and Physical Capability (18:10)
- b. Any other rule, regulation, or provision governing alcohol or drugs, including but not limited to provision of NPD Rules & Regulations under Chapter 6 and 18.

Section 8 – Disobedience of Orders (18:14)

- a. Any other rule, regulation, or provision governing acts of disobedience including, but not limited to, provision of NPD Rules & Regulations under Chapters 3 and 8.

Section 9 – Use of Force (Not Firearm Related) (12:3)

- a. Limitations on Use of Force (12:3.2)
- b. Use of Deadly Force (12:3.3)
- c. Use of Handcuffs (12:3.7)
- d. Use of Force (18:19)



NEWARK POLICE DIVISION GENERAL ORDER



- e. Any other rule, regulation, or provision governing non-firearm use of force, including but not limited to provision of NPD Rules & Regulations under Chapters 12 and 18.

Section 10 – False Statements (18:22)

- a. Pre-Employment Statements (18:22.2)
- b. False Statements – Criminal Investigations (18:22.3)
- c. Any other rule, regulation, or provision governing false statements, including but not limited to provision of NPD Rules & Regulations under Chapter 18.

Section 11 – Violations of Law

- a. Criminal Act (Federal or State Law) (18:24)
- b. Disorderly Persons Offenses, Petty Disorderly Persons Offenses (18:24)
- c. Violations of Municipal Ordinances (18:24)
- d. Violations of Motor Vehicle Law (18:24)
- e. Violations of Administrative Law (Title 4A)
- f. Violations of New Jersey Attorney General Guidelines (18:14)
- g. Bribes (18:23)
- h. Acts of Immorality (18:25)
- i. Any other law (18:24)

Section 12 – Performance of Duty

- a. Official Inefficiency or Incompetence (18:29.1)
- b. Chronic Inefficiency or Incompetence (18:29.2)
- c. Any other rule, regulation, or provision governing inefficiency or incompetence, including but not limited to, provision of NPD Rules & Regulations under Chapter 1, 5, 13, 16, and 18.

Section 13 – Performance of Duty (Supervisor)

- a. Inefficiency or Incompetence of Superior Officers (18:29.3)
- b. Operational Inefficiency of Department Resources (18:29.4)
- c. Any other rule, regulation, or provision governing Supervisor or Commander performance, including but not limited to, provision of NPD Rules & Regulations under Chapter 18.

Section 14 – Chronic or Excessive Absenteeism or Tardiness

- a. Absence from Duty for Five Continuous Days (6:2.3)
- b. Chronic or Excessive Absenteeism or Lateness (NJAC 4A:2.2-3(4))



NEWARK POLICE DIVISION GENERAL ORDER



Section 15 – Firearms (Chapter 8)

- a. Handling Firearm (8:2)
- b. Off-Duty (Secondary Firearm) (8:3.2)
- c. Tampering with Police Handgun (8:4)
- d. Care of Firearms Off-Duty (8:5)
- e. Discharge of Firearms (8:6 *et seq.*)
- f. Carrying the Handgun (8:7)
- g. Storage of Weapons (8:7.2-2)
- h. Police Officers On-Duty (8:7.3-1)
- i. Police Officers Off-Duty (8:7.3-2)
- j. Non-Regulation Handgun Prohibited (8:7.4)
- k. Possession of the Handgun (8:8)
- l. Special Weapons (8:10 *et seq.*)
- m. Limitations on Use of Force (Firearms) (12:3.2)
- n. Use of Deadly Force (Firearms) (12:3.3)
- o. Use of Force (Firearms) (18:19).
- p. Any other rule, regulation, or provision governing firearms, including but not limited to provision of NPD Rules & Regulations under Chapters 8, 12, and 18.

B. NEW JERSEY ADMINISTRATIVE CODE

All personnel will also be charged with violations of the N.J.A.C. if the facts and specifications support a charge under the following statute Title 4A:2-2.3:

- (1) Incompetency, inefficiency, or failure to perform duties
- (2) Insubordination
- (3) Inability to perform duties
- (4) Chronic or excessive absenteeism or lateness
- (5) Conviction of a crime
- (6) Conduct unbecoming a public employee
- (7) Neglect of duty
- (8) Misuse of public property, including motor vehicles
- (9) Discrimination that affects equal employment opportunity (as defined in N.J.A.C. 4A:7-1.1) including sexual harassment
- (10) Violation of Federal Regulations concerning drug and alcohol use by and testing of employees who perform functions related to commercial motor vehicles, and State and local policies issued thereunder.
- (11) Other sufficient cause.



NEWARK POLICE DIVISION GENERAL ORDER



C. TABLE OF DISCIPLINE

1. The following table outlines levels of discipline:

| | |
|----------|--|
| A | Oral Reprimand or Warning Notice |
| B | Written Reprimand |
| C | Suspension 1-3 days |
| D | Suspension 3-5 days |
| E | Suspension 6-30 days |
| F | Suspension 30-90 days |
| G | Suspension 90-180 days, may include demotion |
| H | Demotion* |
| I | Termination |

D. ISSUING DISCIPLINE

Upon the finding of guilt at any disciplinary hearing, the following Matrix shall be followed to ensure fairness, consistency, and to ensure proper progressive discipline:

Note: Degrees shall constitute number of offenses unless specific circumstances cause the violation to be issued a specific degree. In the event there are aggravating or mitigating circumstances then the violation shall be issued the appropriate degree and the level of discipline.

| Category | 1 st Degree | 2 nd Degree | 3 rd Degree | 4 th Degree |
|--|---------------------------|---------------------------|---------------------------|---------------------------|
| Section 1 - General Conduct | A-C | D-E | E-F | G-I |
| Section 1 - sub section a; Confidential Information | F-I | G-I | I | |
| Section 1 - sub section Consuming alcoholic beverages on duty | E | E-F | F-I | |
| Section 1 - sub section; Biased Policing/Differential Treatment (acts/omissions based on religion, race, ethnicity, gender, sexual orientation). | F-G | G-I | | |
| Section 1 - Sexual Harassment | F-G | G-I | | |
| Section 1 - Disparaging religion, race, gender, sexual orientation | E-F | F-G | G-I | |
| Section 1 - sub section f; Association w/ criminal element or radical groups | F-I | G-I | I | |
| Section 2 - Misconduct Generally | A-C | D-E | E-F | G-I |
| Section 2 - sub section b; Acts/omissions: 'Conduct Unbecoming a Public Employee' | E-F | F-I | G-I | I |
| Section 3 - AWOL, Sick Leave Violations | A-B | C-D | D-E | G-I |
| Section 3 - sub section d; Unauthorized absence | E-F | F-G | G-I | I |
| Section 3 - sub section e; Absence w/o Leave | F | F-G | G-I | I |
| Section 3 - sub section h; Malingering (feigning illness/injury) | E-F | F-I | G-I | I |
| Section 4 - Neglect of Duty (18:6) Acts/Omissions; | A-C | B-D | E-F | G-I |
| Section 4 - Neglect of Duty (18:6.1) | A-C | B-D | E-F | G-I |



NEWARK POLICE DIVISION GENERAL ORDER



| | | | | |
|--|-------|-----|-----|-----|
| Section 4 - Neglect of Duty (18:6.3) Domestic Violence/child abuse | E-F | G-I | | |
| Section 4 - Neglect of Duty (18:6.4) | A-C | B-D | E-F | G-I |
| Section 4 - Neglect of Duty (18:6.5) | A-C | D-E | E-G | G-I |
| Section 4 - Neglect of Duty (18:6.6) | A-C | B-D | E-F | G-I |
| Section 4 - Neglect of Duty (18:6.7) | A-C | B-E | E-G | G-I |
| Section 4 - sub section b; Failure to report crime/ take proper action | E-F | E-F | G-I | |
| Section 4 - sub section b; Failure to maintain post/assignment | E | E-F | F-G | G-I |
| Section 4 - sub section b; Failure to safeguard/maintain/process Property & Evidence | E-F | G-I | | |
| Section 4 - sub section b; Failure to report misconduct/take action | E-F | G-I | | |
| Section 4 - sub section b; Failure to cooperate w/ internal misconduct Investigation | F-I | G-I | | |
| Section 4 - sub section b; Purposeful deactivation of BWC/in-car camera | F-G | G,I | I | |
| Section 4 - sub section h; Failure to attend court w/o just cause | E | E-F | E-F | G-I |
| Section 4 - sub section k; Improper Arrest/Entry/Search | E-F | F-G | G-I | |
| Section 4 - sub section m; Maltreatment/Safekeeping Prisoners | E-F | E-F | G-I | |
| Section 4 - sub section m; In custody death | F-G | F-I | | |
| Section 5 - Care of Property (see F below) | A-C | C-E | E-F | G-I |
| Section 5 – sub section b; Misuse of public property, including motor vehicles | E-F | E-F | F-G | I |
| Section 6 - Acts of Insubordination | E | E-F | G-I | I |
| Section 6 - Aggravated Insubordination | F-I | G-I | I | |
| Section 6 - sub section a1; Demonstration of Respect | B-C | C-D | E-F | G-I |
| Section 6 - subsection a3 Obedience to direct orders | E-F | E-G | G-I | |
| Section 7 - Fitness for Duty | F-I | G-I | I | |
| Section 7 - Drug Screening Failure | I | | | |
| Section 7 - sub section a; Intoxication on duty, narcotics/medications/alcoholic beverages | F-G | F-I | | |
| Section 8 - Disobedience of Orders | B-C | C-D | E-F | G-I |
| Section 8 - sub section a; Violation/s of Social Media Policy (General) | B-D | D-E | E-F | G-I |
| Section 8 - sub section a; Violations of Social Media Policy; uniform; color of authority. | E-F | F-G | G-I | |
| Section 8 - sub section a; Unauthorized vehicle pursuit | B-D | E-F | F-I | |
| Section 8 - sub section a; Unauthorized vehicle pursuit w/ serious BI/death | F-G | G-I | | |
| Section 8 - sub section a; Violations of Radio Discipline; interference/indecent language. | E-F | E-F | F-G | I |
| Section 8 - sub section a; Improper Access of Police/Court records/database | F-G,I | G-I | | |
| Section 8 – sub section a; Unauthorized Use of Patrol Vehicle/Unsafe operation | E-F | F-G | G-I | I |
| Section 9 - Use of Force (non-firearm related) | D-E | F | G-I | I |
| Section 9 - Use of Force; Serious BI or Death | F-I | G-I | | |
| Section 10 - False Statements/Reports | G-I | G-I | | |
| Section 11 - Violations of Criminal Law (State/Federal) | G-I | G-I | | |
| Section 11 - Violations of Law; Disorderly Persons | F-G,I | G-I | | |
| Section 11 - Violations of Law; Petty DP/City Ordinance | E-F | F-I | | |
| Section 11 - Violations of Law; serious MV Violations (i.e. DWI, hit & run) | F-G,I | G-I | | |
| Section 12 - Performance of Duty | C-D | E-F | G-I | |
| Section 12 - sub section a; Official Inefficiency or Incompetence | E | E-F | F-I | |



NEWARK POLICE DIVISION GENERAL ORDER



| | | | | |
|--|-----|-----|-----|---|
| Section 12 - sub section b; Chronic Inefficiency or Incompetence | F-G | G-I | I | |
| Section 13 - Performance of Duty (Supervisor) | E-F | F-G | G-I | |
| Section 13 - sub section a; Inefficiency or Incompetence | E-F | F-G | G-I | |
| Section 13 - sub section b; Operational Inefficiency or Division Resources | F-G | F-G | G-I | |
| Section 14 - Chronic or Excessive Absenteeism or Tardiness | E-F | F-G | I | |
| Section 15 - Firearms (service/off duty) | E-F | F-I | | |
| Section 15 – sub section a; Handling Firearms (Negligence) | E | E-F | F-G | I |
| Section 15 - sub section c; Tampering w/ Police issued firearm/s | E-F | G-I | | |
| Section 15 - sub section g; Storage of Firearms; Negligence | E-F | E-F | F-G | I |
| Section 15 - sub section n; Use of Deadly Force/Firearms | E-F | G-I | | |
| Section 15 - sub section n; Use of Deadly Force/Firearms-Serious BI/Death | G-I | I | | |
| Section 15 - sub section p; Unauthorized Discharge of Firearm/s | E-F | F-G | G-I | |

(*H) If the charge is against a Superior or Commanding Officer, permanent demotion one level in rank is an option where egregious violation/s of Division policy have been substantiated. It may also be considered in cases of multiple substantiated offenses for the same violation or serious failure/s to perform. Temporary demotions may also be considered under these criteria as a form of major discipline.

E. Director’s Discretion regarding Application of Progressive Discipline

Progressive discipline does **not** abrogate the Public Safety Director’s discretion to impose appropriate discipline, if he/she believes that the employee’s misconduct demonstrates lack of fitness for duty, egregious performance or conduct. However, any action or deviation from the Matrix will only be taken under extraordinary circumstances, which shall be properly documented.

F. Negligent Loss or Damage to City Issued Equipment (15:1.5)/Restitution

Each police officer may be required to pay, as restitution, the cost of repair for negligent damage to or cost of replacement for the negligent loss of the official police service weapon, badge, cap wreath, motor patrol vehicle, or any other item of City issued equipment.

G. Oral Reprimand(s)

Oral reprimands are the lowest form of discipline. They can be issued as formal discipline at a Disciplinary Conference and shall be utilized in the progressive discipline model. Additionally, oral reprimands can be issued by Supervisors/Commanders at the precinct/command level for initial low-level violations of policy or procedure. Supervisors issuing oral reprimands shall detail the circumstances of the incident and corrective action/s taken on an Administrative Report and forward to their commanding officer. Commanding officers shall review the oral reprimand. The issuing Supervisor shall make a BlueTeam entry, however there will be no formal IOP number/investigation at this stage.



NEWARK POLICE DIVISION GENERAL ORDER



If there are no additional violations of the same category, the oral reprimand shall be discarded at completion of one (1) year. The initial BlueTeam entry shall also be updated to reflect the completion of one (1) year with no additional violations.

If, within the one (1) year time period there is a secondary violation for the same or similar violation, another BlueTeam complaint intake entry shall be made. The entry shall include the new complaint AND detail the original matter as outlined in the initial oral reprimand. This second violation shall cause a formal internal investigation.

A copy of the initial oral reprimand shall be forwarded to OPS along with the new formal complaint.

Oral reprimands (from Disciplinary Conference) shall be removed from personnel folder's after 1 year. Oral reprimands shall be entered into IAPro.

H. Warning Notice(s)

A Warning Notice is a written notice of warning to an employee who is failing to meet the standards of performance as it relates to Division orders, rules and regulations. Corrective action time periods are documented on the notice. This form of discipline may also be utilized at a Disciplinary Conference and may also be issued at the precinct/command level. Warning notices shall be reviewed and signed by the receiving officer/supervisor. A Warning notice is accompanied by a formal BlueTeam entry and forwarded to OPS where a formal investigation of personnel number will be assigned. Warning Notices shall be entered into IAPro.

If an employee commits another similar violation within the cited Warning Notice corrective action timeframe, or the employee continues to display improper behavior or actions after the cited timeframe has concluded, a Supervisor shall initiate a formal IOP forwarding all pertinent documents and information to OPS.

I. Mitigating Circumstance(s)

An accompanying or accessory condition, event, or fact that (though not constituting a justification or excuse of an offense), may be considered by the Hearing Officer as reducing the degree of culpability or liability of the accused.

Such circumstances may include orders of Supervisor, mistake of fact/s, necessity, unintentional acts or incident conditions and may help in attracting a sentence less severe than a typical sentence for similar offenses. The finding of a mitigating circumstance, may decrease the level of discipline by up to one level. Proper documentation specifically describing the factors taken into consideration, shall be completed whenever mitigating circumstances are applied.



NEWARK POLICE DIVISION GENERAL ORDER



J. **Aggravating Circumstance(s)**

An accompanying or accessory condition, event, or fact that increases the culpability or liability of an accused. Aggravating circumstances (such as cruelty, recklessness, malice, causing injury to others) considered by the Hearing Officer imposing more severe sentence than a typical sentence for similar offenses.

For each aggravating circumstance, the level of discipline shall be increased up to one level. Proper documentation specifically describing the factors taken into consideration, shall be completed whenever aggravating circumstances are applied.

K. **Non-Disciplinary Corrective Action**

Additional non-disciplinary corrective action may be considered in any case where discipline is imposed, when appropriate to address the infraction and correct the behavior or conduct of the officer. For example, **in addition to suspension; training, counseling and/ or Performance Monitoring may also be issued to correct the behavior.**

L. Guidelines for assessing aggravating and mitigating factors. This is not an exhaustive list as each case will vary depending on the totality of the circumstances. (See Douglas Factors) *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (1981).

1. The nature and seriousness of the offense and its relation to the employee's duties, position and responsibilities including whether the offense was intentional, technical, or inadvertent; was committed maliciously or for gain; or was frequently repeated;
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
4. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties;
5. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
6. Consistency of the penalty with any applicable agency table of penalties;
7. The notoriety of the offense or its impact upon the reputation of the agency;



NEWARK POLICE DIVISION GENERAL ORDER



8. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
9. The potential for the employee's rehabilitation;
10. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment or harassment; or aggravating circumstances such as bad faith, malice or provocation on the part of others involved in the matter; and
11. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

XVII. EFFECT OF THIS ORDER

This Order is effective immediately upon promulgation. Any previous Orders, Memoranda, Directives, or portions thereof, that conflict with this Order are hereby rescinded.

BY ORDER OF

A handwritten signature in blue ink, appearing to read "A. Ambrose", is written over a horizontal line.

**ANTHONY F. AMBROSE
PUBLIC SAFETY DIRECTOR**

AFA/BO:jjc

c: Darnell Henry, Chief of Police