
	BRANDEIS UNIVERSITY POLICE DEPARTMENT DISCIPLINE PROCEDURES	
Policy Number:	2.4	PAGE: 1 of 7
Policy Type:	Rules and Regulations	
Issue Date: 9.28.2023 Review Date: 9.28.2025 Revised:	Issuing Authority:  Chief Matthew T. Rushton	
Accreditation Standards (6-Edition) <ul style="list-style-type: none"> • New 12.1.3, 26.1.8 • Revised • Amended 		

I. GENERAL CONSIDERATIONS AND GUIDELINES

Under most circumstances, the term “discipline” is incorrectly interpreted to be solely a negative form of punishment. This directive reflects the term ‘discipline” in its broader sense, as in having a “highly disciplined department.” In this usage, discipline takes on a positive connotation and is associated with conformance to a set of rules, a code of ethics and a high standard of conduct that results in a departmental image of professionalism. Department disciplinary policy differentiates between exemplary performance, performance deficiencies and intentional acts.

Exemplary performance should be recognized and/or rewarded.

Performance deficiencies may be the result of the lack of training, knowledge or experience on the part of an employee and may be corrected through training or mentoring.

Intentional wrongful acts, on the other hand, are a more serious matter. An employee must make a conscientious decision to disobey a department rule or policy, or a state or federal statute. These acts may be subject to discipline up to and including dismissal and/or criminal prosecution.

This disciplinary directive enables all officers and employees to know what is expected of them and to understand that appropriate discipline will be administered when required. Essential fairness and justice are the foundation of this process.

Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no written directive can offer definitive answers to every situation an officer may face. Rather, this directive will set certain specific guidelines and provide officers with a concrete basis on which to utilize sound judgment in making reasonable and prudent decisions.

II. POLICY

It is the policy of this department that:

- A. Discipline will be administered in a fair, timely, and consistent manner.
- B. When appropriate, discipline will be directed toward ensuring that employees have an opportunity to correct deficient performance.
- C. Employees are regularly told of their performance deficiencies and when sanctions are to be applied.
- D. Discipline is consistent with the seriousness of the offense and the employee's prior record.
- E. The department's disciplinary process includes training, counseling and punitive actions in the interest of discipline.
- F. The discipline process is a positive process that is used to train and develop by instruction.

III. DEFINITIONS

- A. Discipline: Any one of several actions designed to produce a pattern of behavior including, but not limited to, reprimand (oral and written); suspension; demotion; discharge; as well as reward, recognition, training and counseling.

Note: When an employee's conduct is of such a nature that continued employment is not appropriate, termination is warranted. Nothing in this policy is meant to expand the definition of discipline contained in the law or any applicable collective bargaining agreement.

- B. Unlawful Order: An order that "a person of ordinary sense and understanding" would know to be unlawful.
- C. Competent Authority: Any person authorized by law or policy to issue orders or directives.
- D. Employee: Any person officially affiliated with the department whether full or part time, sworn, civilian, or other.

IV. PROCEDURES

A. Adherence to Directives

1. All employees will, at all times, adhere to the Laws of the Commonwealth, Rules, and Regulations of the Police Department, the procedural guidelines set forth in this manual, and any other department directives.
2. All employees, upon appointment to the Police Department, shall have access to and shall become familiar with the Department's Policy Manual, Public Safety Guide and other directives issued by the Chief of Police or other competent authority.
3. No employee shall fail to obey or refuse to take cognizance of any communication (whether via radio, telephone, computer, in person, or otherwise) transmitted by or conveyed directly from the Desk Officer, unless instructed to do so by a Superior Officer.
4. No superior officer shall knowingly issue any order which is a violation of any law. No employee shall obey an unlawful order. If an employee receives an order they believe to be unlawful they shall immediately notify the person responsible for issuing said order of their refusal and reason why they believe it to be unlawful. If the order is not

rescinded then the order and reason for refusal will be forwarded to the Chief of Police for review.

5. Employees are required to obey any lawful order of a superior or officer in charge, whether it is received directly or if it is relayed from a superior by an employee of the same or lesser rank. [12.1.3 (1,2)]
6. Failure to comply with the Policies & Procedures of the Police Department, to obey the orders of a superior, or to obey any other directives issued by a competent authority may result in disciplinary action against an employee.
7. Conflicting Orders: Should any order given by a superior conflict with any previous departmental order, rule, regulation, policy, or procedure, the employee to whom such order is given will call attention to the conflict. If the superior responsible for issuing said order does not amend the order to avoid such conflict, the order will be obeyed, but the employee obeying such order shall not be held responsible for disobedience of the previous order, rule, regulation, policy, or procedure. Responsibility for the conflict shall be upon the superior that issued such a conflicting order. It should later be reported to the Chief of Police, through the chain of command, for clarification. [12.1.3 (3)]
8. Unjust or Improper Orders: When a lawful order which appears to be unjust or improper is given, the employee to whom the order is given shall respectfully notify the superior officer issuing such order of its impropriety. If the order is not corrected, then it is to be carried out. After carrying out the order, the employee to whom the order was given may file a written report to the Chief of Police, via the chain of command, indicating the circumstances and the reasons for questioning the order, along with a request for clarification of departmental policy. After complying with this Section, an employee who carries out an order found to be unjust or improper by the Chief of Police or court or tribunal of competent jurisdiction, will not be held responsible for carrying out such order. [12.1.3 (4)]

B. Role and Authority of the Supervisor

1. First line supervisors
 - a. The First-Line supervisor's familiarity with his/her personnel allows him/her the best opportunity to observe or foresee disciplinary problems and to determine the most appropriate methods to deal with them.
 - b. First-line supervisors bear the primary responsibility for the conduct, discipline, and performance of all personnel under their supervision and the basic accountability for failure to take warranted disciplinary action.
 - c. They shall be responsible for recognizing poor performance and for uncovering any evidence of corruption, dishonesty, or malfeasance by personnel under their command.
2. All supervisors have a duty to ensure that discipline is maintained within the department. It must be remembered that discipline can be positive in nature and may include recognizing and rewarding exemplary performance, training, and counseling.

3. The following is an outline by rank and command level of authority of supervisors to discipline their subordinates: (Each supervisor should also be aware of his/her duties as specified in the Department's Policy Manual):
 - a. **Sergeant:** have the authority to counsel, evaluate, praise, and recommend for awards and decorations. They also have the authority to orally reprimand, issue letters of counsel, verbal written warnings and recommend a formal written reprimand or more serious punitive disciplinary action, as appropriate.
 - b. **Lieutenant:** has all of the above authority and additionally the authority to issue letters of reprimand and letters of commendation in recognition of an individual or group with the approval of the Captain. They may also recommend more serious punitive disciplinary action as appropriate.
 - c. **Captain:** has all the above plus the authority to recommend suspension, demotion and termination.
 - d. **The Chief of Police** has all the above authority, plus the authority in accordance with the law and the provisions of any applicable collective bargaining agreement to impose punishment.
 - e. Any superior officer who is directed to act in the capacity of a rank above his/her ordinary or usual rank shall, for that period of time, possess the authority of that rank.
4. All supervisors have the authority place an employee on administrative leave with pay for the remainder of his/her shift if they deem said employee to be unfit for duty. Supervisors may suspend any employee for the balance of a workday under any of the following conditions:
 - a. Prescription drugs or a controlled substance;
 - b. Insubordination or misconduct;
 - c. Any violation of criminal law;
 - d. Any violation of department rules and regulations that would subject the violating employee to discipline;
 - e. Falsifying a statement or record;
 - f. Abusing, stealing, damaging, destroying, or defacing property or equipment of the department or others;
 - g. Any time the officer is not fit for duty.
5. Supervisors will notify by phone Chief of Police and Detective Lieutenant of any instance where an employee has been placed on leave for under any of the above circumstances. The supervisor will also submit a detailed report to the Chief and Detective Lieutenant at or prior to the end of the shift.

C. Types of Discipline

1. Positive
 - a. Letters of Commendation are given for exemplary performance or achievements and for awards and decorations for accomplishments or heroism.
 - b. Supervisors may submit a written recommendation and appropriate supporting

documentation through their chain of command to a superior who is authorized to issue such a letter, award, or decoration.

2. Corrective:

- a. Counsel employee: to correct performance deficiencies. Document the condition(s) that prompted the counseling session and corrective action expected if requested by the Captain or the Chief. Maintain the results for review, and file the documentation with the Captain.
- b. Remedial training: when training, job knowledge, or experience is at the root of performance deficiency. If requested by the Captain or Chief, document the employee's shortcomings, deficiencies, or lack of expertise. Take immediate steps to retrain in the deficient areas or schedule for training. Maintain the results for review and file the documentation with the Captain.

3. Punitive:

First-line supervisors will forward recommendations for punishment and all supporting documentation in writing to the Captain. It will be the decision of the Chief to determine if punishment is warranted.

D. Imposition of Punishment

1. Notice of Disciplinary Action: In all cases where punitive discipline is imposed, a Notice of Disciplinary Action will be served in writing prior to the effective date of imposition. The Notice will include violation(s) specifications, the disciplinary action to be taken, and the effective date of imposition of discipline.
2. If punishment is warranted, the type of punishment and effective date of imposition will also be determined as follows:
 - a. Counseling: (informal conference and/or oral reprimand) – the lowest level of punishment which may be appropriate when other methods have failed to bring about an appropriate change in performance or in response to minor intentional misconduct.
 - b. Written reprimand or deficiency notice: the second level of punishment for minor offenses with some recent disciplinary action, or moderately serious offenses with little or no recent, prior disciplinary action. Written warnings should include the following:
 - i. Details of Offending Conduct: specify dates, times, persons present, location, etc.
 - ii. Rules Violated: list which rules and regulations or what orders or standards of conduct were involved.
 - iii. Require Future Conduct: make it clear what conduct is required. Specify an *order* if there is any doubt.
 - iv. Signatures: the supervisor should sign and request the employee to sign also (acknowledging *receipt* not necessarily admitting wrong). Note a refusal by an employee to sign the receipt. Refusal to do so is insubordination and may result in additional discipline.
 - v. Comments by Employee: provide space for employee comments or rebuttal, or afford the employee the opportunity to submit a written reply and have it

attached to the written notice/warning. The Chief may, upon reviewing the employee's comments or rebuttal decide to alter, rescind or uphold the disciplinary action.

- c. Punishment Duty: Extra, unpaid duty in lieu of suspension may be imposed by the Chief with the agreement of the employee being punished.
 - d. Suspension: for a moderately serious offense with some recent disciplinary action or for a serious offense. The severity of the offense should be commensurate with the length of the suspension.
 - i. Short Term Suspension - may be imposed by the Captain or the Chief.
 - ii. Long Term Suspension: may be imposed by the Chief
 - e. Demotion: In lieu of dismissal for a supervisor. A demotion of one or more ranks may be imposed by the Chief.
 - i. Dismissal: for the most serious of offenses, patterns of misconduct or deficient performance.
 - ii. The discharge of an employee may be directed by Appointing Authority.
3. In the event that an employee is dismissed, the Appointing Authority shall ensure that the employee to be dismissed is provided with a written notice advising of the following:
- a. The reason for dismissal;
 - b. The effective date of dismissal;
 - c. The status of fringe benefits after dismissal (in conjunction with HR); and
 - d. The status of retirement benefits after dismissal (in conjunction with (HR)).
 - e. All records related to the above shall be retained in the employee's discipline folder.

NOTE: This process is further discussed in **1.2.1 Internal Affairs**.

E. Appeals

Employees may appeal their disciplinary action imposed in accordance with the employee's respective collective bargaining agreement [or M.G.L. c 31, s 41-45].

F. Records: [26.1.8 (3)]

1. Per Section 1 of MGL C.6E, s. 30, notwithstanding any general or special law or collective bargaining agreement to the contrary, every law enforcement agency shall provide to the Massachusetts Peace Officer Standards and Training Commission (POST-C), a comprehensive disciplinary record for each law enforcement officer (currently employed or transferred to another agency) including but not limited to:
 - i. Every complaint of which the officer was the subject of during the course of their employment with the agency; and [26.1.8 (3A)]
 - ii. All disciplinary records of the officer, including the final disposition of a complaint, if any, and any discipline imposed. [26.1.8 (3B)]

2. Disciplinary records will not be included in an employee's personnel file but will be maintained in a separate disciplinary file to which the effected employee will have access.
3. The Chief of Police retains the right to maintain/store all disciplinary files and as such these files remain under the direct control of the Chief of Police and stored/maintained in his/her files which will be secured under lock and key. [26.1.8 (1A I, 1A II)]
4. The Chief of Police will provide a comprehensive disciplinary record for each law enforcement officer, on a form provided by POST -C, including the final disposition of a complaint and any discipline imposed, to POST-C and allow access to these files for any investigation or records requested by POST-C.
5. The Chief of Police may allow access to these files by other town or law enforcement agency administrative personnel in order to facilitate a town or agency function. (i.e. POST-C submittal, internal affairs investigation, termination)
6. The department will not use exemption (c) of the public records law to withhold officer disciplinary records from POST-C. [26.1.8 (2)]