

October 5, 2021

Memorandum to the Public and BPD Members

RE: Disciplinary Matrix – 1st Comment Period – October 5th – November 5th, 2021

The Baltimore Police Department (BPD) is seeking comments on the below draft disciplinary matrix, which was created in collaboration with the U.S. Department of Justice (DOJ) and the Monitoring Team. This draft disciplinary matrix addresses Consent Decree ¶1375, which calls on BPD to review its disciplinary matrices to ensure consistency in the imposition of discipline.

As many are aware, legislation was passed in 2021 that, among other things, mandates the creation of a statewide disciplinary matrix. Currently, the state is working on its processes around this legislative mandate. For this reason, at this moment it is unclear how exactly this draft matrix will be used once that law goes into effect.

Nevertheless, BPD highly values the public's feedback, and looks forward to considering each comment it receives about the below draft. Please note that the following issue is still under discussion by the parties: how and where to incorporate body-worn camera violations into this disciplinary matrix. We have highlighted its current location below. If any members of the public or BPD have feedback on this item, please provide your thoughts.

You can provide feedback by clicking the "Let's Hear Your Feedback" button on the webpage above. All public and BPD member feedback will be thoughtfully considered by the parties.

DISCIPLINARY MATRIX

GENERAL

Contained in this document is the Baltimore Police Department's (BPD) Disciplinary Matrix. This is the required framework through which discipline is imposed as a result of a sustained disposition from an administrative investigation into BPD member misconduct. The goal of this Disciplinary Matrix is to apply disciplinary standards in a fair and consistent manner.

In order to protect the integrity of the BPD, discipline shall be imposed pursuant to the below Disciplinary Matrix as responsive measures to an employee's misconduct in violation of BPD policy. Any departures from the discipline recommended under the Disciplinary Matrix must be justified in writing. Each sustained misconduct allegation shall be considered for the purpose of recommending discipline. BPD's Public Integrity Bureau (PIB) and BPD's Legal Affairs have the discretion to charge the policy violations deemed appropriate.

In general, minor discipline is imposed for first violations and discipline follows a progressive trajectory for repeat or increasingly serious offenses. Complaints filed by members of the public may be covered by an alternative disciplinary matrix and process; nevertheless, misconduct and discipline that falls under other disciplinary matrices will still be considered as part of the progressive discipline in this matrix. This Disciplinary Matrix, and the imposition of discipline at BPD, does not and shall not take into account the member's race, religion, gender expression, gender identity, sex assigned at birth, sexual orientation, national origin, age, ethnicity, or familial relationships. Furthermore, the imposition of discipline shall not be influenced by the high or low profile nature of the incident.

This Disciplinary Matrix includes a breakdown of different categories of violations (A-G). Each category is defined and contains a list of example misconduct violations that fit under that category. Disciplinary action is not limited to the list of example violations listed in the matrix below as any violation that meets the category descriptions is subject to the corresponding discipline.

DEFINITIONS

Aggravating Factors – Conditions or events related to the violation that increase the seriousness of the violation and may increase the degree of penalty as specified in the Matrix below. Examples of aggravating factors include:

- Prior disciplinary history,
- Prior work history, including non-disciplinary corrective action,
- Officer rank,
- The violation was committed willfully or for personal gain,
- The member took efforts to conceal the violation, or was untruthful or dishonest,
- The violation was retaliatory in nature,
- Expressed unwillingness to comply with policy, tactics, or performance standards,
- The impact of the violation on the community or the department's ability to carry out its mission,
- The degree to which the violation caused or could have caused the loss of life or injury, and
- The degree to which the violation caused loss or damage to public or private property.

Note: Some aggravating factors may in themselves constitute additional violations of policy associated with separate, higher, ranges of discipline. For example, "efforts to conceal" even a minor violation may themselves constitute separate ethics/honesty violations subject to higher range of discipline (e.g., lying or destroying/falsifying evidence to conceal a minor violation). Similarly, an expressed unwillingness to comply with a given policy might also constitute a separate violation of policies prohibiting insubordination.

Letter of Reprimand (LOR) – A formal letter to an employee from PIB which details the employee's wrongful actions and states their actions have been deemed inappropriate or unacceptable. Further violations of same

or similar conduct may result in more severe discipline. A copy of this letter shall be placed in the employee's IAPro file.

Level (One) – Level One is the first offense.

Level (Two) – Level Two is the second offense of similar conduct committed in a two-year period.

Level (Three) – Level Three is the third offense of similar conduct committed in a two-year period.

If the member commits the same or similar offense within a two (2) year period, they will be subjected to the next penalty Level. So if, for example, after Level One, if the member commits the same or a similar offense within a two (2) year period, they will be subject to a penalty in Level Two.

Mitigating Factors – Conditions or events that relate to the violation, but do not excuse or justify the violation, that are considered in deciding the degree of penalty. Examples of mitigating factors may include:

- Lack of disciplinary history,
- Complimentary work history,
- Prior work history,
- The violation was the inadvertent result of reasonable, otherwise compliant performance,
- The member promptly accepted responsibility for the conduct and was willing to be held accountable,
- The member committed the violation at the direction of a superior (who might also be subject to separate discipline),
- Unusually serious workplace tensions / stressors,
- The violation is attributable to limitations beyond the control of the officer that are caused by legally protected physical or mental disabilities.

Written Counseling (WC) – A form of counseling given to employees who have violated a BPD policy. Written Counseling, the least severe form of disciplinary action, serves as warnings for violations. Further violations of same or similar conduct may result in more severe discipline. A copy of the written counseling shall be placed in the employees IAPro file.

PROCEDURE

How to use this Disciplinary Matrix:

1. As explained above, each category contains a description and example violations. Categories A-F increase in severity based on alphabetical order (Example: Category B contains more severe violations than Category A). Category G covers driving under the influence (DUI) violations.
2. Each category has a penalty chart contained directly to the right of the category definition and example violations below the category description. The chart contains both standard penalties for violations in that category, as well as penalties for when mitigating or aggravating factors are present.
3. Each penalty chart contains acceptable penalties for applicable violations that include mitigating or aggravating factors.
4. The Disciplinary Review Committee (DRC) may offer Loss of Leave (LOL) or Loss of Pay (LOP) where there is a choice noted in the matrix.
5. In addition to the penalties in the matrix, the Disciplinary Review Committee (DRC) may recommend the member for training, transfer, and/or a demotion.
6. Multiple violations stemming from the same incident shall be considered separately for penalty purposes and shall not be consolidated.
7. Three or more sustained violations occurring in the same category in a two-year period progresses the discipline to the higher category noted in the disciplinary matrix.
8. Some violations can fall under different categories depending on the severity of the violation. For example, penalties for BWC related violations, insubordination, harassment, and theft may carry more or less severe penalties, depending on which category most accurately fits the member's actions.

INTERACTION BETWEEN DISCIPLINARY MATRIX AND NON-DISCIPLINARY CORRECTIVE ACTION

Policy 211, *Non-Disciplinary Corrective Action* (NDCA), governs the implementation of non-disciplinary corrective action by BPD supervisors in response to minor infractions. Minor infractions are defined in Policy 211 as “a behavior or action that does not fully comply with a Departmental policy, procedure, or order which has **minimal impact** on other individuals or on BPD’s operations or mission. Examples of such actions or behaviors include:

- Actions made in error but that the member reasonably believed were either complying with policy or that they were acting in the best interest of the individual being served or in the spirit of BPD’s mission, vision or values;
- Deficient performance of an action or duty that had minimal impact on any individuals or BPD operations, or
- Unavoidable infractions having minimal impact.”

Any violation that is the subject of a public complaint or involves a member of the public shall not qualify for NDCA. The NDCA policy includes further restrictions and parameters around the use of NDCA by supervisors to address minor infractions by BPD members. Accordingly, members and supervisors must refer to Policy 211, *Non-Disciplinary Corrective Action*, for the complete requirements regarding the use of NDCA.

Nevertheless, members must be aware of the following ways in which NDCA and the Disciplinary Matrix relate to each other:

- An infraction that is categorized as a Category A or B Level One violation in the Disciplinary Matrix **may** qualify for NDCA instead of discipline if the violation otherwise qualifies for NDCA per the parameters as set forth in Policy 211, NDCA.
- Any violation that is categorized as a Category C violation or above in the Disciplinary Matrix **shall not** be addressed by NDCA, and **must** be referred to PIB for formal investigation and for the imposition of discipline, if sustained.
- In cases where the Disciplinary Matrix calls for the imposition of discipline, BPD (whether a supervisor, PIB, or another BPD entity) shall not only take NDCA to address the violation.
- BPD shall consider whether NDCA is also appropriate in a case where discipline is imposed.

Baltimore Police Department – Disciplinary Matrix

Please refer to the footnote for acronym explanations.¹

Categories and Descriptions – Violation examples noted (but not limited to)	Level	Mitigating	Standard	Aggravating
Category A: Conduct that has or may have a minimal negative impact on operations or professional image of the Baltimore Police Department. Example Violations: <ul style="list-style-type: none"> Violations concerning improper attire/appearance Loss or damage of equipment not to include firearms, radios, or automobiles Failure to properly inspect vehicle Failure to appear in court (first offense) Improper handling and storage of found property 	ONE: 1st Violation in 2 Years	WC	WC	LOR
	TWO: 2nd Violation in 2 Years	WC	LOR	1 DAY LOL or LOP
	THREE: 3rd Violation in 2 Years	GO TO CATEGORY B LEVEL 1		
Category B: Conduct that has or may have a negative impact on operations or professional image of Baltimore Police Department; or that negatively impacts relationships with other officers, agencies or the public. Example Violations: <ul style="list-style-type: none"> Failure to submit secondary employment form Exceeding allotted overtime hours per week or pay period Using coarse, profane, discourteous, or insolent language Failure to make, file, or complete official reports (excluding Use of Force reports) 	ONE: 1st Violation in 2 Years	LOR	1 DAY LOL or LOP	2 DAY LOL or LOP
	TWO: 2nd Violation in 2 Years	1 DAY LOL or LOP	2 DAYS LOL or LOP	3 DAYS LOL or LOP
	THREE: 3rd Violation in 2 Years	GO TO CATEGORY C LEVEL 1		
Category C: Conduct that involves a risk to safety or that has or may have a pronounced negative impact on the operations or professional image of the Baltimore Police Department or a member, or on relationships with other officers, agencies or the public. Example Violations: <ul style="list-style-type: none"> Failure to attend or complete required training Failure to report a level 1 Use of Force 	ONE: 1st Violation in 2 Years	2 DAYS LOL or LOP	3 DAYS LOL or LOP	4 DAYS LOSS OF PAY
	TWO: 2nd Violation in 2 Years	3 DAYS LOSS OF PAY	4 DAYS LOSS OF PAY	5 DAYS LOSS OF PAY
	THREE: 3rd Violation in 2 Years	GO TO CATEGORY D LEVEL 1		

¹ WC = Written Counseling; LOR = Letter of Reprimand; LOL = Loss of Leave; LOP = Loss of Pay

<ul style="list-style-type: none"> • Use of Force that is not reasonable, necessary, proportional, and not likely to cause bodily injury • Failure to de-escalate an incident • Improper handling of evidence (not to include CDS, money, or firearms) 				
<p>Category D²: Conduct substantially contrary to the values of the Baltimore Police Department or that substantially interferes with its mission, operations or professional image, or that involves a serious risk to officer or public safety, or intentionally violates Departmental policy.</p> <p>Example Violations:</p> <ul style="list-style-type: none"> • Improper handling of a domestic violence call for service • Failure to report a level 2 or 3 Use of Force w/ no injury • Sleeping on duty • Failure to thoroughly search an individual in police custody • Negligent handling of a firearm resulting in a discharge likely to cause no injury 	<p>ONE: 1st Violation in 2 Years</p>	5 DAYS LOSS OF PAY	10 DAYS LOSS OF PAY	15 DAYS LOSS OF PAY
	<p>TWO: 2nd Violation in 2 Years</p>	10 DAYS LOSS OF PAY	15 DAYS LOSS OF PAY	20 DAYS LOSS OF PAY
	<p>THREE: 3rd Violation in 2 Years</p>	GO TO CATEGORY E LEVEL 1		
<p>Category E: Conduct that involves misuse of authority, unethical behavior (not involving false reporting or false statements), or an act that could result in an adverse impact on officer or public safety or to the professionalism of the Baltimore Police Department or a violation of any misdemeanor not specifically identified in any MD police accountability statutes.</p> <p>Example Violations:</p> <ul style="list-style-type: none"> • Excessive force likely to cause bodily injury • Negligent handling of a firearm resulting in a discharge likely to cause bodily injury • Unfit for duty due to impairment or intoxication • Acts of discrimination or retaliation 	<p>ONE: 1st Violation in 2 Years</p>	15 DAYS LOSS OF PAY	20 DAYS LOSS OF PAY	25 DAYS LOSS OF PAY up to TERMINATION
	<p>TWO: 2nd Violation in 2 Years</p>	20 DAYS LOSS OF PAY	25 DAYS LOSS OF PAY	30 DAYS LOSS OF PAY up to TERMINATION
	<p>THREE: 3rd Violation in 2 Years</p>	GO TO CATEGORY F LEVEL 1		
<p>Category F: Any violation of law, policy, rule or regulation which: foreseeably results in death or serious bodily injury; or constitutes a willful and wanton disregard of the Baltimore Police Department's mission, vision and values; or involves any act or omission which demonstrates a serious lack of the integrity, ethics or character related to an BPD employee's fitness to hold their position; or involves</p>	<p>ONE: ANY VIOLATION</p>	TERMINATION		

² Demotion can also be considered as an additional disciplinary penalty for Category D and Category E violations.

<p>egregious misconduct substantially contrary to the standards of conduct reasonably expected, to include those whose sworn duty is to uphold the law; or involves conduct which constitutes the failure to adhere to any condition of employment required or mandated by law, including any 18 U.S.C. § 922(g) (Lautenberg) violations or a felony or a misdemeanor covered specifically identified in any MD police accountability statutes.</p> <p>Example Violations:</p> <ul style="list-style-type: none"> • <i>Excessive force likely to cause serious bodily injury or death</i> • <i>Negligent handling of a firearm resulting in a discharge likely to cause serious bodily injury or death</i> • <i>Making, orally or in writing, any false statement, or misrepresentation of any material fact</i> • <i>Positive drug urinalysis</i> 					
<p>Category G: Any driving under the influence of alcohol and/or drugs which would constitute a violation of law. Convictions for such a violation is not required.</p>	<p>Level</p>	<p>No Special Factors³</p>	<p>1 Special Factor</p>	<p>2 Special Factors</p>	<p>3 Special Factors</p>
	<p>ONE: 1st Violation in 2 Years</p>	<p>20 DAY LOP</p>	<p>25 DAY LOP</p>	<p>30 DAY LOP</p>	<p>T⁴</p>
	<p>TWO: 2nd Violation in 2 Years</p>	<p>30 DAY LOP</p>	<p>T</p>	<p>T</p>	<p>T</p>
	<p>THREE: 3rd Violation in 2 Years</p>	<p>T</p>	<p>T</p>	<p>T</p>	<p>T</p>

³ For Category G violations, the presence of aggravating circumstance(s) in conjunction with the violation will be automatically considered a special aggravating factor. These circumstances include, but are not limited to, fleeing from the incident; failure to cooperate with law enforcement; and/or possession of a firearm.

⁴ T = Termination