

DISCIPLINARY RESET MECHANISM AND LANGUAGE RECOMMENDATIONS

Communities United Against Police Brutality

Discipline and Best Practices

In an ideal situation, police officers understand and act within expectations and, thus, avoid the disciplinary process altogether. In that environment, discipline becomes the last—and seldom used—option. However, in all organizations of any size, employees range in judgment and willingness to meet the organization’s expectations. Thus, appropriate disciplinary practices must be in place as part of an overall infrastructure of effective personnel management.

Issue: Disciplinary Actions Overturned during Arbitration

While it is hard for members of the public to know the full extent of the problem due to data privacy, it is clear that a significant percent of terminations and other disciplinary actions grieved by St. Paul Police Department officers have been overturned by arbitrators. Much of this stems from a lack of disciplinary action for similar offenses by past administrations. Other causes include poor documentation leading to a finding of insufficient evidence, and disproportionate discipline compared to similar offenses by other officers.

An instructive example is the arbitration of Ofc. Brett Palkowitsch. Ofc. Palkowitsch was terminated for kicking Frank Baker multiple times, causing ribs on both sides of his body to fracture along with the collapse of both lungs. The city noted the clear violation of policy and the denial by Palkowitsch that his actions were wrong. Despite this, the arbitrator reduced the discipline to a 30-day suspension. The arbitrator listed five different incidents involving kicks—two of which involved Palkowitsch—and noted that those incidents resulted in little or no discipline.

These issues with making discipline “stick” and the disempowerment of the chief when discipline is overturned are likely to continue unless a reset mechanism is adopted. Otherwise, effective discipline is impossible due to lack of effective discipline in the past - a Catch 22.

Opportunity

The introduction of a new policy or a new disciplinary matrix provides the opportunity to adopt a disciplinary reset mechanism. A disciplinary reset mechanism frees the Department from the constraints of past practices and allows police administration to create a greater culture of accountability, which improves policing overall. Essentially, in a disciplinary reset mechanism police administration draws a line indicating from that point forward, policy violations will be treated in a particular and consistent manner.

Nuts and Bolts

Elements of a reset mechanism include:

1. A well-defined disciplinary section of the policy manual and/or a disciplinary matrix with clear and specific mitigating and aggravating factors. The use of a disciplinary

matrix is considered a best practice. However, information on the consequences of violating a policy can be included in that policy or in a disciplinary section of the policy manual as long as information on progressive discipline is also included.

The matrix in use by the Vancouver PD (Police Discipline: A Case for Change, page 11—see below) provides an example of a well-defined disciplinary matrix with specific ranges for first, second and subsequent offenses. This is the crux of a progressive disciplinary system.

Table 1. Vancouver Discipline Matrix

Offense Class	First Offense		Second Offense		Third Offense	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
1	N/A	Memo of Correction	N/A	Written Reprimand	Memo of Correction	1-Day Suspension
2	Memo of Correction	Written Reprimand	Memo of Correction	Written Reprimand	1-Day Suspension	3-Day Suspension
3	Memo of Correction	1-Day Suspension	Written Reprimand	3-Day Suspension	1-Day Suspension	5-Day Suspension
4	Written Reprimand	3-Day Suspension	1-Day Suspension	5-Day Suspension	3-Day Suspension	15-Day Suspension
5	1-Day Suspension	5-Day Suspension	3-Day Suspension	15-Day Suspension	10-Day Suspension	Termination
6	5-Day Suspension	Termination	15-Day Suspension	Termination	Termination	N/A
7	Termination	N/A	N/A	N/A	N/A	N/A

2. A firm statement of expectations in either the new policy, new disciplinary policy manual section, or new disciplinary matrix indicating that from a certain date forward, the department intends to change prior disciplinary practices and that discipline will be applied consistently. An example of the appropriate wording:

With the establishment of the _____ policy dated _____, employees are on notice that the Department intends to change any prior disciplinary practices and the discipline outlined in this policy is now the standard of discipline for the St. Paul Police Department, effective with its issuance.

3. Training for all managers, supervisors and other police leadership in application of the new disciplinary standard, including mitigating and aggravating factors, detailed and legally correct documentation of incidents and reasons for all disciplinary actions, proper coaching and counseling techniques and documentation of same, employee assistance procedures, last chance statements and other disciplinary mechanisms.

4. Training for all officers on the new disciplinary standard and any changes in mitigating and aggravating factors prior to implementation, with a signed or otherwise documented affirmation of this training and understanding by every officer.
5. Consistent application of the disciplinary standard, mitigating and aggravating factors in all cases by all police supervisors and managers, along with proper documentation. Consistency is the core requirement. As noted in *Why Progressive Discipline Systems Often Fail*, "A policy-based progressive discipline system only works properly if all supervisors play team ball." The success of an accountability culture shift is hinged on supervisors being fully on board. Thus, the department must track results by supervisor.
6. Systematic review of arbitration decisions to understand the standards applied and how best to meet those standards in future disciplinary actions. There should be an analysis of arbitrations in which the city prevailed as well as those grievances that are partially or fully sustained.

References and Resources

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