



Lincoln Police Department

Standard Operating Procedures

Integrity, Competency, Fairness



Subject:	Employee Discipline	Policy #	A-31
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	<i>Rescinds All Previous Policies Related To Their Current Policy</i>		
Issuing Authority:	Chief of Police Lee Miller		

I. POLICY:

The Lincoln Police Department is committed to the concept that corrective action is only a final alternative for maintaining high levels of discipline. Counseling and training will be utilized whenever practical, as alternatives to discipline. The role of supervisors is crucial to the disciplinary process.

Supervisors have the best opportunity to observe the performance, conduct, and appearance of officers on a day-to-day basis, and to identify those instances when disciplinary action or remedial training may be warranted.

It is the policy of the Lincoln Police Department to be fundamentally fair and consistent in the application of discipline. The goal of the disciplinary matrix is to encourage appropriate behavior.

The matrix serves as a guide only. Nothing in the disciplinary matrix has the intent of limiting the Chief of Police's authority in determining or rendering the appropriate final disciplinary action.

II. PURPOSE:

To provide personnel with an understanding of the discipline process and management's philosophy on the use of discipline as an agent for change within the organization.

To establish a disciplinary matrix applicable to all employees of the Lincoln Police Department, for addressing violations of the rules and regulations of their agency in a fair and consistent manner

III. DEFINITIONS:

- A. Aggravating Factors:** Facts and/or circumstances that cause the severity of a rule violation to be greater than a "normal" (mid-level) violation of the same general type.
- B. Mitigating Factors:** Facts and/or circumstances that cause the severity of a rule violation to be lesser than a "normal" (mid-level) violation of the same general type.

IV. PROCEDURES:

A. Training:

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In addition to its ability to add to the professionalism of the individual, training can also serve as an integral component of an enlightened disciplinary system that seeks to correct behavior.

1. **Remedial Training:** Remedial training shall be dictated by the failure to successfully complete a required component of a training program.
 - a) Supervisors shall ensure that the required remedial training be initiated, scheduled, and completed by the involved member within thirty (30) days. In some instances, the remedial training may not be able to be scheduled and/or completed until the next training date is made available.
 - b) Failure to participate in remedial training shall be dealt with in the same manner as failure to successfully meet any other required standard of job performance.
2. **Formal Training:** Formal training can be utilized to address matters of poor performance or the violation of the agency rules. If it is to maintain its effectiveness, formal training should be constructive rather than punitive in nature. When utilized as such, it should serve as an alternative to discipline. Supervisors may request formal training for an employee whenever the supervisor feels that the employee's performance will benefit thereby.
3. **Compulsory Training:** Compulsory training is a legitimate option when the Chief of Police or designee determines that an employee's conduct or performance can only be corrected or improved upon by a formal program of professional training. Examples of such training might include:
 - a) Driver improvement
 - b) Firearms proficiency
 - c) Legal and/or investigative techniques
 - d) Defensive tactics/use of force
 - e) Report writing
 - f) Interpersonal techniques

B. Counseling:

1. Agency counseling frequently consists of an informal interview between an employee and a supervisor. The purpose of the interview is to:
 - a) Determine if an employee is experiencing a problem in their personal or professional life that might impact upon their job performance.
 - b) Discuss any problems that might contribute to lower levels of efficiency, morale, or professionalism.
 - c) Discuss the impact or potential impact of the problem if a resolution is not found.
 - d) Identify the range of possible solutions which might be employed to deal with any problems.
 - e) Determine the appropriate range of activity for correction of any problem.
2. Agency counseling may be informal in structure. Counseling by an immediate supervisor frequently takes the form of coaching to assure that an employee functions within accepted parameters. Their type of counseling frequently goes undocumented.
3. Agency counseling can be accomplished independent of any other circumstance, incident, or investigation, or, in conjunction with another circumstance, incident or investigation.
4. Occasionally, an employee may encounter personal or professional problems beyond their ability and the ability of their supervisors to resolve. If the agency lacks the

resources or ability to provide a remedy, a referral to the Employee Assistance Program (EAP) or an outside counseling source will be made available.

C. Fitness for Duty:

1. When the Agency has concerns that an employee is unable to perform their duties the Chief of Police or their designee may require the employee to undergo a fitness for duty examination. Their examination shall be at the expense of the Agency.

D. Use of the Disciplinary Matrix:

1. The Disciplinary Matrix included in their policy is designed to ensure similar violations receive similar penalties. Although the matrix does not include all possible issues which may arise out of a violation of rules, regulations, policies, orders, or law, it provides a representative sampling.
2. Command and supervisory personnel will use the matrix in conjunction with mitigating and/or aggravating factors which may suggest a greater level of discipline. Some of these factors might include but are not limited to:
 - a) The nature of the incident is associated with the disciplinary action.
 - b) Any associated injury severity.
 - c) The level or degree of any associated damages.
 - d) The involved employee's intent or lack thereof with reference to the incident which required the need for discipline.
 - e) Any previous record of performance as it might relate to the incident which required the need for discipline.
3. The Disciplinary Matrix separates discipline recommendations into five (5) groups, categorized "1" through "5", with "5" as the lowest level of discipline and "1" as the highest.
4. In using their matrix, the suggested category for a given violation should be the starting point for assessing discipline. Mitigating and/or aggravating factors explained in the previous section should then be considered.
5. These factors may cause the recommendation to move up/down one or more categories. Finally, any previous similar violation, or a history of violations, should cause discipline to move up one or more categories.
6. To ensure fair and equitable application of the disciplinary matrix, multiple violations arising out of a single administrative investigation/incident will be merged to the highest category violation within that investigation.
 - a) For example, if an employee is investigated for a single incident and is found to have violated three category "5" violations, the incident would be addressed as a category "5", not a category "4".
 - b) If an employee is charged with one category "3" violation and three category "4" violations, the lower violations will be merged into the category "3" violation for disciplinary purposes.
 - c) This will not preclude the Chief of Police from applying separate administrative investigations/administrative charges arising out of separate investigations to the progressive disciplinary nature of the matrix.
7. In the event an unusual violation or disciplinary action has been committed by an employee that has not been identified in the Disciplinary Matrix, the supervisor will need

to identify a comparable violation, and recommend what Discipline category should be imposed.

D. Disciplinary Categories: *See Appendix 1*

- **Category "5" Violations:**

- Discipline Range:
 - Training and/or education
 - Counseling
 - Employee Assistance Services
 - Written Warning

- **Category "4" Violations:**

- Discipline Range:
 - Written Reprimand

- **Category "3" Violations:**

- Discipline Range:
 - One (1) to three (3) days suspension from duty without pay.

- **Category "2" Violations:**

- Discipline Range:
 - Four (4) to fifteen (15) days suspension from duty without pay.

- **Category "1" Violations**

- Discipline Range:
 - More than fifteen (15) days suspension from duty without pay and/or
 - Demotion or,
 - Dismissal

E. Disciplinary Actions:

1. The Chief of Police may be consulted regarding the final decision as to the imposition of disciplinary or corrective action subject to the employee's rights as specified in the applicable Administrative Regulations and Personnel Policy that action may include, but is not limited to:

- a) **Counseling:**

This is the instructional approach that is employed when an employee has committed a minor transgression. Their form of discipline is normally used in situations when the transgression is not linked to a behavioral pattern or trend. Any supervisor may issue counseling. No hearing, informal or otherwise, is required for counseling.

- b) **Remedial Training:**

Remedial Training Procedures: Remedial training is used to correct trainee performance deficiencies. When a deficiency is identified during training, the trainer will provide remedial training as soon as possible.

- c) **Written Warning:**

A written record of a warning and the reason for it will be recorded by the Chief of Police or the designee on the Complaint Form and shall be included in the employee's personnel file.

- d) **Written Reprimand:**

A written record of a reprimand and the reason for it will be recorded by the Chief of Police or the designee on the Complaint Form and shall be included in the employee's personnel file.

e) **Suspension:**

A suspension without pay will be determined by the Chief of Police.

f) **Demotion:**

An employee may have a reduction in the employee's rank which will be determined by the Chief of Police.

g) **Separation:**

Whenever an employee is separated as a result of disciplinary action, the Chief of Police or designee will provide the employee with a statement citing: the reason for the separation, the effective date of the separation.

F. Relief from Duty:

1. The Chief of Police or designee has the authority to suspend an employee from duty in accordance with the SOP Code of Conduct. In addition, command officers and supervisors may relieve an employee from duty (with pay) under the following circumstances:
 - A) An agency employee is deemed physically or psychologically unfit to perform their duties;
or
 - B) Whenever an employee refuses to obey a direct order.
2. In the event an employee is relieved from duty, the supervisor responsible for taking the action shall take all steps necessary to notify the Chief of Police of the circumstances involving the relief.
3. The Chief of Police shall retain authority to override a relieved from duty order when, in their opinion, the emergency condition ceases to exist.
4. If an employee has been charged with a criminal offense the Chief of Police or designee may elect to suspend the employee without pay pending the results of a criminal case.

G. Maintenance of Disciplinary Records:

Records of disciplinary action will be maintained in the respective employee's personnel file.

V. APPEALS:

An employee wishing to appeal a decision relating to discipline shall follow the procedure as provided in the Town's Administrative Regulations and Personnel Policy Administrative Manual, whichever is applicable.

Appendix 1

<u>Disciplinary Matrix</u>				
Category "5" Offenses				
CORRECTIVE ACTIONS	Training and/or Education	Counseling	Employee Assistance Services	Written Warning
Category "4" Offenses				
CORRECTIVE ACTIONS	Written Reprimand			
Category "3" Offenses				
CORRECTIVE ACTIONS	One (1) to three (3) days suspension from duty without pay.			
Category "2" Offenses				
CORRECTIVE ACTIONS	Four (4) to fifteen (15) days suspension from duty without pay.			
Category "1" Offenses				
CORRECTIVE ACTIONS	1. More than fifteen (15) days suspension from duty without pay and/or 2. Demotion 3. Dismissal			

CODE OF CONDUCT	
Description:	Category Violation
Agency personnel making inappropriate comments, ridicule of others etc. after being told to stop.	5
Rude or discourteous actions	5
Discourtesy towards the public	5
Unbecoming Conduct	4
Failure to maintain Knowledge of Regulations, Policies/Procedures, state, and local laws	5
Performance of Duty/Failure to perform duties as required by law, agency rule, procedure, policy will not engage in activities or personal business which causes them to neglect or be inattentive to their official duties	4
Performing below the required Performance Level	4
Punctuality/Reporting for Duty	5
Failure to wear/carry identification as required	5
Failure to be properly equipped for duty	5
Untruthfulness	1
MISREPRESENTING FACTS	
Description:	Category Violation
Creating rumors designed to affect morale or undermining the Chief of Police authority	4
Intentionally submitting inaccurate reports	3
Intentional misrepresentation or lying (false reports)	1
SECONDARY EMPLOYMENT VIOLATIONS	
Description:	Category Violation
Engaging in secondary employment while on sick leave.	2
Engaging in secondary employment without authorization	4
Using agency equipment and/or representing self as a law enforcement officer while engaging in secondary employment while suspended from duty	1
PRISONER-RELATED VIOLATIONS	
Description:	Category Violation
Failing to search prisoner incidents to arrest	3
Improper search of the prisoner	4
Failure to utilize prisoner restraining device	5
Allowing escape of prisoner due to improper procedure/negligence	3
Intentionally failing to provide medical treatment for an injured prisoner	2
VEHICLES AND PROPERTY	
Description:	Category Violation
Fail to properly maintain and care for the agency-issued vehicle	5
Damaging agency-issued equipment (unintentional):	5
Loss of agency-issued equipment -- restitution and punishment	5
Damage to police vehicle through reckless driving	3
Unauthorized use of a vehicle	4
Removal of official records and/or agency property without authorization	1
Failure to return Reports, Warrants, Evidence, or other agency property when required to do so	5
EXCESSIVE FORCE AND BRUTALITY	
Description:	Category Violation
Excessive Force -- Force that is excessive in scope, duration, or severity considering the circumstances	2
Brutal Force -- Force that is without justification or mitigation considering the circumstances and is severe or cruel in scope or duration	1

VIOLATIONS RELATING TO INVESTIGATIONS

Description:	Category Violation
Failure to conduct preliminary and follow-up investigations	5
Dissemination of information to unauthorized people	2

EVIDENCE AND FOUND PROPERTY VIOLATIONS

Description:	Category Violation
Intentional failure to secure and/or process evidence at crime scene	4
Failure to properly store/release evidence	3
Failure to properly store money prior to completing tour of duty	2
Failure to properly store/release found property	4

HARRASSMENT & DISCRIMINATION

Description:	Category Violation
Sexual harassment/discrimination	1
Racial harassment/discrimination	1
Religious/ethnic harassment/discrimination	1
Sexual orientation harassment/discrimination	1
All other harassment/discrimination	1

FIREARMS

Description:	Category Violation
Firearms discharge contrary to department Use of Force Policy -- on/off duty	1
Carrying unauthorized firearm -- on/off duty	4
Carrying unauthorized ammunition -- on/off duty	4
Failure to secure firearm -- on/off duty	3
Failure to properly maintain a firearm	5
Failure to report firearm discharge	1
Negligent handling of a firearm resulting in discharge	3
Allowing unauthorized person to handle or modify agency-issued firearm	3

NEGLECT OF DUTY

Description:	Category Violation
Failure to wear a proper uniform, hat, equipment, etc.	5
Failure to assist/back up other officers	2
Out of uniform/improper dress, appearance	5
Failure to report to duty assignment i.e.: training and special assignments	4
Abusing sick leave privileges	4
Failure to submit the required report	4
Sleeping on duty	4
Failure of the supervisor to take necessary supervisory action	4
Submitting late reports	5
Failure to process Complaint Against Personnel up the chain of command or cover up Complaint Against Personnel	1
Lateness to duty assignment	5
Failure to give notification when not reporting for duty i.e.: AWOL and sick leave notification	3
Failure to render Aid and assistance to citizens	5
Failure to report to court	5

CRIMINAL/TRAFFIC VIOLATIONS

Description:	Category Violation
Misdemeanor & Felony violations (Criminal and Traffic) on/off duty that could result in incarceration	1
Driving while intoxicated/under influence of alcohol, prescription drugs -on/off duty.	1
Departmental accident at fault with fatal injury to police/citizen	1
Failure to report departmental accident	1
At-fault departmental property damage only to police/citizen vehicle/other property	5
MISCELLANEOUS	
Description:	Category Violation
Unauthorized ride-along	5
Using official position for financial/personal gain	1
Consuming alcoholic beverages on duty, except when in the performance of official duties, undercover assignments with the approval of the Chief of Police	5
Association with persons of known questionable character	4
Association with known criminal elements/persons under criminal investigation	2
Unauthorized use of the NCIC	2
Engaging in sexual act on duty	1
Sexual act in department vehicle/facility -- off-duty	1
Use of controlled dangerous substances	1
Abuse of police powers	3
Improper use of the internet contrary to policy	3
Intentionally turning off video/audio equipment in performance of duty	1
Intentionally lie/falsify "Daily Activity and Leave Report":	1
Employees under the influence of alcohol while on duty	1
Keeping any intoxicants on agency premises, except, when necessary, in the performance of their duties	4
Accepting gratuities	4
Failure to promptly report to the Chief of Police, through the Chain of Command, damage to agency or personal property of others while in the execution of official duties	4
Obstructing or hindering a criminal investigation	1
Obstructing or hindering an administrative investigation	1
Failure to obey a lawful order	4
Insubordination	3
Abuse of agency-issued phones, i.e., long distance phone calls not related to department functions	5
Employees will not use their official status, name, or photograph to endorse any product or service without permission from the Chief of Police	4