

**GENERAL ORDER**

March 2023

Immediately

**I-04**

Distribution: All Employees

Subject: **DISCIPLINE AUTHORITY**

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This Order consists of the following sections:

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- II. "Policing in a Free Society" – Herman Goldstein
- III. Discussion
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**I. PURPOSE**

A. The police exist to serve the community. In order to serve the community in the most efficient and effective manner possible, the Police Department must adopt values, policies, procedures, and rules to guide employee action in the wide variety of circumstances encountered daily.

B. Through training, supervision, providing positive role models and involvement in the process for developing guidelines (by employees and citizens), the Department attempts to ensure that every employee understands and conforms to these expectations. In spite of these efforts, it will be necessary from time to time to take disciplinary action against some employees.

C. Discipline is an important part of a well-functioning police organization. Mistakes will be made, and employees must be held accountable for those mistakes. However, not all mistakes are the same and, in holding employees accountable for them, discipline becomes a complex and confusing aspect of police administration that both employees and the public find very difficult to understand.

D. The following discipline philosophy has been developed in an attempt to remove some of the mystery associated with decisions in the discipline process. It is strongly believed that both employees and the public should have a better understanding of the factors that are considered in making these difficult decisions.

**II. "POLICING IN A FREE SOCIETY"**

"Tensions and hostility are a part of policing. Police officers must, as part of their job, issue orders to people, catch them in violation of laws, deprive them of their freedom, and bring charges that may lead to the imposition of severe punishment. Contacts between officers and citizens are often initiated under conditions that are emotionally charged, such as immediately after a fight or other disturbance, or following the commission of a crime. Even the person getting a traffic ticket frequently becomes indignant. However

scrupulous the police may be in carrying out their responsibilities, they are bound to incur the wrath of some of those against whom they must proceed. This hostility manifests itself in various forms - sometimes immediately, by verbal abuse or physical resistance to the police; sometimes later by alleging that the officers' actions were improper or illegal. Under such circumstances an officer must be able to count on support for actions taken in the line of duty the police officer expects and indeed needs, some insulation from the community being served. But insulation can serve as a shield for the officer who is not so scrupulous - who in fact acts improperly."

### III. DISCUSSION

A. The adversarial nature of policing is one of the key factors noted by Herman Goldstein that complicates the control and review of police actions and behavior. The public grants the police considerable authority to act on its behalf in the effort to create an environment as free of crime, the fear of crime, drug abuse, violence, and disorder as possible. Although in almost all encounters with the public, police officers and non-sworn employees use this authority appropriately, there are times when citizens have legitimate questions about how this authority has been used. Unfortunately, there are also times when that authority has been abused. Therefore, it is critical that a system of discipline be established that contributes to minimizing abuse of authority and promotes the department's reputation for professionalism.

B. The most effective disciplinary system is one that combines the reinforcement of the right set of values in all employees with behavioral standards that are established in clear policies, procedures and rules that are consistently and fairly applied. Each employee of the St. Petersburg Police Department must understand and be guided by the standards that have been established in the Department's *General Orders* and the *Rules and Regulations of the Personnel Management System* of the City of St Petersburg.

### IV. DISCIPLINE PHILOSOPHY

A. Employees of the St. Petersburg Police Department are expected to conduct themselves, both in interactions with each other and with the public, in a manner that conveys respect honesty, integrity, and dedication to public service. In turn, employees of the Department can expect to be treated fairly, honestly, and respectfully by their peers and other employees of the Department who hold positions of greater or lesser organizational authority.

B. It is recognized and understood that employees of the Department will make judgmental errors from time to time in carrying out their responsibilities. (In fact, employees who never make any mistakes may be doing very little to try to improve the performance of the Department.) While each error in judgment offers an opportunity for the Department and the individual to learn, it is also realized some errors will have greater consequences than others for the public, the Department, and the employee.

C. The Department also has an obligation to make its expectations as clear as possible to employees. The Department has an equal obligation to make the consequences for failing to meet those expectations clear as well. While both of these obligations are difficult to meet, the latter is obviously more complex. There are often circumstances that may have contributed to errors of judgment or poor decisions that need to be considered when determining the appropriate consequences for behavior found improper.

D. In trying to define fair and consistent treatment in disciplinary matters in the abstract, employees often say they would like the Department to give them a list of the prohibited behaviors along with the consequences for engaging in those behaviors. Experience tells us, however, when employees are directly involved in the disciplinary process - either as the subject of the process or in a review capacity to recommend or decide on the consequences - most will want to consider the consequences in light of the circumstances that might have contributed to the violation. This, of course, is a critical aspect of the application of discipline in a consistent and fair manner.

1. For some employees consistency is seen as the same treatment for the same behavior in every case and; it is thought if this is done, the consequences will be **fair** to everyone. For the St. Petersburg Police Department, consistency is defined as:

"Holding everyone equally accountable for unacceptable behavior; and fairness is understanding the circumstances that contributed to the behavior, while applying the consequences in a way that reflects this understanding."

2. In order to ensure that employees are treated in a consistent and fair manner, the application of consequences for behaviors that are not in keeping with the expectations of the Department will be based upon a balanced consideration of several factors.

## V. DISCIPLINARY CONSIDERATIONS

A. A number of factors that are considered in the application of discipline are identified and discussed below. All of the factors may not be considered in every case because some will not apply to the particular set of circumstances. Also, there may be a tendency to isolate one factor and give it greater importance than another.

B. These factors should generally be thought of as being interactive and having equal weight, unless there are particular circumstances associated with an incident that would give a factor greater or lesser weight. The factors which will be considered in disciplinary matters include:

1. Employee Motivation – The Police Department exists to serve the public. One factor in examining an employee's conduct will be whether or not the employee was operating in the public interest. An employee who violates a policy in an effort to accomplish a legitimate police purpose, and who demonstrates an understanding of the broader public interest inherent in the situation, will be given more positive consideration in the determination of consequences than one who was motivated by personal interest. Obviously, there will be difficulty from time to time in determining what is in the public interest. For example, would it be acceptable for an employee to knowingly violate an individual's First Amendment right to the freedom of speech to rid the public of what some might call a nuisance? Or is it acceptable as being in the public interest to knowingly violate a Fourth Amendment right against an unlawful search to arrest a dangerous criminal? Although it would clearly not be acceptable in either case for an employee to knowingly violate a Constitutional right, these are very complex issues that officers are asked to address. The police have a sworn duty to uphold the Constitution. It is in the greater public interest to protect those Constitutional guarantees in carrying out that responsibility, even though it might be argued that the public interest was being better served in the individual case. But if an employee attempts to devise an innovative, nontraditional solution for a persistent crime or service problem and unintentionally runs afoul of minor procedures, the desire to encourage creativity in our efforts at producing public safety will carry significant weight in dealing with any discipline that might result.

2. Degree of Harm – The degree of harm an error causes is also an important aspect in deciding the consequences of an employee's behavior. Harm can be measured in a variety of ways. It can be measured in terms of the monetary cost to the Department and community. An error that causes significant damage to a vehicle, for example, could be examined in light of the repair costs. Harm can also be measured in terms of the personal injury the error causes such as the consequences of an unnecessary use of force. Another way in which harm can be measured is the impact of the error on public confidence. An employee who engages in criminal behavior - selling drugs for example - could affect the public confidence in the police if the consequences do not send a clear, unmistakable message that this behavior will not be tolerated.

3. Employee's Experience – The experience of the employee will be taken into consideration as well. A relatively new employee (or a more experienced employee in an unfamiliar assignment) will be given greater consideration when judgmental errors are made. In the same vein, employees who make judgmental errors that would not be expected of one who has a significant amount of experience may expect to receive more serious sanctions.

4. Intentional/Unintentional Errors – Employees will make errors that could be classified as intentional and unintentional.

a. An unintentional error is an action or decision that turns out to be wrong but at the time it was taken, seemed to be in compliance with policy and the most appropriate course based on the information available. A supervisor, for example, might give permission for a vehicle pursuit to continue on the basis the vehicle and its occupants met the general description of one involved in an armed robbery. The pursuit ends in a serious accident, and it is learned the driver was fleeing because his driver's license was expired. Under these circumstances, the supervisor's decision would be supported because it was within the policy at the time it was made. Unintentional errors also include those momentary lapses of judgment or acts of carelessness that result in minimal harm (backing a police cruiser into a pole, for example, failing to turn in a report, etc.). Employees will be held accountable for these errors, but the consequences will be more corrective than punitive, unless the same or similar errors persist.

b. An intentional error is an action or a decision that an employee makes that is known (or should have known) to be in conflict with law, policy, procedures or rules at the time it is taken. Generally, intentional errors will be treated more seriously and carry greater consequences. Within the framework of intentional errors, there are certain behaviors that are

entirely inconsistent with the responsibilities of police employees. These include lying, theft or physical abuse of citizens, and other equally serious breaches of the trust placed in members of the policing profession. The nature of the police responsibility requires that police officers be truthful. It is recognized, however, that it is sometimes difficult to determine if one is being untruthful. The Department will terminate an employee's employment when it is clear the employee is intentionally engaging in an effort to be untruthful. Every effort will also be made to separate individuals from the Department found to have engaged in theft or serious physical abuse of citizens.

5. Employee's Past Record – To the extent allowed by law, policy and contractual obligations, an employee's past record will be taken into consideration in determining the consequences of a failure to meet the Department's expectations. An employee, who continually makes errors, can expect the consequences of this behavior to become progressively more punitive. An employee who has a record of few or no errors can expect less stringent consequences. Also, an employee whose past reflects hard work and dedication to the community and Department will be given every consideration in the determination of any disciplinary action.

## VI. APPLICATION OF DISCIPLINE

A. Following the careful consideration of all applicable factors in any disciplinary review, every effort will be made to determine consequences that fit each specific incident in a consistent and fair manner. The rationale for disciplinary decisions will be explained as clearly as possible.

B. The St. Petersburg Police Department has a well-established tradition of serving the community with integrity and in a professional manner. It is among the finest police organizations in this nation. To maintain that tradition and continue improving the quality of service the Department provides to the community, each and every employee must accept the responsibility for their role in maintaining integrity, quality, and high professional standards.

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Chief of Police