



# New York City Police Department

## Revisions to NYPD Disciplinary System Penalty Guidelines

### Introduction

Effective July 15, 2020, the New York City Council passed, and the Mayor signed, Local Law 69 to amend the administrative code of the City of New York to require the New York City Police Department (NYPD) to develop an internal disciplinary matrix. In accordance with Local Law 69, the Department published the attached Disciplinary System Penalty Guidelines (Guidelines) which became effective on January 15, 2021. The Guidelines describe acts of misconduct, presumptive penalties for violations, and mitigating and aggravating factors that are considered by the Police Commissioner in adjudicating discipline for acts of misconduct.

### Process to Develop the Revisions

Semi-annually in the first year and annually thereafter, the Department will review the Guidelines and post any proposed changes for a 30-day public comment period.

In July 2021, the Department began the semi-annual review of the Guidelines to determine its efficacy and identify any areas which require clarification, correction or additional information.

To conduct this review, subject matter experts from within the Department as well as external agencies were consulted and working groups were established. This included the Office of the First Deputy Commissioner, Internal Affairs, Department Advocate, Deputy Commissioner, Trials, Deputy Commissioner, Legal Matters, Deputy Commissioner, Strategic Initiatives, the Civilian Complaint Review Board (CCRB) and the Commission to Combat Police Corruption (CCPC).

The NYPD posted the draft revisions on the Department's website on November 5, 2021 and made them available for review and public comment until December 5, 2021. Members of the public voiced no objections to the recommended revisions during the public comment period.

At the completion of the public comment period, all recommended revisions were submitted to and approved by the Police Commissioner for incorporation into the Guidelines.

## Revisions to the Discipline Penalty Guidelines

Substantive revisions were made to the following categories:

### Violations of Department Rules and Regulations

Three additional penalties for acts of misconduct are defined: misuse of technology specific to the Public Oversight of Surveillance Technology (POST) Act; residing outside of the residence counties as required under the New York State Public Officers Law; and failure to report a racial profiling or bias-based law enforcement action. In addition, the aggravating penalty for failure to take police action is increased from 30 penalty days to termination. The mitigated penalty of instructions will be removed from Body Worn Camera-Unintentional failure to record a prescribed event or commencing/terminating a recording at an improper time.

Misconduct	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty
Misuse of technology listed under the POST Act	Training	15 Penalty Days	30 Penalty Days
Fail to report a racial profiling or bias-based law enforcement action	5 Penalty Days	10 Penalty Days	20 Penalty Days
Residing outside residence counties	N/A	20 Penalty Days	30 Penalty Days +DP
Fail to take Police Action	10 Penalty Days	20 Penalty Days	Termination
Body Worn Camera – Unintentional Failure to Record a Prescribed Event or Commencing/Terminating a Recording at an Improper Time	N/A	Training	1 Penalty Day

### Abuse of Authority, Discourtesy and Offensive Language

Five additional penalties for acts of misconduct are defined: the refusal to show a search or arrest warrant; wrongfully damaging a person’s property; failing to provide language interpretation service; wrongfully questioning a person’s immigration status. The improper questioning of a person related to an investigative encounter is incorporated into “improper/wrongful stop of a person”.

Misconduct	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty
<b>Improper/Wrongful:</b>			
Stop and Question or Question of Person	Training	3 Penalty Days	15 Penalty Days
Refuse to show Arrest/Search Warrant	Training	3 Penalty Days	5 Penalty Days
Question of person’s immigration status	Training	3 Penalty Days	15 Penalty Days
Fail to provide language interpretation service	Training	3 Penalty Days	5 Penalty Days
Damage Person’s Property	5 Penalty Days	10 Penalty Days	20 Penalty Days

### Domestic Violence

For physical acts of domestic violence, the Guidelines list a number of factors that enhance the presumptive penalty for such misconduct to termination. Strangulation is added to this list of factors to highlight its impact on the penalty determinations in domestic violence incidents. Previously, this offense was incorporated under language referring to violations of criminal statutes.

Misconduct	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty
Physical Act(s) of Domestic Violence/Family Offense with <sup>66</sup> : <ul style="list-style-type: none"> <li>• Previous determination by the Department that the member committed physical act(s) of domestic violence<sup>67</sup>; or</li> <li>• Clear and convincing evidence demonstrates that the member of the service previously committed physical act(s) of domestic violence whether or not previously reported and/or substantiated<sup>68</sup>; or</li> <li>• Found guilty in a criminal proceeding for a domestic violence crime<sup>69</sup>; or</li> <li>• The act results in a serious physical injury; or</li> <li>• The act results in significant physical injuries and/or injuries generally indicative of sustained or prolonged physical acts, or</li> <li>• Order of Protection violated.</li> <li>• Strangulation</li> </ul>	Forced Separation	Termination	N/A

[Progressive Discipline](#)

Clarifying language is incorporated into the Progressive Discipline section to better explain the goals and processes of progressive discipline:

The primary principle of progressive discipline is that repeated acts of the same misconduct should be subject to greater penalties. Due to many factors that impact the imposition of discipline, there may be situations in which the progressive discipline schedule does not result in an increase in penalty for the subsequent infractions. This may be especially true for some cases adjudicated prior to the implementation of these Guidelines. In the event that the penalty in the progressive discipline schedule for a second incident is less than the presumptive penalty for the act of misconduct, the progressive penalty shall be greater than the presumptive penalty and up to the Aggravated Penalty or a penalty that is greater than the original penalty and is consistent with the goals of progressive discipline.

## Conclusion

The changes outlined are meant to provide greater clarity to the members of the Department and to provide transparency to the public. The Department considers this document to be reflective of the appropriate presumptive penalties for specified offenses, along with appropriate aggravating and mitigating factors to be considered. The Department believes that the changes help achieve the purpose for which they were intended: to ensure that any discipline imposed will be fair, consistent, and based on reasonable standards. However, the Guidelines are meant to be a living document, open to further improvements as the application of the Guidelines is assessed and as the needs and expectations of the police and the public evolve. Furthermore, the Guidelines do not exist in a vacuum. They are part of a number of reforms to the disciplinary system that includes the publishing of disciplinary records and case outcomes. Overall, these Guidelines reflect the Department's commitment to continue to build upon the reforms made over the last several years, increase transparency into the disciplinary system, and to hold officers accountable to the highest standards, in furtherance of its mission to serve the community and provide for public safety.