



# NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

## CHAPTER: 35.1.7

### TITLE: NON-DISCIPLINARY RESPONSES TO MINOR VIOLATIONS

**EFFECTIVE: 05/10/2015**

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#### PURPOSE

The New Orleans Police Department recognizes that member's behaviors or actions may not always be fully compliant with Department Rules, regulations, Chapters, or policies but are not sufficiently egregious to elevate the behavior or action to a formal disciplinary investigation. These minor behaviors or actions may only require corrective supervisory guidance and not disciplinary action. Supervisors shall address minor violations/infractions through redirection, INSIGHT intervention (see **Chapter 35.1.9 – INSIGHT**), or formal discipline (see **Chapter 52.1.1 – Misconduct Intake and Complaint Investigation**) according to this Chapter.

Nothing within this Chapter diminishes or relieves a supervisor of his/her responsibility to refer observed or alleged violations that do not meet the definition of a minor violation/infraction to PIB for a formal disciplinary investigation.

#### DEFINITIONS

Definitions related to this Chapter include:

**Minor violation/infraction**— A violation of a Departmental Rule, Policy, Procedure, Order, regulation, or verbal/written instructions that a supervisor believes requires minimal intervention through redirection, retraining and/or non-disciplinary counseling to correct the employee's behavior (e.g., tardiness, uniform requirement, forgetting to complete an FIC, and cleanliness of vehicle). The behavior cannot be the subject of a public complaint and must be sufficiently minor that it is immediately correctable by minimal intervention by the supervisor, with the goal of non-repetitive behavior. Repetition of similar violations within a twelve-month period (based on the date of the observed violation) may require discipline. When a member repeatedly (i.e., more than three times within a 12-month period) commits the same minor violation/infraction, the supervisor shall not handle the minor violation/infraction through a non-disciplinary response.

**Misconduct**—Any action or inaction that violates any Departmental Rule, Policy, Procedure, Order, verbal or written instruction, or criminal law other than a grievance as defined in **CAO Policy Memorandum 4(R)** and **Chapter 25.1 – Employee Grievances**. A supervisor may decide to handle a minor violation/infraction through non-disciplinary means.

**Non-disciplinary counseling**—A non-punitive process used to correct a subordinate's behavior that is not fully compliant with Department rules, regulations, Chapters, or policies but is not sufficiently egregious to elevate the action to formal discipline. A supervisor must meet with the non-compliant member, explain the manner in which his or her actions are not compliant, and review the relevant policy (or Chapter, rule, or regulation) with him or her. The non-disciplinary counseling shall be documented in INSIGHT as a form of intervention under "Informal meeting with Supervisor."

**Redirection**—Remedial, non-punitive, oral instruction provided by a supervisor to a subordinate member on an individual basis. The purpose of redirection is to immediately resolve the minor issue or problem and remediate the individual's behavior by providing guidance. The member does not experience any loss of rights, remuneration, or benefits. Redirection need not be formally documented. When a member repeatedly (i.e., more than three times within a 12-month period) commits the same minor violation/infraction, the supervisor shall not handle the minor violation/infraction through redirection.

**Remedial training**—Non-punitive training to specifically address a minor violation/infraction that reveals a deficiency in job skills, knowledge or department procedure. Remedial training is an opportunity to better train and instruct members, clarify any issues involving Departmental Rules, Policies, Procedures, or Orders which may not have been clear to the member.

#### **ELIGIBILITY FOR REDIRECTION**

1. Supervisors may use redirection to immediately resolve a minor violation.
2. Supervisors are not required to formally document redirection. Supervisors may document redirection on the daily activity report or through an INSIGHT intervention as appropriate.
3. If a supervisor repeatedly redirects a member for the same or similar minor violation/infraction, the supervisor shall document a non-disciplinary response in INSIGHT or initiate a formal disciplinary investigation as appropriate (i.e., more than three times within a 12-month period).

#### **MINOR VIOLATION/INFRACTION ELIGIBILITY FOR INSIGHT INTERVENTION**

4. If a supervisor observes or discovers a minor violation/infraction by a member, and the member's past disciplinary record includes no previous sustained violations or infractions of the same type within twelve months, a supervisor may, in his or her discretion after considering the totality of the circumstances, address the minor violation/infraction through immediate non-disciplinary counseling or remedial training, which shall be documented in Insight through a self-initiated intervention.
5. The supervisor must have firsthand knowledge of the behavior that constitutes the minor violation/infraction.
6. A public complaint cannot be handled through INSIGHT corrective action and requires formal disciplinary investigation, even if the complained-of behavior is, or appears to be, a minor violation/infraction. See **Chapter 52.1.1 – Misconduct Intake and Complaint Investigation**.
7. When a member repeatedly (i.e., more than three times within a 12-month period) commits the same minor violation/infraction, the supervisor shall not handle the minor violation/infraction through a non-disciplinary response of the related Departmental Rule, Chapter, Policy, Procedure, or Order or an unwillingness to comply with the supervisor's instructions. In such circumstances, a formal disciplinary investigation is required and

shall be handled according to **Chapter 52.1.1 – Misconduct Intake and Complaint Investigation** and related chapters.

### **SUPERVISOR RESPONSIBILITY FOR SELF-INITIATED INSIGHT INTERVENTIONS FOR MINOR VIOLATIONS/INFRACTIONS**

8. The supervisor shall document all minor violations/infractions through INSIGHT and provide non-disciplinary counseling, unless the minor violation/infraction was handled through redirection or referred for a formal disciplinary investigation.
9. Non-disciplinary counseling requires a supervisor to meet with the non-compliant member, explain the manner in which his or her actions are not compliant, and review the relevant policy (or Chapter, rule, or regulation) with him or her.
10. Non-disciplinary counseling shall be documented in INSIGHT as an “Informal meeting with Supervisor,” and the supervisor may recommend an additional intervention to correct the identified behavior. The recommended intervention shall be supported by a narrative (see **Chapter 35.1.9 – INSIGHT**).
11. The supervisor shall provide the counseling individually, without other officers present, citing the relevant part of the appropriate Rule, Chapter, Policy, Procedure, or Order violated and the behavior that constitutes the minor violation/infraction. The supervisor should instruct the member how to avoid repeating the same minor violation/infraction in the future and inform the accused officer/employee that repetition of the minor violation/infraction may result in disciplinary action in the future. The supervisor shall inform the officer that a record of the counseling will be entered into Insight and document the notification within the INSIGHT intervention.

### **EMPLOYEE RESPONSIBILITIES**

12. Members receiving redirection, non-disciplinary counseling or remedial training in response to a minor violation/infraction shall acknowledge the actions taken by the supervisor. The member shall not experience any loss of rights, remuneration, or benefits as a result of such corrective actions.
13. If he or she denies commission of the minor violation/infraction, he/she may indicate his/her denial to the supervisor who will record this fact in the narrative portion of the INSIGHT intervention.
14. If an employee believes he/she has received any redirection, non-disciplinary counseling or remedial training of a minor violation/infraction in error, he/she shall follow the procedure for “Incorrect or Disputed Information” in **Chapter 35.1.9 – INSIGHT**.

### **REVIEW BY PIB**

15. The commander of the Early Intervention Unit shall forward reports of self-initiated INSIGHT interventions to the Public Integrity Bureau on a weekly basis. PIB shall review the reports and ensure the identified minor violation/infraction issues were appropriate for handling under this Chapter.
16. PIB shall discuss any issues with the application or appropriateness of Insight interventions for minor violations/infractions with the supervisor within 15 days of the Insight intervention.

17. If PIB determines that the documented behavior constitutes a more serious offense requiring formal disciplinary investigation, PIB shall notify the commanding officer of the involved supervisor and conduct a formal investigation into the alleged minor violation/infraction.