

# Mansfield News Journal

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## NEWS

# Police discipline: Records show Mansfield officer suspensions often reduced

*Most MPD offenses since 2015 have been minor*

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MANSFIELD - The man had said he was going inside the house to fetch court papers.

But that had been minutes ago and there was no sign of him.

Mansfield police Officer Matthew Davis was eventually told the man had run out the back door.

"It's on the next time I see him," Davis was accused of saying.

After being told of the apparent escape, Davis, a rookie policeman at the time, didn't immediately tell dispatch or his supervisor what happened, according to an internal affairs investigation.

He also didn't search the Sackman Street house or the immediate area, nor did he ask other officers to help him set up a perimeter.

**News:** Dash cam shows Mansfield police officer pushed out of moving car

In addition, Davis did not fill out a report detailing what happened.

For that, he was suspended for 15 days in 2017.

Sixteen pages of police discipline records, obtained by the News Journal in public record requests, show that 17 Mansfield police officers and detectives, including Davis, were suspended between 2015 and February. Some were suspended more than once.

The records provide a glimpse of why and how often Mansfield police officers are suspended in an era of heightened scrutiny of policing.

The records also show that arbitrators often overturn or reduce the length of a suspension after an officer protests their punishment. A 60-day suspension was trimmed to 10 earlier this year, for instance.

## **Most suspensions are for low-level offenses**

But based on the documents provided to the News Journal, most suspensions since 2015 have been issued for low-level offenses.

That includes dumping alcohol that was considered evidence, accidentally firing a gun after SWAT training, or calling off sick too many times.

All suspensions are serious no matter the offense, said police Chief Keith Porch.

"If it rises to the level of suspension, it's a big deal in my mind because you're losing pay," he said.

**News:** Deputy fired after he and girlfriend both charged with assault

Mansfield police officers have been suspended after being accused of sharing another officer's polygraph test results, crashing cruisers, notifying family members of their loved one's death before the coroner did, and giving a defense attorney an audio recording of an arrest without giving it to the records section of the police department, according to internal affairs investigations.

In the past six years, the Mansfield Division of Police has had anywhere from 76 to 82 sworn officers.

## **Purpose of discipline is to 'salvage' employee**

In a phone interview, Porch, who served as assistant chief for five years before being named chief in 2019, called imposing discipline the "ugly part" of the job, but said it plays an important role.

"The main purpose of discipline is to correct bad behavior, inappropriate behavior and to salvage the employee so we don't have those behaviors pop up again," Porch said. "If they do, it's the next step up, which obviously, could ultimately lead to termination."

Davis, hired in 2014, has faced suspension multiple times and was close to being fired before he was offered a last-chance agreement.

One month before the Sackman Street incident, he was suspended for three days for failing to investigate a crash, which reportedly occurred near the end of his shift.

Davis responded to the crash and left 13 minutes later without taking pictures of injuries or damaged vehicles, or collecting statements from drivers or witnesses, according to the internal affairs investigation. Skid marks were not documented, nor the fact that a motorcyclist had been ejected.

"Involved parties advised that they felt the officers did not properly or thoroughly investigate the crash and that they displayed a lack of concern for the investigation," the investigative documents said.

Davis ran afoul of departmental policy again when he refused to detain someone in 2017.

He was being paid to appear in Mansfield Municipal Court, having been subpoenaed.

**News:** After getting vaccines, police eager to resume community outreach

A court staffer, seeing that Davis was in uniform, asked if he could take someone with a domestic violence warrant into custody.

Davis refused, and the staffer asked another uniformed officer who agreed to detain the suspect.

Davis apparently got Porch's message after some time. He hasn't had one suspension in the past three years, according to records obtained by the News Journal.

"In the last six years, I think the records speak for themselves," Porch said. "There is no problem, no issues in policing ourselves. When discipline needs to be issued, it will be.

"Discipline is never a black and white area as it's written on paper," he added. "You want to correct behavior and salvage the employee. At the end of the day, if you can't do that, then you're left with no alternative (other than) terminating that employee's employment."

## **Most officers suspended since 2015 haven't been punished multiple times**

Unlike Davis, most Mansfield police officers slapped with a suspension since 2015 haven't been suspended multiple times.

Officer Orlando Chatman, for instance, was suspended once in 2016 for three days for failing to find a gun on someone during a pat down.

After shift change, a loaded .357 magnum pistol was found on the floor in the back of Chatman's cruiser. DNA testing concluded the gun belonged to a man arrested earlier that day by Chatman.

Chatman, hired in 2006, had responded to a call about a disturbance. A victim told dispatch that a .357 magnum pistol had been brandished.

Chatman located a suspect, patted him down for weapons and placed him in the cruiser, unhandcuffed. Other officers arrived on the scene and spoke with the man, believing he had been properly searched.

## **Wonder how police discipline works?**

Mansfield police officers, depending on the severity of the offense, typically receive warnings before being suspended.

The Fraternal Order of Police (FOP) contract spells out that officers — if found to have violated departmental policy — first receive an oral reprimand, then a written reprimand, followed by a short-term suspension, followed by an even longer suspension, followed by a reduction in pay or rank, then termination.

That's called progressive discipline.

"It's a rational attempt between management and front-line officers to create a system of punishment that can be predictable, that can try to correct behavior, that can recognize that employees make mistakes and need chances to improve their behavior in the future," said Stephen Rushin, an associate professor of law at Loyola University.

Under the union contract, discipline must be consistent. To be suspended, the latest infraction has to be similar to the last.

"If I have a guy that keeps getting hit with unsatisfactory performance and then he calls off sick, that can't be used as progressive because of a sick leave issue." Porch said.

Serious misconduct can result in an officer being suspended without receiving a reprimand, according to the contract.

## **5 have filed grievances**

The documents obtained by the News Journal show that officers sometimes appeal their punishment. Of the 17 officers and detectives suspended in the past six years, five filed grievances.

Officer Jordan Moore, suspended for 60 days in October for dragging a seated, handcuffed teenager in a parking lot, filed a grievance on the first day of his suspension and claimed the lengthy punishment violated the progressive discipline clause of the union contract.

**News:** Mansfield officer suspended 60 days for dragging handcuffed teen

Grievances are filed with an officer's supervisor and then passed up the chain of command.

If the grievance can't be resolved by the safety-service director, the next step is arbitration.

Two weeks after Moore returned to work, the city, citing a recent arbitration decision unrelated to the dragging incident, trimmed his suspension to 10 days. Moore received 50 days of back pay.

In the unrelated incident, Porch recommended a three-day suspension after Moore was found to have cleaned up debris and put a stop sign back up without collecting evidence or taking pictures at the scene of a hit-skip crash.

He also completed a report that had "inaccurate, false, or improper information," according to a copy of the violation.

**News:** Suspension reduced for Mansfield officer who dragged handcuffed teen

But Moore filed a grievance against that suspension as well, claiming he had been suspended without "just cause." The arbitrator agreed with Moore and he received a written reprimand instead, which effectively nullified the long-term suspension.

"The city is satisfied with a long-term suspension of 10 days, and as with any discipline, it is our hope that the behavior has been corrected and expects that it will result in no further violations," Safety-Service Director Lori Cope said in a news release at the time.

Other officers besides Moore have also been successful in getting a suspension trimmed or their job back after filing a grievance and citing the progressive discipline clause of the union contract.

## 3-day suspension reduced to 1 day

Officer Korey Kaufman received a three-day suspension last year after he grabbed a 16-year-old boy by the neck as he tried to get the teenager out of a cruiser.

"Officer Kaufman failed to give verbal warnings or use other approved means by the Division in using force," a police investigator wrote in a report.

Kaufman filed a grievance, which did not go to arbitration and was instead resolved at the chief's level. The three-day suspension was reduced to one, with two days held in abeyance.

Officer Freeman Nixon, fired in 2019 after he was accused of sharing a woman's polygraph test results, got his job back nine months later after an arbitrator ruled in his favor, reversing the termination.

Nixon was instead suspended for three days and received nine months of back pay, less any income he earned during his time away from the police force.

Besides Nixon, one other Mansfield police officer was fired over the past six years.

Officer Jodie Williams was terminated in March 2016 for violating departmental policy concerning unsatisfactory performance and divisional reports, according to Porch. Two months earlier, Williams was suspended for five days for inappropriate behavior while off duty.

Her suspension stemmed from an incident at City Grille on Fourth Street in December 2015, though it's unclear exactly what happened at the restaurant.

**News:** Mansfield officer suspended 3 days after grabbing teen by neck

Rushin, an associate professor of law at Loyola, has written extensively on the internal disciplinary process for police officers.

In his research, Rushin has heard police chiefs complain that progressive discipline can limit their ability to respond to misconduct or tie their hands in certain cases.

"To be clear, I don't think that in all cases that suggests that progressive discipline is a bad thing or the principle is bad — I think that's also raising a separate question about the appropriate standard of review for an arbitrator and the appropriate power we give someone on appeal to make those decisions," Rushin said. "But I have heard that the adherence to progressive discipline, while rational and justifiable, can require departments to build

extensive records of misconduct before you're able to actually take significant employment action against a public servant."

**News:** Mansfield police officer wins arbitration, gets job back

A forthcoming study authored by Rushin found that out of 624 arbitration awards issued between 2006 and 2020, arbitrators reduced or overturned discipline 52% of the time and ordered police departments to rehire previously terminated officers 46% of the time.

"A lot of the procedures that I take issue with — in the abstract and by themselves — are by themselves perfectly rational, reasonable-sounding procedures," Rushin said. "But in the aggregate, it can make it really hard to discipline somebody who has engaged in misconduct."

## **Previous discipline can't be taken into account**

Under the city's contract with the Fraternal Order of Police, oral, written reprimands and suspensions cease having effect after a certain period of time.

For oral and written reprimands to not be considered when imposing discipline, police officers must be discipline-free for one year, according to the union contract. Officers are also allowed to request that oral or written reprimands not be considered after a discipline-free eight months.

**In others news:** Mansfield attorney reinstated after suspension for avoiding settlement payment

For suspensions to not be considered when imposing discipline, officers must remain discipline-free for two years. As with reprimands, officers are allowed to request that suspensions of three days or less not be considered after a discipline-free one year and suspensions of more than three days after a discipline-free 18 months.

The record of reprimands and suspensions, however old, is never removed from an officer's personnel file, according to Cope, the safety-service director.

Police discipline records are not considered public record in most states. Ohio is one of perhaps a dozen where they are generally available to the public.

## **Public access to records limited in many states**

"It's not easy to get them in a lot of places," Rushin said. "Police unions are pretty powerful political constituencies that have taken efforts to limit public access and transparency into the day-to-day lives a work of police."

In February, The News Journal filed a public record request with the city of Mansfield for a record of police officers suspended or fired between 2019 and February 2021, including whether the discipline imposed was modified, altered or overturned. It was fulfilled five days later.

**News:** Mansfield named one of safest cities in Ohio

But when a similar request was filed for officers suspended or fired between 2015 and 2019, it was rejected by city officials, who said discipline data dating back to 2015 was on a "different software package."

The city ultimately relented and provided the records, but only after Jack Greiner, the News Journal's attorney, penned a letter to the law department.

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