



City of Cleveland

Justin M. Bibb, Mayor

Department of Public Safety

Dornat (Wayne) A. Drummond, Interim Chief

FBI NA #230

Division of Police

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Cleveland, Ohio 44113

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Pre-Disciplinary Hearing

July 15, 2022

Sergeant Brian Davis #9165
C/o Second District Headquarters
3481 Fulton Road
Cleveland, Ohio 44109

Re: UOF2022-0130

Sergeant Davis #9165:

Please be advised, in accordance with Article 4 of the collective bargaining agreement between the City of Cleveland and the Fraternal Order of Police, Lodge #8, a pre-disciplinary hearing has been scheduled to determine whether you violated the following provisions of the Manual of Rules, Department of Public Safety and the Rules of the Civil Service Commission of the City of Cleveland.

STATEMENT OF POLICY

In part: The Manual of Rules sets forth the conduct and behavior to be followed by officers and employees. Any violation of these rules shall be a basis for disciplinary action. Disciplinary action includes, but is not limited to, verbal and written reprimands and the preferring of Divisional charges which can result in suspension, loss of pay, demotion or termination. The rules and standards contained in this manual shall apply whether the officer or employee is on or off duty. Where a conflict exists between a Rule and a General Police Order, the Rule provision shall be adhered to.

SPECIFICATIONS

Specification #1: (UOF2022-0130) On or about May 23, 2022, you, Sergeant Brian Davis #9165, were not approved for secondary employment at First Federal of Lakewood (6610 Detroit Avenue, Cleveland, Ohio 44102), in violation of General Police Order 1.02.13. (*Group I Violation*)

Specification #2: (UOF2022-0130) On or about May 23, 2022, you, Sergeant Brian Davis #9165, failed to wear your ballistic vest while engaged in secondary employment at First Federal of Lakewood (6610 Detroit Avenue, Cleveland, Ohio 44102), in violation of General Police Order 4.06.01. (*Group I Violation*)

Specification #3: (UOF2022-0130) On or about May 23, 2022, you, Sergeant Brian Davis #9165, failed to carry intermediate weapons while engaged in secondary employment at First Federal of Lakewood (6610 Detroit Avenue, Cleveland, Ohio 44102), in violation of General Police Order 1.02.13. (*Group I Violation*)

These specifications are in violation of the rules and procedures of the Division of Police, Department of Public Safety.

RULES, POLICIES AND PROCEDURES

General Police Order 1.02.13: Secondary Employment (effective: 12/30/20)

POLICY: *It is the policy of the Cleveland Division of Police* that upon permission from the Chief of Police and the Director of Public Safety, members may engage in secondary employment if the work does not interfere with Division employment and there is no conflict of interest between the secondary employment and the CDP. The Chief or the Safety Director may at any time revoke authorization to work secondary employment based upon the operational needs of the Division.

The rules and regulations of the CDP govern its members when engaged in secondary employment. Violation of the provisions of this order may result in immediate termination of permission to work secondary employment and subject the member to disciplinary action.

II. Secondary Employment Requirements

- A. Members shall obtain permission consistent with procedures within this order before engaging in secondary employment.

General Police Order 2.01.04: Use of Force-Intermediate Weapons (effective: 7/1/19)

POLICY: Intermediate weapons are used to interrupt a subject's threatening behavior so that officers may take control of the subject with less risk of injury to the subject or officer than posed by greater force applications. Intermediate weapons may be used when objectively reasonable, necessary, proportional, and permitted under this policy.

PROCEDURES:

I. General

- A. Intermediate Weapons: Requirements to Carry and Qualify

- 3. Uniformed officers shall carry the Conducted Electrical Weapon (CEW) if qualified, and a second intermediate weapon: ASP baton or Oleoresin Capsicum (OC) Spray. If not CEW qualified, officers shall carry both approved intermediate weapons: ASP baton and OC Spray. Officers may elect to carry all three intermediate weapons.

General Police Order 4.06.01: Body Armor (effective: 11/9/20)

POLICY: It is the policy of the Cleveland Division of Police to maximize officer safety by providing and requiring the proper wearing of body armor. The Division shall issue body armor to sworn officers and replace it according to the manufacturer's recommended serviceable replacement schedule. Division-issued body armor shall comply with the National Institute of Justice Body Armor Performance Standards NIJ HG2.

PROCEDURES:

I. Officer Responsibilities

A. Officers shall:

1. Wear their Division-issued body armor while on duty, and when engaged in secondary employment of a law enforcement nature, except as stated in section II.

HEARING INFORMATION

The pre-disciplinary hearing is scheduled for **Monday, August 22, 2022, at 1000 hours** in the **Cleveland Division of Police Headquarters, Room 924**. Should you desire union representation, it is your responsibility to notify your union of this hearing. All officers shall have an opportunity to testify. All testimony provided during the hearing shall be given the same weight as sworn testimony; therefore, your statements can and may be used against you at the hearing or at a later date. **Any documentation that could explain any of the above allegations shall be forwarded to the Case Preparation Unit a minimum of 48 hours prior to the scheduled hearing. Any new or additional evidence brought to the hearing will result in the hearing to be suspended and the matter shall be returned to the Internal Affairs Unit or the Police Review Board for consideration, as appropriate. In addition, it is also your responsibility to bring the documentation to this scheduled hearing.**

If you are to have witnesses appear on your behalf, a Form-1 listing their names must be provided to the Case Preparation Unit via email (CasePrep@clevelandohio.gov) a minimum of 48 hours prior to the scheduled hearing. It is your responsibility to notify said witnesses of the date and time of the hearing. In addition, it is your sole responsibility to ensure the attendance of any witnesses appearing on your behalf. Prior permission for any Division member's attendance **MUST** be obtained from the Case Preparation Unit. Any witnesses that will appear are to be in full uniform of the day. No overtime shall accrue as a result of their attendance.

In accordance with General Police Order 1.1.12: Uniform and Clothing Regulations, you are to appear in **"CLASS A" UNIFORM and have your badge, city issued service weapon, and identification card with you.** Failure to attend as ordered may subject you to additional disciplinary charges. You shall **PERSONALLY** contact the Case Preparation Unit (216-623-5022) **IMMEDIATELY** if there are any conflicts that would cause your lack of attendance to the scheduled hearing.

Sergeant Brian Davis #9165

July 15, 2022

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THIS WILL BE YOUR TOUR OF DUTY

THESE CHARGES MAY BE AMENDED AT A LATER DATE

Sincerely,



Dornat A. Drummond
Interim Chief of Police

DAD:bpc:cld:la

cc: Sammy Morris, Acting Deputy Chief, Field Operations
Brian Carney, Commander, Bureau of Compliance
Thomas Stacho, Commander, Second District
Christopher Viland, Superintendent, Internal Affairs Unit
James O'Malley, President, Fraternal Order of Police, Lodge #8
Melissa Dawson, Sergeant, Employee Assistance Unit
Hassan Aden, Federal Monitoring Team