



CLEVELAND DIVISION OF POLICE

DIVISIONAL NOTICE

DATE:	FEBRUARY 27, 2023	NUMBER:	23-058
SUBJECT:	PRE-DISCIPLINARY HEARING DISPOSITIONS		
CHIEF:	<i>Donald. Dumanec</i>	PAGE(S):	1 of 9

The following is a disposition of a disciplinary hearing held by the Director of Public Safety on November 18, 2022.

Patrol Officer Jason Rees #193:

Specification: Failed to investigate a crime after receiving information that an aggravated robbery had taken place and failed to secure the crime scene, allowing a person involved to remove items from an involved vehicle (*Manual of Rules 4.01, 4.02 and 4.18*) – Failed to properly investigate and document an incident; this conduct would tend to reasonably diminish the esteem of the Division of Police in the eyes of the public (*Manual of Rules 5.01*) – Charged in Cleveland Municipal Court with Ohio Revised Codes: 2921.45 Interfering with Civil Rights (M-1), 2921.13 Falsification (M-1), 2921.31 Obstructing Official Business (M-2) and 2921.44 Dereliction of Duty (M2) (*Manual of Rules 2.01*).

Disposition: Found “Not Guilty” of the charges of Ohio Revised Codes: 2921.45 Interfering with Civil Rights (M-1), 2921.13 Falsification (M-1), 2921.31 Obstructing Official Business (M-2) and 2921.44 Dereliction of Duty (M2) the charges were dismissed after a defense motion for Rule 29 was granted. Found “Guilty” of two Group II violations. Considering the officer’s active discipline history (none), the officer received an eight-day suspension. This corrective action is within the First Group II violation range of the discipline matrix where the aggravating factors (*multiple violations arising from a single event or incident may escalate the disciplinary action to the maximum group range, actions caused serious injury and harm to the public*) outweigh mitigating factors (*no active discipline*).

Rationale: The officer failed to investigate a crime after receiving information that an aggravated robbery had taken place, failed to secure the crime scene and allowed an involved party to remove items from an involved vehicle. After being shown a video of the crash by a resident whose parked car was struck, the officer failed to include the information/evidence in the investigation, this conduct would tend to reasonably diminish the esteem of the Division of Police. In addition, the officer was charged in Cleveland Municipal Court with Interfering with Civil Rights, Obstructing Official Business and Dereliction of Duty; however, the charges were dismissed after a defense motion for Rule 29 was granted.

The following are dispositions of disciplinary hearings held by the Director of Public Safety on December 2, 2022.

Patrol Officer Danielle Bennett #721:

Specification: Failed to forward a report prior to reporting off-duty (*Manual of Rules 9.08, 9.10, and 9.12*) – Dishonest during a follow-up interview by stating they faxed the report without a supervisor’s signature which was determined to not be true (*Manual of Rules 3.12*).

Disposition: Found “Guilty” of one Group I violation and one Group III violation. Considering the officer’s active discipline history (none), the officer received a ten-day suspension. This

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corrective action is within the First Group III violation range of the discipline matrix where mitigating factors (*no active discipline*) outweigh aggravating factors (*multiple violations*).

Rationale: The officer failed to forward a report prior to reporting off-duty. Instead of turning in the report directly to a superior officer or to the Officer-in-Charge (OIC) for review and approval, she left the report face down on their supervisor's desk and left work for the day. The officer was dishonest and stated that she had faxed the report, however, the report was not received in the Record Files unit and no record of the report being faxed could be found.

Patrol Officer Earl Holcomb #877:

Specification: While off-duty, engaged in secondary employment in the area of North Moreland Boulevard and Larchmere Boulevard that was not approved (*General Police Order 1.02.13*) – Failed to place his Wearable Camera System (WCS) into event mode upon citizen contact while choosing to wear the WCS during secondary employment (*General Police Order 4.06.04*) – While off-duty, utilized a Division of Police patrol car for secondary employment without permission of a superior officer (*Manual of Rules 6.01*) – While on a special attention, the officer did fall asleep while on-duty and inside of a marked patrol car (*Manual of Rules 4.03, 5.01 and 5.12*).

Disposition: Found “Guilty” of two Group I Violations, one Group II Violation and one Group III Violation. Considering the officer’s active discipline history (1/26/2021: 2-day suspension), the officer received a twenty-five-day suspension. This corrective action is within the First Group III violation range of the discipline matrix where aggravating factors (*active discipline, multiple violations arising from a single event or incident may escalate the disciplinary action to the maximum group range*) outweigh mitigating factors (*accepted responsibility*).

Rationale: The officer worked unauthorized secondary employment, failed to place his Wearable Camera System (WCS) into event mode when making contact with a citizen and utilized a City of Cleveland patrol car while working the unauthorized secondary employment. While on-duty, the officer fell asleep while on a special attention at 420 Superior Avenue inside a marked patrol car.

The following are dispositions of disciplinary hearings held by the Deputy Chief of Field Operations on December 12, 2022.

Sergeant David Harris #9146:

Specification: Involved in a motor vehicle accident that was reviewed by the Traffic Safety Analysis Panel and determined to be preventable (*General Police Order 4.01.01, Manual of Rules 4.03, 6.03 and 6.05, and Civil Service Rules 9.10 (12) and (18)*) – Engaged in emergency response driving for an incident that did not constitute an emergency (*General Police Order 4.01.01*) – Failed to place the Wearable Camera System (WCS) into event mode prior to responding to a call for service (*General Police Order 4.06.04*).

Disposition: Found “Guilty” of three Group I violations. Considering the officer’s active discipline history (none), the officer received a one-day suspension. This discipline is within the First Group I violation range of the discipline matrix where aggravating factors (*multiple violations, supervisory rank*) outweigh mitigating factors (*accepted responsibility*).

Rationale: The officer pled “No Contest” and accepted responsibility.

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Patrol Officer Lucas Nezbeth #1850:

Specification: Engaged in secondary employment that was not approved (*General Police Order 1.02.13*).

Disposition: Found “Guilty” of one Group I violation. Considering the officer’s active discipline history (none), the officer received a one-day suspension. This discipline is within the First Group I violation range of the discipline matrix when aggravating factors (*liability to the City*) outweigh mitigating factors (*accepted responsibility*).

Rationale: The officer pled “No Contest” and accepted responsibility.

Patrol Officer Christopher Bosak #57:

Specification: Involved in a motor vehicle accident that was reviewed by the Traffic Safety Analysis Panel and determined to be preventable (*General Police Order 4.01.01, Manual of Rules 4.03, 6.03 and 6.05, and Civil Service Rules 9.10 (12) and (18)*) – Failed to place the Wearable Camera System (WCS) into event mode prior to responding to a call for service (*General Police Order 4.06.04*) – Engaged in emergency response driving and failed to activate the audible siren, endangering the public, fellow officers, or oneself (*General Police Order 4.01.01*) – Engaged in emergency response driving and failed to proceed cautiously through an intersection (past a red light), resulting in a Motor Vehicle Accident (MVA) (*General Police Order 4.01.01*).

Disposition: Found “Guilty” of four Group I violations. Considering the officer’s active discipline history (none), the officer received a three-day suspension. This discipline is within the Group I violation range of the discipline matrix when aggravating factors (*multiple violations, possibility of serious injury*) outweigh mitigating factors (*accepted responsibility*).

Rationale: The officer failed to place the Wearable Camera System (WCS) into event mode prior to responding to a call for service, engaged in emergency response driving and failed to activate the audible siren, endangering the public, fellow officers and oneself. Additionally, while engaged in emergency response driving, the officer failed to proceed cautiously through an intersection (past a red light), resulting in a Motor Vehicle Accident (MVA). The officer pled “No Contest” and accepted responsibility.

The following is a disposition of a disciplinary hearing held by the Assistant Director of Administrative Operations on December 16, 2022.

Patrol Officer Demond Moss #1243:

Specification: The officer was unprofessional in his conduct when he informed a complainant that the “Jews killed Jesus” during an encounter (*General Police Order 1.07.08 and Manual of Rules 5.01 and 5.02*).

Disposition: Found “Guilty” of one Group I violation. Considering the officer’s active discipline history (7/21/2021: five-day suspension), the officer received a three-day suspension. This corrective action is within the Second Group I violation range of the discipline matrix where aggravating factors (*active discipline*) outweigh mitigating factors (*none*).

Rationale: The comment was not necessary and unprofessional, it was not bias-based policing as the officer did not take or fail to take law enforcement action or provide police services during the encounter. The specification was amended from Group II Violation to Group I Violation.

The following are dispositions of disciplinary hearings held by the Director of Public Safety on January 6, 2023.

Patrol Officer Eric Thompson #880:

Specification: Knowingly failed to file taxes with the City of Parma (*Parma tax code 183.46, and Manual of Rules 2.01 and 5.01*) – Failed to appear in Parma Municipal Court, this caused a warrant to be issued for the officer’s arrest (*Manual of Rules 2.01 and 5.01*).

Disposition: Found “Guilty” of two Group I violations. Considering the officer’s active discipline history (4/26/2021: 1-day suspension, 9/17/2021: 2-day suspension), the officer received a six-day suspension. This corrective action is within the First Group II violation range of the discipline matrix where mitigating factors (*willingness to accept responsibility and acknowledge wrongdoing*) outweigh aggravating factors (*active discipline*).

Rationale: The officer pled “No Contest” and accepted responsibility for not filing taxes with the City of Parma and for missing his scheduled court date. A superior officer was immediately notified that there was a warrant issued and the outstanding balance to the City of Parma was paid in full. Subsequently, the case in Parma Municipal Court was dismissed. Because the conduct described in both of these specifications aligns closest to the definition of a Group I Violation (conduct that has a negative impact on the operations or professional image of the Division), the specifications were amended from Group III Violations to Group I Violations.

The following are dispositions of disciplinary hearings held by the Deputy Chief, Chief of Staff on January 18, 2023.

Patrol Officer Steven Schmitz #1875:

Specification: While towing a vehicle, engaged a member of the public who asked how to get his vehicle out of the impound lot. During this time, the officer failed to activate the WCS even when the conversation became adversarial (*General Police Order 4.06.04*).

Disposition: The officer received a Non-disciplinary Letter of Reinstruction.

Rationale: The officer failed to re-activate the WCS when he was approached and the conversation became adversarial. The officer accepted responsibility. Reinstruction is appropriate regarding this instance.

Patrol Officer Kevin Berigan #1327:

Specification: Handed a piece of evidence (cellphone) in an overdose investigation to a complainant from a secured area (*General Police Orders 5.10.01 and 6.2.03, Manual of Rules 4.02 and Divisional Notice 15-15*).

Disposition: The officer received a Non-disciplinary Letter of Reinstruction.

Rationale: The officer was attempting to assuage the grief of a complainant and did hand a key piece of evidence to a complainant in violation of policy. The officer accepted responsibility. Reinstruction is appropriate regarding this instance.

Patrol Officer Ann Pietraszkiewicz #2004:

Specification: Failed to take the necessary steps to identify the primary physical aggressor when responding to a call for domestic violence (*General Police Order 5.05.01*) – Failed to collect

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evidence on the scene of a domestic violence incident (*General Police Order 5.05.01*) – Completed a LERMS report that was erroneous by having facts out of order (*General Police Order 1.07.06*).

Disposition: Found “Guilty” of three Group I violations. Considering the officer’s active discipline history (none), the officer received a Written Reprimand. This corrective action is within the First Group I violation range of the discipline matrix when mitigating factors (*no active discipline*) outweigh aggravating factors (*multiple violations*).

Rationale: There was a previous report from days earlier where a female was a named suspect for domestic violence and that same female had several warrants. The officer failed to investigate who may have been the primary physical aggressor and did not attempt to locate and collect evidence. Because this conduct fits the definition of a Group I Violation (conduct that has a negative impact on the operations or professional image of the Division or that negatively impacts relationships with other officers, agencies or the public), the Group II violations were amended to Group I violations.

Patrol Officer Katara Moore #2540:

Specification: Failed to take the necessary steps to identify the primary physical aggressor when she responded to a call for domestic violence (*General Police Order 5.05.01*) – Failed to collect evidence on the scene of a domestic violence incident (*General Police Order 5.05.01*).

Disposition: Found “Guilty” of two Group I violations. Considering the officer’s active discipline history (none), the officer received a Written Reprimand. This corrective action is within the First Group I violation range of the discipline matrix when mitigating factors (*no active discipline*) outweigh aggravating factors (*multiple violations*).

Rationale: There was a previous report from days earlier where a female was a named suspect for domestic violence and that same female had several warrants. The officer failed to investigate who may have been the primary physical aggressor and did not attempt to locate and collect evidence. Because this conduct fits the definition of a Group I Violation (conduct that has a negative impact on the operations or professional image of the Division or that negatively impacts relationships with other officers, agencies or the public), these specifications were amended from Group II violations to Group I violations.

The following are dispositions of disciplinary actions taken for a pre-disciplinary hearing that was waived by a member and their respective collective bargaining unit during the month of January.

Sergeant Antwuan Wells #9281 :

Specification: Failed to safeguard a City-issued Wearable Camera System (WCS) (*General Police Order 4.06.07 and Manual of Rules 6.05*).

Disposition: The officer received a Non-disciplinary Letter of Reinstruction. In addition, the officer is required to reimburse the City of Cleveland for the cost of one (1) Wearable Camera System (WCS).

Rationale: The officer pled “No Contest” and accepted responsibility. Reinstruction with reimbursement is appropriate regarding this instance.

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Patrol Officer Franklyn Lake #1061:

Specification: Arrested by the Newburgh Heights Police Department for Operating a Vehicle Under the Influence (OVI), in violation of 4511.19A1a, a First Degree Misdemeanor. On December 22, 2022, the officer pled guilty to an amended charge of Reckless Operation, a First Degree Misdemeanor (*Manual of Rules 2.01, 4.12, 5.01 and 5.08*).

Disposition: Found “Guilty” of one Group II violation. Considering the officer’s active discipline history (none), the officer received a ten-day suspension. This discipline is within the Group II violation range of the discipline matrix where aggravating factors (*actions had the potential to cause injury and harm to the public*) outweigh mitigating factors (*no discipline history, accepted responsibility*).

Rationale: The officer was arrested by the Newburgh Heights Police Department for Operating a Vehicle Under the Influence (OVI) and was subsequently found to have a 0.219 Blood Alcohol Content (BAC). The officer pled guilty to the amended charge of Reckless Operation.

With a pre-disciplinary hearing pending, the following members separated from the Division of Police.

Patrol Officer Carlee Seroka #2523:

Specification: Made statements that would indicate the officer was mentally unstable and unable to safely perform the duties as a police officer (*General Police Order 1.3.07*).

Disposition: On January 2, 2023, the officer submitted a formal resignation to the Division of Police. The Division accepted the resignation. As such, the administrative disciplinary charges against the officer are dismissed without prejudice. In addition, by submitting the resignation while administrative charges were pending, the officer is barred from withdrawing the resignation under the provisions set forth in Civil Service Rule 8.43, which states, “Wherever an employee or officer in the classified service has resigned while charges of misconduct were pending, such resignation may not be withdrawn.”

Patrol Officer Damynique Spencer-Phillips #499:

Specification: Left their assignment early and without permission, failed to notify a superior officer and failed to notify the Communications Control Section (CCS) that they would be reporting off-duty (×2) (*General Police Order 4.04.01 and Manual of Rules 7.03 and 10.02*) – Engaged in Theft in Office by submitting an overtime card stating the officer worked until 0000 hours while a superior officer observed the officer end their tour-of-duty at approximately 2230 hours (×2) (*Manual of Rules 2.01*) – Were untruthful on a Cleveland Division of Police time-keeping document when the officer submitted an overtime card stating they worked until 0000 hours when the officer ended their tour-of-duty at approximately 2230 hours (×2) (*Manual of Rules 3.12*) – (*General Police Order 4.04.01 and Manual of Rules 7.03 and 10.02*) – Sick leave abuse in the second quarter of 2022 (*General Police Order 1.3.06*).

Disposition: On January 2, 2023, the officer submitted a formal resignation to the Division of Police. The Division accepted the resignation. As such, the administrative disciplinary charges against the officer are dismissed without prejudice. In addition, by submitting the resignation while administrative charges were pending, the officer is barred from withdrawing the resignation under the provisions set forth in Civil Service Rule 8.43, which states, “Wherever an

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employee or officer in the classified service has resigned while charges of misconduct were pending, such resignation may not be withdrawn.”

Patrol Officer Mark Ashbrook #392:

Specification: Diminished the esteem of the Cleveland Division of Police when the officer was photographed in uniform drinking alcohol (*Manual of Rules 5.01*) – Observed drinking alcohol while in a Cleveland Division of Police (CDP) uniform and in possession of a firearm (*Manual of Rules 2.01 and 5.04*) – Worked unauthorized and revoked secondary employment while on restricted duty, in possession of an unauthorized firearm and not wearing an authorized uniform (*General Police Order 1.02.13 and 1.07.06*) – Absent from duty without permission from a supervisor when the officer failed to report for duty at their assigned start time of 0700 hours (x3) (*Manual of Rules 10.01*) – Absence Without Leave (AWOL) when the officer failed to report for duty at their assigned location at Public Safety Central after being notified that a scheduled Independent Medical Exam (IME) appointment had been canceled (*Manual of Rules 10.01*) – Failed to get permission from a supervisor to deviate from their assigned schedule after being notified that a scheduled Independent Medical Exam (IME) appointment had been canceled (*Manual of Rules 10.02*) – Untruthful when the officer submitted signed duty reports stating that they filed Sexual Assault Kit reports, when the officer had not filed any Sexual Assault Kit reports on each of those days (*Manual of Rules 3.12*) – Insubordinate to a superior officer when the officer failed to file forty (40) Sexual Assault Kit reports by the end of their tour-of-duty and confirmed that they understood the order from the superior officer to file the reports and the consequences of not completing the task by the end of their tour-of-duty (*Manual of Rules 2.02, 2.03, 2.06, 2.07, 2.14, 4.03 and 4.08*).

Disposition: On January 5, 2023, the officer submitted a formal resignation to the Division of Police. The Division accepted the resignation. As such, the administrative disciplinary charges against the officer are dismissed without prejudice. In addition, by submitting the resignation while administrative charges were pending, the officer is barred from withdrawing the resignation under the provisions set forth in Civil Service Rule 8.43, which states, “Wherever an employee or officer in the classified service has resigned while charges of misconduct were pending, such resignation may not be withdrawn.”

Senior Data Conversion Operator Denise Miles #3020:

Specification: Accessed criminal justice information contained in LERMS without a valid criminal justice purpose (*Manual of Rules 2.03 and 2.04*) – Disseminated criminal justice information contained in LERMS outside of directives listed in the Record File Unit Manual (*Manual of Rules 2.03 and 2.04*).

Disposition: On July 26, 2022, the Senior Data Conversion Operator submitted a formal resignation to the Division of Police. The Division accepted the resignation. As such, the administrative disciplinary charges against the Senior Data Conversion Operator are dismissed without prejudice. In addition, by submitting the resignation while administrative charges were pending, the Senior Data Conversion Operator is barred from withdrawing the resignation under the provisions set forth in Civil Service Rule 8.43, which states, “Wherever an employee or officer in the classified service has resigned while charges of misconduct were pending, such resignation may not be withdrawn.”

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The following member was terminated from employment with the City of Cleveland during the month of January.

Patrol Officer Harvey M Andrekovic #1829:

Specification: Failed to investigate a crime after receiving information that an aggravated robbery had taken place and failed to secure the crime scene, allowing a person involved to remove items from an involved vehicle (*Manual of Rules 4.01*) – Failed to properly complete an OH-1 Hit-Skip Investigation after the officer received information on-scene the operator of one of the vehicles was present and was shown a video of the crash and failed to include this information in the investigation (*General Police Order 8.1.04*) – Failed to properly investigate and document an incident, this conduct would tend to reasonably diminish the esteem of the Cleveland Division of Police (CDP) in the eyes of the public (*Manual of Rules 5.01*) – Untruthful when the officer completed an OH-1 report that stated, “While on scene there was nobody on-scene and nobody was in the vehicle.” The driver involved in the crash was on-scene and multiple citizens advised the officer that the person was the driver of one of the vehicles involved in the crash (*Manual of Rules 3.12*) – Failed to activate the Wearable Camera System (WCS) when interacting with a driver involved in the Motor Vehicle Crash (*General Police Order 4.06.04*) – Charged in Cleveland Municipal Court with the following Ohio Revised Codes: 2921.45 Interfering with Civil Rights (M-1), 2921.13 Falsification (M-1), 2921.31 Obstructing Official Business (M-2) and 2921.44 Dereliction of Duty (M2) (*Manual of Rules 2.01*).

Disposition: Found “Not Guilty” of being charged in Cleveland Municipal Court with Ohio Revised Codes: 2921.45 Interfering with Civil Rights (M-1), 2921.13 Falsification (M-1), 2921.31 Obstructing Official Business (M-2) and 2921.44 Dereliction of Duty (M2) after the charges were dismissed after a defense motion for Rule 29 was granted. Found “Guilty” of one Group I violation, three Group II violations and one Group III violation. On January 6, 2023, the officer was terminated from employment with the City of Cleveland, Department of Public Safety, Division of Police. This discipline is within the First Group III violation range of the discipline matrix when aggravating factors (*multiple violations arising from a single event or incident may escalate the disciplinary action to the maximum group range, actions caused serious injury or harm to the public*) outweigh mitigating factors (*no active discipline*).

Rationale: The officer displayed conduct that would tend to diminish the esteem of the Division of Police and exhibited a complete disregard for ethical behavior and significantly compromised the reputation of the Division and its mission. The officer failed to properly complete an OH-1 Hit-Skip investigation after receiving information that the operator of one of the vehicles was on-scene and returned to the scene on three separate occasions while the officer was present. The officer failed to properly complete an OH-1 Hit-Skip investigation, failed to investigate an aggravated robbery that had taken place, and failed to secure the crime scene. After being shown a video of the crash by a resident whose parked car was struck, the officer failed to include the information/evidence in the investigation, this conduct would tend to reasonably diminish the esteem of the Division of Police. While completing the OH-1 crash report, the officer was untruthful when the report stated that the hit-skip driver was not on-scene. WCS recordings clearly show that the involved female was present while the officer was on-scene at least three separate times and that one of the victims provided the officer with video evidence of the crash. The officer failed to activate the Wearable Camera System when interacting with a driver involved in a motor vehicle crash. In addition, the officer was charged in Cleveland Municipal Court with Ohio Revised Codes: 2921.45 Interfering with Civil Rights (M-1), 2921.13

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Falsification (M-1), 2921.31 Obstructing Official Business (M-2) and 2921.44 Dereliction of Duty (M2); however, those charges were dismissed after a defense motion for Rule 29 was granted.

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Office of the Chief