



City of Cleveland
Justin M. Bibb, Mayor

Department of Public Safety
Karrie D. Howard, Director
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Pre-Disciplinary Hearing Letter

September 22, 2022

Sergeant Thomas Barry #9243
C/o Field Operations
1300 Ontario Street
Cleveland, Ohio 44113

Re: CPD2019-0086

Sergeant Barry #9243:

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.

SPECIFICATION

Specification #1: (CPD2019-0086) On or about June 16, 2019, you, Sergeant Thomas Barry #9243, while acting as Sector Supervisor 3S33 and assisting on East 31st Street and Payne Avenue, failed to properly conduct an investigation or offer a Citizen Complaint Form after being advised by Patrol Officer Lorenzo Brazzell that the arrested male, David Word, made an allegation against Patrol Officer Brazzell regarding missing/stolen money, in violation of General Police Orders 1.1.11 and 1.3.15, and Manual of Rules 2.04 and 5.01. (*Group III Violation*)

This specification is in violation of the rules and procedures of the Division of Police, Department of Public Safety.

RULES, POLICIES AND PROCEDURES

General Police Order 1.1.11: Disciplinary Guidance (Revised January 1, 2014 – Rescinded November 12, 2019)

II. PROCEDURES

- A. A supervisor (of a higher rank than the offending member) shall investigate suspected violations of rules, regulations or procedures. If discipline is warranted, the supervisor shall complete a form-1 and forward same through the chain of command. If the employee is a civilian, the supervisor shall consult with the Case Preparation Officer.
- B. If the investigation reveals that a non-disciplinary action is wanted, the investigating supervisor shall complete a pre-structured Form-1 (Attachment) titled Verbal Counseling (followed by the employee's full name and badge number) and forward the Form- I and all associated documentation through their chain of command to the Chief s Office. A copy shall be retained at the District/Bureau.
- C. If the investigation reveals that discipline action is warranted, the investigating supervisor shall prefer Divisional charges and prepare a Form-1 report describing the incident and separately detail each violation by specification (e.g. Specification #1: On Wednesday, January 1, 2014, while assigned to 5B28, you (P.O. Zyx) were observed by a superior officer sleeping on duty at the location of East 4th and Euclid Avenue). The investigating supervisor shall also list all policies, procedures, and/or rules violated.
- D. Members of the Division shall also be guided by the Manual of Rules for the Conduct and Discipline of Employees of the Cleveland Division of Police, Section II Administrative Compliance, to wit: Rule 2.13: Superior officers shall recommend disciplinary action whenever personnel are alleged to have violated the rules or directives of the Division of Police. Command or Superior officers shall relieve from duty for cause any officer or employee of the Division of Police found to be unfit for duty, promptly notify their superior officer of such action and forward a report giving full details concerning the matter.

General Police Order 1.3.15: Investigations of Police Conduct (Revised September 10, 2007 – Rescinded February 27, 2020)

POLICY: Members of the Cleveland Division of Police have a continuing obligation to serve the community in a responsible, professional and accountable manner. An integral aspect of this obligation is to ensure that Division policies and procedures are complied with in a reasonable and effective manner. To meet this obligation, the Division will provide a readily accessible process through which all citizens, as well as members of the Division have confidence that complaints against a member will be promptly and objectively investigated and resolved. Such investigations not only provide for corrective action when appropriate, but also protect against unwarranted criticism when policies and actions are administered correctly and in compliance with proper procedures. Furthermore, a timely and thorough investigation serves to protect citizens from police misconduct and members from complaints that are retaliatory, manipulative or simply misunderstandings of police protocol.

All complaints regardless of the perceived severity shall be accepted, investigated, and documented. Complaints shall be accepted in a professional and courteous manner without question or challenge.

PROCEDURES:

- I. Accepting Misconduct Complaints

- A. Members of the Division shall provide citizens a full and fair opportunity to file complaints alleging member misconduct. Citizens may file complaints in-person or by other means of communication at a district, bureau, unit or the Office of Professional Standards (OPS).
- B. Any member of the Division, who becomes aware, or is informed, that a citizen wishes to make a complaint, shall, without question or challenge, offer the citizen a Citizen Complaint Form. Completion of the form is not required to initiate the complaint or the investigative process. Citizens who wish, may take the Complaint Form home in order to complete it and may return it via mail, fax or in person at a later date.

Manual of Rules for the Conduct and Discipline of Employees of the Cleveland Division of Police

II. Administrative Compliance

- 2.04 Personnel shall study all rules, General Police Orders and directives pertaining to their duties, and shall be held accountable for any action contrary to these instructions.

V. Behavior

- 5.01 Personnel shall not engage in any conduct, speech or acts while on duty or off duty that would reasonably tend to diminish the esteem of the Division of Police or its personnel in the eyes of the public.

HEARING INFORMATION

The pre-disciplinary hearing is scheduled for **Friday, September 30, 2022, at 1000 hours** in the **Cleveland Public Auditorium (Room LL09)**. 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.

THIS WILL BE YOUR TOUR OF DUTY

THESE CHARGES MAY BE AMENDED AT A LATER DATE

Sincerely,

A handwritten signature in black ink, appearing to read 'Karrie D. Howard', with a stylized flourish at the end.

Karrie D. Howard, Chief Director
Department of Public Safety

KDH:dad:bpc:cld

cc: Dornat Drummond, Chief, Division of Police
George E. Coulter, Assistant Director, Department of Public Safety
Jakimah R. Dye, Assistant Director, Department of Public Safety
Sammy Morris, Acting Deputy Chief, Field Operations
Brian Carney, Commander, Bureau of Compliance
Christopher Viland, Superintendent, Internal Affairs Unit
Jarod Schlacht, Lieutenant, Officer-in-Charge, Internal Affairs Unit
Melissa Dawson, Sergeant, Officer-in-Charge, Employee Assistance Unit
James O'Malley, President, Fraternal Order of Police, Lodge #8
William Menzalora, Chief Assistant Director of Law
Paul Patton, Director, Department of Human Resources
Michael Pike, Assistant Director of Law
Amanda Boutton, Assistant Director of Law
Michael Hess, Chairperson, Civilian Police Review Board
Richard Rosenthal, Member, Monitoring Team
Michael Evanovich, Investigator, Department of Justice
Jason Goodrick, Executive Director, Cleveland Community Police Commission
Hassan Aden, Federal Monitoring Team