



City of Cleveland
Justin M. Bibb, Mayor

Department of Public Safety
Dornat (Wayne) A. Drummond, Chief
FBI NA #230
Division of Police
1300 Ontario Street, Suite 929
Cleveland, Ohio 44113
216/623-5005 • 216/623-5584 Fax
www.clevelandohio.gov

Pre-Disciplinary Hearing Letter

September 8, 2022

Detective Matthew Zone #1285
C/o Field Operations
1300 Ontario Avenue
Cleveland, Ohio 44113

Re: OPS2020-0256

Detective Zone #1285:

Please be advised, in accordance with Article 28 of the collective bargaining agreement between the City of Cleveland and the Cleveland Police Patrolmen's Association, 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: (OPS2020-0256) The Civilian Police Review Board (CPRB) is recommending to the Chief of Police that the allegation of *Improper Cell Phone Seizure* be sustained against you, Detective Matthew Zone #1285, that on or about December 2, 2020, you violated Manual of Rules 4.17 and 8.06, and General Police Orders 2.02.02 and 2.2.04 when you seized the complainant's cell phone without the required warrant and failed to provide a receipt for the property. (*Group I 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 2.02.02: Search and Seizure (effective: 1/1/20)

POLICY: It is the policy of the Division to respect the fundamental privacy rights of all individuals. Officers shall conduct searches in strict accordance with the rights secured and protected by the Constitution and federal and state laws. All seizures by the Division shall comply with relevant federal and state laws governing the seizure of persons and property.

DEFINITIONS:

Arrest - the taking of a person into custody by an officer based upon a warrant or probable cause. To constitute an arrest, there must be an actual restraint of the person. The restraint may be imposed by force or may result from the submission of the person arrested to the custody of the officer arresting him/her. An arrest is a restraint of greater scope or duration than an investigatory stop or detention.

Probable Cause - the facts and circumstances known to the officer that would lead a reasonable person to believe an individual has more likely than not committed or is committing a crime.

Reasonable Suspicion - an objectively, justifiable suspicion that is based on specific and articulable facts or circumstances that justifies an officer stopping an individual that has committed, is committing, or is about to commit an offense. Reasonable suspicion is more than a hunch but less than probable cause. A police officer stopping an individual must be able to point to specific facts or articulable circumstances even though the level of suspicion need not arise to probable cause.

Search Incident to Arrest - a search of an arrested person, their personal effects, or their area of immediate control at time of search.

PROCEDURES:

VI. Custodial Search and Other Searches Incident to Arrest

A. Custodial search of arrestee

1. Incident to a lawful arrest, officers shall search an arrestee's person and the area within the arrestee's immediate control.

B. Searches incident to arrest

1. Officers may, incident to arrest, search both an arrestee's person and the area within the arrestee's immediate control in order to recover weapons, evidence, or a means of escape. Searches of various areas, environments, or items must comply with the following parameters:

- a. Vehicles. After a person is arrested from a vehicle, officers do not have the authority to search the passenger compartment and locked or unlocked containers incident to arrest, unless one of the following apply:
 - iii. Officers are performing an inventory search pursuant to impounding the vehicle.

General Police Order 2.2.04: Warrant Service (revised: 10/20/15)

PROCEDURE:

II. Obtaining a Search Warrant.

- A. An affidavit is the basis for a search warrant. A search warrant is valid when the affidavit satisfies the legal requirements for such warrants. Members shall prepare the affidavit stating the following information.
 - 5. Specify in the affidavit and warrant the items or persons sought. When searching for evidence there are four categories of items that may be the subject of a search warrant:
 - a. Evidence of the commission of a criminal offense.
- B. Members may seize items discovered during the search

VIII. Post-search requirements.

- C. Members taking property under the authority of a search warrant shall:
 - 1. Give the person from whom or from whose premises the property was taken a copy of the warrant and completed return portion of the search warrant as receipt for the property taken.

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

IV. DUTY

- 4.17 Officers shall execute warrants and serve subpoenas in a lawful manner.

VIII. PRISONERS

- 8.06 Money, property, and contraband taken from a prisoner and held as evidence shall be recorded in the Property Book and a receipt issued to the prisoner.

HEARING INFORMATION

The pre-disciplinary hearing is scheduled for **Monday, September 19, 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.

THIS WILL BE YOUR TOUR OF DUTY

THESE CHARGES MAY BE AMENDED AT A LATER DATE

Sincerely,



Dornat A. Drummond
Chief of Police

DAD:bpc:cld:kfs

cc: Sammy Morris, Acting Deputy Chief, Field Operations
Dorothy Todd, Commander, Chief's Office
Brian Carney, Commander, Bureau of Compliance
Christopher Viland, Superintendent, Internal Affairs Unit
James O'Malley, President, Fraternal Order of Police, Lodge #8
Melissa Dawson, Sergeant, Employee Assistance Unit
Thomas Fisher, Interim Administrator, Office of Professional Standards
Eric Richardson, Acting Senior Investigator, Office of Professional Standards
Michael Hess, Chairman, Civilian Police Review Board
David Gatian, Vice Chairman, Civilian Police Review Board
Art Bowker, Investigator, Office of Professional Standards
Hassan Aden, Federal Monitoring Team