



City of Cleveland

Justin M. Bibb, Mayor

Department of Public Safety

Dornat (Wayne) A. Drummond, Interim 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

July 5, 2022

Sergeant Higinio Rivera #9246
C/o Third District Headquarters
4501 Chester Avenue
Cleveland, Ohio 44103

Re: CPD2021-0105

Sergeant Rivera #9246:

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: (CPD2021-0105) On or about October 27, 2021, you, Sergeant Higinio Rivera #9246, conducted an inventory of a vehicle's contents and failed to remove valuable items (i.e. wallet and wireless hotspot) from the vehicle and tag and enter them in the district or unit property book, in violation of General Police Order 8.2.01. (*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 8.2.01: Vehicle Tow or Release (revised: 5/30/03)

POLICY: The Cleveland Division of Police shall ensure that motor vehicles are properly towed.

PROCEDURES:

I. Vehicle/Tow Supplement

E. Property Inventory

1. Complete the "Property Inventory" section for each vehicle towed. Vehicles are inventoried to protect citizens and the Division from false claims. Inventories shall contain a description of property. If there is no property, enter the word "NONE".
2. In the inventory include property found in unlocked closed containers and a description of the container.
3. When conducting inventories, officers shall not open locked containers, trunks, glove boxes or consoles unless they have a key to do so or the vehicle is equipped with an electronic device allowing access to a locked section of the vehicle.
4. The Vehicle/Tow Supplement shall reflect whether or not the trunk, glove box or console is locked and shall describe any locked container.
5. If a locked vehicle is being towed without access to a key, the vehicle shall not be inventoried unless valuables are seen in plain view or access to the passenger compartment is required to complete the tow.
6. **If possible, prior to towing, remove from the vehicle property such as jewelry, cameras, radios, televisions, golf clubs, cellular phones, computers, radar detectors or other valuables.** Tag and enter removed property in the district or unit property book and forward the property to the Property Unit. Complete a Record Management System (RMS) report for the property. Show that a RMS report was completed in the "Property Inventory" section of the Vehicle/Tow Supplement.

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

I. SWORN POLICE RANKS

1.06 Sergeant of Police

Sergeants shall be assigned as officers in charge of stations or units within the Division of Police or assigned as sector supervisors in the basic patrol section and perform such other supervisory duties as the Chief of Police or their commanding officer may designate.

They shall have immediate control of the personnel under their supervision and shall be responsible for their discipline, appearance and general good conduct. They shall assist and instruct subordinates in the performance of their duties and continually seek to improve the efficiency of their performance.

They shall thoroughly familiarize themselves with all applicable federal statutes, state laws, municipal ordinances, rules, General Police Orders, Divisional Notices and memorandums of the Division, and be responsible for their strict observance and enforcement, causing full compliance by subordinates.

II. ADMINISTRATIVE COMPLIANCE

2.03 Personnel shall perform all duties required by rules, General Police Orders, directives, or orders of the Division of Police.

2.14 The following are additional grounds for disciplining personnel, including removal, in addition to the grounds stated in Civil Service Commission rule 9.10:

- e. Failure to obey orders given by proper authority
- f. Any other reasonable and just cause

IV. DUTY

4.01 Officers shall protect life and property, prevent crimes, detect, arrest and prosecute offenders, preserve the public peace and enforce laws and ordinances within the scope of their job classifications and in accordance to law.

4.03 Personnel shall give full attention to the performance of their duties.

HEARING INFORMATION

The pre-disciplinary hearing is scheduled for **Wednesday, July 20, 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
Interim Chief of Police

DAD:bpc:cld:kfs

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