



## City of Cleveland

Justin M. Bibb, Mayor

### Department of Public Safety

Karrie D. Howard, Director  
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August 5, 2022

**Patrol Officer Erik Melendez #1748  
C/o Bureau of Support Services  
2001 Payne Avenue  
Cleveland, Ohio 44114**

**Re: CPD2020-0113**

Patrol Officer Melendez #1748:

This letter is to advise you, Patrol Officer Erik Melendez #1748, of the result of the administrative pre-disciplinary hearing you attended on Friday, July 1, 2022. The hearing was held to address the results of internal investigation wherein you were alleged to have engaged in improper procedures and/or misconduct. You were charged with a series of rule violations, which follow:

#### **FACTUAL SUMMARY**

On or about November 15, 2020, you, Patrol Officer Erik Melendez #1748 failed to report officer misconduct when you engaged in a physical fight with other members of the Division of Police while off-duty at 1303 West 58<sup>th</sup> Street (the Zone Car Lounge).

#### **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.

#### **RULES, POLICIES AND PROCEDURES**

**General Police Order 1.1.03: Standards of Conduct and Courtesy** (effective: 3/1/02)

**General Police Order 1.1.08: Violence in the Workplace** (effective: 3/1/02)

**General Police Order 1.07.05: Internal Complaints of Misconduct** (effective: 2/21/20)

**Manual of Rules for the Conduct and Discipline of Employees of the Cleveland Division of Police:  
2.01, 4.12, 5.01, 5.08 and 5.09**

### **SPECIFICATIONS**

**Specification #1:** (CPD2020-0113) On or about November 15, 2020, you, Patrol Officer Erik Melendez #1748, while off duty, at 1303 W. 58<sup>th</sup> Street (The Cleveland Police Patrolmen's Association/Zone Car Lounge) did engage in workplace violence when you became involved in a physical fight with other members of the Cleveland Division of Police, all in violation of General Police Order 1.1.08. (*Group III Violation*)

**Specification #2:** (CPD2020-0113) On or about November 15, 2020, you, Patrol Officer Erik Melendez #1748, while off-duty at 1303 West 58<sup>th</sup> Street (The Cleveland Police Patrolmen's Association/Zone Car Lounge), did engage in taunting or challenging behavior which provoked a violent response. These actions resulted in you, Patrol Officer Erik Melendez #1748, strangling another member of the Division while threatening him during a fight, in violation of Manual of Rules 2.01. (*Group III Violation*)

**Specification #3:** (CPD2020-0113) On or about November 15, 2020, you, Patrol Officer Erik Melendez #1748, while off-duty at 1303 West 58<sup>th</sup> Street (The Cleveland Police Patrolmen's Association/Zone Car Lounge), failed to report officer misconduct after observing and becoming aware that multiple members of the Cleveland Division of Police, including yourself, were engaged in a physical fight, in violation of General Police Order 1.07.05 and Manual of Rules 4.12. (*Group III Violation*)

**Specification #4:** (CPD2020-0113) On or about November 15, 2020, you, Patrol Officer Erik Melendez #1748, while off-duty, did engage in acts that tend to reasonably diminish the esteem of the Division of Police when you were involved in a physical fight with other members of the Division of Police, in violation of General Police Order 1.1.03 and Manual of Rules 5.01, 5.08 and 5.09. (*Group II Violation*)

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

### **PREDISCIPLINARY HEARING**

In attendance at the administrative pre-disciplinary hearing that I presided over, were you, President Jeffrey Follmer, Second Vice President Andrew Gasiewski and Attorney Joseph Delguyd of the Cleveland Police Patrolmen's Association, Assistant Director Amanda Boutton of the Department of Law, Superintendent Christopher Viland and Sergeant Justin Cajka of the Internal Affairs Unit, Lieutenant Charles DePenti of the Case Preparation Unit, Sergeant Kelly Smith, Assistant Director George Coulter and Assistant Director Jakimah Dye of the Department of Public Safety.

During the hearing, you acknowledged receipt of the charge letter; you and your representatives waived the reading of your charge letter and were then afforded the opportunity to be heard. You entered a plea of "Not Guilty" to all four (4) specifications as set forth in the charge letter.

### **HISTORY, FINDINGS AND CONCLUSIONS**

#### ***Discipline History***

No active discipline history.

#### ***Findings and Conclusions***

- ***Mitigating and Aggravating Factors***

Aggravating: Multiple violations.

Mitigating: No active discipline.



- **Anomalies**

None.

***Disciplinary Conclusion***

A thorough review was conducted by the Department of Public Safety. I have carefully reviewed the evidence incorporated into the record by reference, statements made at the hearing, and pertinent rules, policies and procedures. I have determined that you, Patrol Officer Erik Melendez #1748, violated Manual of Rules 4.12 and General Police Order 1.07.05. This violation occurred when you failed to properly report this fight and the involvement of other Cleveland Division of Police officers.

First, with regard to Specification #1, I do not find sufficient support for a consequential finding. General Police Order 1.1.08 defines Workplace Violence as behavior or conduct consisting of, but not limited to, oral and written threats, harassment, intimidation, physical attack or property damage, *either occurring at, or arising from, the employee's place of work* with the city, and occurring outside the normal course of law enforcement activities (*emphasis added*). Here, none of the facts at issue stemmed from having occurred or arose from the members' place of work.

To the larger issue, this is a pretty shameful event, being an act of violence, involving all Cleveland Police Officers. From the facts, as best ascertained from credible officers, this incident began from an insulting exchange of banter between two officers that went too far. This back and forth resulted in an unfortunate physical altercation between officers, with little or no attempt of de-escalation. Further, it is unreasonable to conclude the three-on-one could be perceived as mutual combat. A lot of bad judgment was exercised here. With all of what could only be described as orchestrated confusion and misinformation, there are several facts which support the aforementioned finding of that are undisputable. P.O. Melendez, the banter between you and P.O. Phelps was consistently described as a mutual back and forth. While this banter seemed to ignite this incident, it was a two-sided exercise. Getting to the car for you and your minor child should have been a priority that resulted in your departure. The ease of access of your ability to get to your car was unclear from the testimony. All testimony, placed a different person between you and your car. What was consistent, was that you were not the aggressor once all parties arrived to the parking lot. This was a completely avoidable altercation, had reasonable minds prevailed. You admitted that you failed to report this incident to a supervisor as outlined by policy.

It should be noted, the receiving of your defense was made complicated by you being represented by the same persons who on one hand worked to mitigate your involvement and on the other seeking to lay full fault at your feet. This complicated, but did not make impossible, the parsing out of the facts. The powerful statement that you gave during your hearing is what the public expects from officers when faced with other officers who compromise the reputation of the profession of public service. The profession was compromised in the representation at your hearing and other officers ignoring their training in de-escalation and use of force. My hope is that other officers can use your sincerity as an example for exercising integrity in the face of officer misconduct.

Based on the foregoing, I find you **"Not Guilty"** of Specification #1 and Specification #2 and Specification #4; and **"Guilty"** of the administrative charges in Specification #3 and find there is just cause to impose discipline. As such, **I am issuing you a ten (10) workday suspension without pay for one (1) First Group III Violations.** This corrective action is within the First Group III violation range of the discipline matrix where mitigating factors (*no active discipline history, willingness to accept responsibility and wrongdoing*) outweigh aggravating factors (*multiple violations*).

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The above imposed suspension shall commence, and be effective the next working day after you are served with this notice. You shall surrender your badge, police identification card, unloaded departmentally issued firearm and three (3) loaded magazines plus one (1) live round to your Commanding Officer or designee at the end of your shift. Upon completion of the suspension days, you shall retrieve the aforementioned property from your Commanding Officer or designee upon reporting for duty. **Additionally, you shall, within five (5) work days of returning from suspension, read General Police Order 1.07.05 and Manual of Rules 4.12; and be reinstructed by a superior officer on that Order and Rule. Upon completion of the reinstruction, you will email a Form-1 (as an attachment) indicating reinstruction, and endorsed by the same superior officer, to the Case Preparation Unit (caseprep@clevelandohio.gov) and The Department of Public Safety (publicsafetyadmin@clevelandohio.gov).**

It is the Division's earnest desire that that this letter will serve as a deterrent against future acts of this nature. Any prospective acts of same or similar conduct may lead to progressive discipline. Pursuant to the terms and conditions of the collective bargaining agreement between the City of Cleveland and the CPPA, a record of the disciplinary actions or penalties will not be considered after three (3) years from the date of the action.

Sincerely,



Karrie D. Howard, Chief Director  
Department of Public Safety

KDH:dad:kas

cc: Dornat A. Drummond, Chief, Cleveland Division of Police  
George Coulter, Assistant Director, Department of Public Safety  
Jakimah Dye, Assistant Director, Department of Public Safety  
Joellen O'Neill, Deputy Chief, Executive Officer  
Daniel Fay, Deputy Chief, Administrative Operations  
Harold Pretel, Deputy Chief, Homeland Special Operations  
Sammy Morris, Acting Deputy Chief, Field Operations  
Brian Carney, Commander, Bureau of Compliance  
Mark Maguth, Commander, Bureau of Support Services  
Christopher Viland, Superintendent, Internal Affairs Unit  
William Mokshefsky, Officer-in-Charge, Personnel Section  
Cynthia Oliver, Sergeant, Officer-in-Charge, Timekeeping Unit  
Melissa Dawson, Sergeant, Officer-in-Charge, Employee Assistance Unit  
Jeffrey Follmer, President, Cleveland Police Patrolmen's Association  
Paul Patton, Chief Human Resources Officer  
William Menzalora, Chief Assistant Director of Law  
Amanda Boutton, Assistant Director of Law, Public Safety  
Richard Rosenthal, Member, Monitoring Team  
Michael Evanovich, Investigator, Department of Justice  
Hassan Aden, Federal Monitoring Team  
Jason Goodrick, Executive Director, Cleveland Community Police Commission