



City of Cleveland

Justin M. Bibb, Mayor

Department of Public Safety

Karrie D. Howard, Director

601 Lakeside Avenue, Room 230

Cleveland, Ohio 44114-1015

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Pre-Disciplinary Hearing Letter

November 8, 2022

Detective Daniel Hourihan #250
C/o Fourth District Headquarters
9333 Kinsman Avenue
Cleveland, Ohio 44104

Re: OPS2020-0082

Detective Hourihan #250:

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.

On September 19, 2022, a pre-disciplinary hearing was conducted in the Office of the Chief of Police before Deputy Chief Harold Pretel. The Civilian Police Review Board (CPRB) recommended discipline for a Group I Violation regarding the specification contained in this letter. Based upon the recommendation of the Hearing Officer, the Chief departed from the CPRB recommendation and found you, "Not Guilty" of the specification. On November 8, 2022, as permitted by the City's Charter, the CPRB voted to appeal the Chief's decision to the Director of Public Safety.

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: (OPS2020-0082) The Civilian Police Review Board (CPRB) has appealed to the Director of Public Safety that the allegation of *Improper Search* be sustained against you, Detective Daniel Hourihan #250, that on or about April 22, 2020, you violated General Police Order 2.02.02 when you improperly searched the complainant and his vehicle without permission and without reasonable suspicion. (*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)

DEFINITIONS:

Pat Down/Frisk - a limited search during an investigatory stop in which an officer conducts a pat down of the outer clothing of a person for weapons when the officer reasonably suspects that the particular person is armed and dangerous. It is limited to what is necessary to detect weapons and must be based on reasonable articulable suspicion that the person is armed. An officer may not manipulate objects that are discovered under the clothing to determine whether they are contraband.

PROCEDURES:

I. General Requirements for Searches and Seizures

C. Officers shall:

2. Explain in an age appropriate manner to the person being searched and/or seized, the reason for the search/seizure and how the search/seizure will be conducted.

V. Pat Down/Frisks During Investigatory Stops

- A. Every investigatory stop does not automatically authorize a pat down/frisk. Officers may only conduct a pat down/frisk of a detained person if they reasonably suspect that the detained person may be armed and dangerous. The purpose and scope of the pat down/frisk is to discover weapons. It is not a generalized search of the entire person.
- C. The decision to conduct a pat down/frisk must be based upon the totality of the circumstances and the reasonable conclusions that the person is armed and dangerous drawn from the officer's training and experience.
 2. The fact that an investigatory stop occurs in a high crime area is not by itself sufficient to justify a pat down/frisk.

HEARING INFORMATION

The pre-disciplinary hearing is scheduled for **Thursday, November 10, 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,



Karrie D. Howard, Chief Director
Department of Public Safety

KDH:dad:bpc:cld:la

cc: Dornat A. Drummond, Chief, Division of Police
George Coulter, Assistant Director, Department of Public Safety
Jakimah R. Dye, Assistant Director, Department of Public Safety
Dorothy Todd, Deputy Chief, Chief of Staff
Sammy Morris, Acting Deputy Chief, Field Operations
Daniel Fay, Deputy Chief, Administrative Operations
Harold Pretel, Deputy Chief, Homeland Special Operations
Brandon Kutz, Commander, Fourth District
Brian Carney, Commander, Bureau of Compliance
Robert Simon, Captain, Office of Compliance
Christopher Viland, Superintendent, Internal Affairs Unit
Melissa Dawson, Sergeant, Officer-in-Charge, Employee Assistance Unit
Jeffrey Follmer, President, Cleveland Police Patrolmen's Association
Paul Patton, Chief Human Resources Officer
Mark Griffin, Chief Director of Law
William Menzalora, Chief Assistant Director of Law
Michael Pike, Assistant Director of Law
Amanda Boutton, Assistant Director of Law
Delante Thomas, Chief Ethics Officer
Michael Spreng, Secretary, Civil Service Commission
Thomas Fisher, Interim Administrator, Office of Professional Standards
Eric Richardson, Acting Senior Investigator, Office of Professional Standards
David Gatian, Vice Chairman, Civilian Police Review Board
Michael Hess, Chairperson, Civilian Police Review Board
Richard Rosenthal, Member, Monitoring Team
Michael Evanovich, Investigator, Department of Justice
Ayesha Hardaway, Federal Monitoring Team
Jason Goodrick, Executive Director, Cleveland Community Police Commission