



## City of Cleveland

Justin M. Bibb, Mayor

### Department of Public Safety

Dornat (Wayne) A. Drummond, Interim Chief

FBI NA #230

Division of Police

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## Pre-Disciplinary Hearing

July 11, 2022

**Patrol Officer Damynique Spencer-Phillips #499**

**C/o Second District Headquarters**

**3481 Fulton Road**

**Cleveland, Ohio 44109**

**Re: SR2022-0265, DBI2022-0047**

Patrol Officer Spencer-Phillips #499:

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.

### **SPECIFICATION**

**Specification #1:** (SR2022-0265) During the Fourth Quarter 2021 sick review, you, Patrol Officer Damynique Spencer-Phillips #499, used 40 hours of undocumented sick time and displayed a pattern of sick use that preceded or followed scheduled vacation days, holidays and compensatory time, in violation of General Police Order 1.3.06. (*Group I Violation*)

**Specification #2:** (DBI2022-0047) On or about May 3, 2022, you, Patrol Officer Damynique Spencer-Phillips #499, called-in prior to your 0800 hour shift to use compensatory time that you knew you did not have, in violation of General Police Order 4.04.05 and Manual of Rule 2.02. (*Group I Violation*)

**Specification #3:** (DBI2022-0047) On or about May 3, 2022, you, Patrol Officer Damynique Spencer-Phillips #499, willfully disobeyed a lawful order. You were ordered to check your compensatory and sick time balance days prior, which you did, but then chose to disregard the order and use the compensatory time in a deceitful manner when the Officer-in-Charge (who was filling-in) was not familiar with your personal situation, in violation of Civil Service Rules 9.10.2 and 9.10.8. (*Group II Violation*)

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

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

#### **General Police Order 1.3.06: Sick Leave Review** (revised: 3/14/13)

**POLICY:** Through sick leave, the Division of Police accommodates employees who cannot report to work due:

- An actual sickness or injury
- Confinement by reason of a contagious disease
- Visit to a doctor or dentist for medical or dental care
- Serious illness of a member or member's immediate family (emergency).

Sick leave shall be monitored on a quarterly basis wherein every month constituting that quarter is evaluated in the context of the preceding two months. Employees abusing sick leave are subject to progressive disciplinary action.

#### **PROCEDURES:**

**I.** Sick Leave Abuse is identified by observation of a single instance of abuse or by a pattern that indicates abuse.

**B.** Sick Leave Abuse indicated by a pattern of sick leave usage

**2.** A pattern of abuse is any of the following that occur repetitively or in combination:

- a.** Use of sick leave on Fridays, Saturdays, Sundays or days that precede or follow scheduled vacation days, holidays, personal holidays, furloughs, or compensatory time.

**II.** Quarterly Review

**A.** Members who have used 40 or more hours of sick leave in a rolling three month period shall be reviewed for sick leave abuse.

**General Police Order 4.04.05: Overtime and Compensatory Time** (effective: 2/12/21)

**POLICY:** It is the policy of the Cleveland Division of Police to restrict overtime to the absolute minimum required to perform official duties essential to meet Divisional needs. The use of compensatory time shall be based upon the current collective bargaining agreements.

**PROCEDURES:**

**II. Requesting Approval of Compensatory Time**

- A. Supervisors, higher ranking than the requesting member, shall approve all requests for the use of compensatory time prior to the member taking time off.

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

**II. ADMINISTRATIVE COMPLIANCE**

- 2.02 Personnel shall not willfully disobey any rules, General Police Orders or directives of the Division of Police, or any lawful orders, written or oral, issued to them by a superior officer of the Division of Police.

**CIVIL SERVICE COMMISSION Rule 9.10: Tenure:**

The tenure of every officer or employee in the classified service shall be during good behavior and efficient service.

No such officer or employee shall be discharged, suspended or demoted for political, racial or religious reasons, or for refusing to contribute to any political fund, or refusal to render political service.

But any officer or employee in the classified service may be discharged, suspended or reduced in rank for any one or more of the following causes:

- 2. Absence from duty without leave.
- 8. Insubordination.



### **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  
Thomas Stacho, Commander, Second District  
Christopher Viland, Superintendent, Internal Affairs Unit  
Melissa Dawson, Sergeant, Officer-in-Charge, Employee Assistance Unit  
Jeffrey Follmer, President, Cleveland Police Patrolmen's Associations  
Hassan Aden, Federal Monitoring Team