



City of Cleveland
Justin M. Bibb, Mayor

Department of Public Safety
Karrie D. Howard, Director
601 Lakeside Avenue, Room 230
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August 5, 2022

Patrol Officer Damynique Spencer-Phillips #499
C/o Second District Headquarters
3481 Fulton Road
Cleveland, Ohio 44109

Re: SR2022-0265, DBI2022-0047, DBI2022-0073

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.

SPECIFICATIONS

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 III Violation*)

Specification #4: (DBI2022-0073) On or about July 6, 2022, you, Patrol Officer Damynique Spencer-Phillips #499, failed to report to the Academy Unit for your scheduled 2022 Continued Professional Training (CPT), in violation of General Police Order 4.04.01 and Manual of Rules 10.01 and 10.02. (*Group I Violation*)

Specification #5: (DBI2022-0073) On or about July 6, 2022, you, Patrol Officer Damynique Spencer-Phillips #499, used Sick Leave after arriving late to your 2022 Continued Professional Training (CPT) and being ordered to report to your district, in violation of General Police Order 1.3.06. (*Group I 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 4.04.01: Patrol Section Responsibilities (effective: 2/12/21)

POLICY: It is the policy of Cleveland Division of Police to provide for the safety of its members when responding to calls for service; the Division shall establish and maintain duty hours for the Patrol Section to maximize the delivery of police services most effectively and efficiently.

PROCEDURES:

I. Patrol Officer Responsibilities

A. Officers shall:

1. Work the hours assigned and report promptly for duty.

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.

X. SCHEDULE AND DUTY HOURS

- 10.01 Personnel shall work such hours as assigned, report promptly for duty at the time and place assigned, and shall not be absent from duty without permission from their superior officer.
- 10.02 Personnel shall receive a superior officer's approval for any deviation from an assigned vacation class schedule, furlough or duty hours.

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 **Friday, August 12, 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,

A handwritten signature in black ink, appearing to read 'Karrie D. Howard', with a stylized flourish at the end.

Karrie D. Howard, Chief Director
Department of Public Safety

Patrol Officer Damynique Spencer-Phillips #499

August 5, 2022

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KDH:dad:bpc:cld:kfs

cc: Dornat Drummond, Chief, Division of Police
George E. Coulter, Assistant Director, Department of Public Safety
Jakimah R. Dye, Assistant Director, Department of Public Safety
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
William Menzalora, Chief Assistant Director of Law
Michael Pike, Assistant Director of Law
Amanda Boutton, Assistant Director of Law
Paul Patton, Director, Department of Human Resources
Richard Rosenthal, Member, Monitoring Team
Michael Evanovich, Investigator, Department of Justice
Hassan Aden, Federal Monitoring Team