



## 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

**Sergeant Christopher Mobley #9228**

**C/o Field Operations**

**1300 Ontario Avenue**

**Cleveland, Ohio 44113**

**Re: OPS2020-0256**

Sergeant Mobley #9228:

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.

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 three (3) Group I Violations regarding the specifications 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 specifications #1 and #2 and has recommended a Letter of Reinstruction for specification #3. 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.

### **SPECIFICATIONS**

**Specification #1:** (OPS2020-0256) The Civilian Police Review Board (CPRB) has appealed to the Director of Public Safety that the allegation of *Improper Arrest* be sustained against you, Sergeant Christopher Mobley #9228, that on or about December 2, 2020, you violated Cleveland Division of Police (CDP) policy and procedure when you effected the arrest of the complainant before confirming that the complainant's warrant was still valid. (*Group I Violation*)

**Specification #2:** (OPS2020-0256) The Civilian Police Review Board (CPRB) has appealed to the Director of Public Safety that the allegation of *Improper Search* be sustained against you, Sergeant Christopher Mobley #9228, that on or about December 2, 2020, you violated Manual of Rules 4.17 and 4.19, and General Police Order 2.02.02, when you searched the complainant after placing him under arrest on a warrant that was no longer valid. (*Group I Violation*)

**Specification #3:** (OPS2020-0256) The Civilian Police Review Board (CPRB) has appealed to the Director of Public Safety that the allegation of *Improper Cell Phone Seizure* be sustained against you, Sergeant Christopher Mobley #9228, that on or about December 2, 2020, you violated Manual of Rules 4.17 and 8.06, and General Police Order 2.02.02 and 2.2.04 when you seized the complainant's cell phone without the required warrant and failed to provide a receipt for the property. (*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 2.02.02: Search and Seizure** (effective: 1/1/20)

**POLICY:** It is the policy of the Division to respect the fundamental privacy rights of all individuals. Officers shall conduct searches in strict accordance with the rights secured and protected by the Constitution and federal and state laws. All seizures by the Division shall comply with relevant federal and state laws governing the seizure of persons and property.

#### **DEFINITIONS:**

**Arrest** - the taking of a person into custody by an officer based upon a warrant or probable cause. To constitute an arrest, there must be an actual restraint of the person. The restraint may be imposed by force or may result from the submission of the person arrested to the custody of the officer arresting him/her. An arrest is a restraint of greater scope or duration than an investigatory stop or detention.

**Probable Cause** - the facts and circumstances known to the officer that would lead a reasonable person to believe an individual has more likely than not committed or is committing a crime.

**Reasonable Suspicion** - an objectively, justifiable suspicion that is based on specific and articulable facts or circumstances that justifies an officer stopping an individual that has committed, is committing, or is about to commit an offense. Reasonable suspicion is more than a hunch but less than probable cause. A police officer stopping an individual must be able to point to specific facts or articulable circumstances even though the level of suspicion need not arise to probable cause.

**Search Incident to Arrest** - a search of an arrested person, their personal effects, or their area of immediate control at time of search.

#### **PROCEDURES:**

##### **VI. Custodial Search and Other Searches Incident to Arrest**

###### **A. Custodial search of arrestee**

1. Incident to a lawful arrest, officers shall search an arrestee's person and the area within the arrestee's immediate control.
- B. Searches incident to arrest
  1. Officers may, incident to arrest, search both an arrestee's person and the area within the arrestee's immediate control in order to recover weapons, evidence, or a means of escape. Searches of various areas, environments, or items must comply with the following parameters:
    - a. Vehicles. After a person is arrested from a vehicle, officers do not have the authority to search the passenger compartment and locked or unlocked containers incident to arrest, unless one of the following apply:
      - iii. Officers are performing an inventory search pursuant to impounding the vehicle.

**General Police Order 2.2.04: Warrant Service** (revised: 10/20/15)

**PROCEDURE:**

**II. Obtaining a Search Warrant.**

- A. An affidavit is the basis for a search warrant. A search warrant is valid when the affidavit satisfies the legal requirements for such warrants. Members shall prepare the affidavit stating the following information:
  5. Specify in the affidavit and warrant the items or persons sought. When searching for evidence there are four categories of items that may be the subject of a search warrant:
    - a. Evidence of the commission of a criminal offense.
      - B. Members may seize items discovered during the search

**VIII. Post-search requirements.**

- C. Members taking property under the authority of a search warrant shall:
  1. Give the person from whom or from whose premises the property was taken a copy of the warrant and completed return portion of the search warrant as receipt for the property taken.

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

**IV. DUTY**

- 4.17 Officers shall execute warrants and serve subpoenas in a lawful manner.



- 4.19 Only one officer shall be in charge when two or more officers are acting in concert on a police task. Absent a superior officer, the senior officer at the scene shall be in charge and assume responsibility for the proper action and reports.

**VIII. PRISONERS**

- 8.06 Money, property, and contraband taken from a prisoner and held as evidence shall be recorded in the Property Book and a receipt issued to the prisoner.

**HEARING INFORMATION**

The pre-disciplinary hearing is scheduled for **Thursday, November 10, 2022, at 1000 hours** in the **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](mailto: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, Director  
Department of Public Safety

**Sergeant Christopher Mobley #9228**

**November 8, 2022**

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KDH:dad:cl:la

cc: Dornat Drummond, Chief, Division of Police  
Jakimah R. Dye, Coordinator of Operations, Department of Public Safety  
George Coulter, Assistant Director of Operations, Department of Public Safety  
Harold Pretel, Deputy Chief, Homeland Special Operations  
Sammy Morris, Acting Deputy Chief, Field Operations  
Dorothy Todd, Deputy Chief, Chief of Staff  
Brian Carney, Commander, Bureau of Compliance  
Christopher Viland, Superintendent, Internal Affairs Unit  
Paul Patton, Director, Department of Human Resources  
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  
James O'Malley, President, Fraternal Order of Police, Lodge #8  
Melissa Dawson, Sergeant, Employee Assistance Unit  
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  
Art Bowker, Investigator, Office of Professional Standards  
Michael Spreng, Secretary, Civil Service Commission  
Ayesha Hardaway, Federal Monitoring Team  
Michael Hess, Chairperson, Civilian Police Review Board  
Richard Rosenthal, Member, Monitoring Team  
Michael Evanovich, Investigator, Department of Justice  
Jason Goodrick, Executive Director, Cleveland Community Police Commission