



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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Cleveland, Ohio 44113

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Pre-Disciplinary Hearing

May 9, 2022

Patrol Officer John McCartney #820

C/o Fourth District Headquarters

9333 Kinsman Road

Cleveland, Ohio 44104

Re: OPS2020-0098

Patrol Officer McCartney #820:

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: (OPS2020-0098) The Civilian Police Review Board (CPRB) is recommending to the Chief of Police that the allegation of *Unprofessional Conduct* be sustained against you, Patrol Officer John McCartney #820, that on or about May 24, 2020, you violated Manual of Rules 5.01, 5.08, and 5.09, and General Police Order 2.01.02 when you told the complainant, "I'm looking at a Child. That's what I'm looking at." Your statements to the complainant failed to de-escalate the complainant's actions. (*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 2.01.02: De-escalation (effective: 1/1/18)

PURPOSE: To establish guidelines for officers of the Cleveland Division of Police relative to deescalating situations in order to gain voluntary compliance and to reduce the need to use force.

POLICY: Officers have the ability to impact the direction and outcome of the situation with their decision making and employed tactics. Policing, at times, requires that an officer may need to exercise control of a violent or resisting subject, or a subject experiencing a mental or behavioral crisis. At other times, policing may require an officer to serve as a mediator between parties, or defuse a tense situation. Officers shall use de-escalation tactics and strategies when safe under the totality of the circumstances and as time and circumstances permit.

PROCEDURES:

I. De-escalation Tactics and Techniques

- A. De-escalation tactics and techniques are proactive actions and approaches used by officers, when feasible, to gain the voluntary compliance of subject(s) and reduce or eliminate the need to use force.
- B. Officers shall avoid taking unnecessary actions that may escalate the need to use force, (e.g. aggressive body language, proximity, harsh level of voice and tone, officer's own stress level or excitement).
- G. De-escalation Techniques include:
 - 1. Proactive use of distance, cover, concealment, and time.
 - d. Avoiding physical confrontation, unless immediately necessary (for example, to protect someone or to stop behavior that creates an imminent threat);
 - f. Allowing time and/or opportunity for a subject(s) to regain self-control or cease struggling or resisting, when their actions do not immediately threaten the safety of officers or others;
 - 2. Hearing and Listening - Demonstrate officers are listening by interacting in conversation; people have a desire to be heard and understood.
 - 3. Strategic communication or voice commands to de-escalate the situation
 - d. As a last resort, inform the subject that not following orders may result in the need to use force. When possible and appropriate, give subjects the opportunity to comply with directives.

4. Increase officer presence, if necessary, to increase strategic options available for bringing a subject under control and/or reduce the severity of the threat.

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

V. BEHAVIOR

- 5.01 Personnel shall not engage in any conduct, speech or acts while on duty or off duty that would reasonably tend to diminish the esteem of the Division of Police or its personnel in the eyes of the public.
- 5.08 Personnel shall conduct themselves in such a manner as to command the respect of the public.
- 5.09 Personnel shall be courteous and respectful in their speech, conduct, and contact with others.

HEARING INFORMATION

The pre-disciplinary hearing is scheduled for **Monday, May 23, 2022, at 1000 hours**, in the **Academy Unit**. 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.**

Patrol Officer John McCartney #820

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In accordance with General Police Order 1.1.12: Sworn Officers Uniform 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:la

cc: Sammy Morris, Acting Deputy Chief, Field Operations
Brian Carney, Commander, Bureau of Compliance
Brandon Kutz, Commander, Fourth District
Robert Simon, Captain, Internal Affairs Unit
Melissa Dawson, Sergeant, Employee Assistance Unit
Jeffrey Follmer, President, Cleveland Police Patrolmen's Association
Michael Hess, Chairman, Civilian Police Review Board
Henry Roney, Interim Administrator, Office of Professional Standards
Art Bowker, Investigator, Office of Professional Standards
LeeAnn Hanlon, Private Secretary, Civilian Police Review Board
Hassan Aden, Federal Monitoring Team