



**City of Cleveland**  
Justin M. Bibb, Mayor

**Department of Public Safety**  
Karrie D. Howard, Director  
601 Lakeside Avenue, Room 230  
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[www.cleveland-oh.gov](http://www.cleveland-oh.gov)

September 30, 2022

**\*AMENDED\***

**Commander Michael Butler #6133**  
**C/o Third District Headquarters**  
**4501 Chester Avenue**  
**Cleveland, Ohio 44103**

**Re: CDP2017-0069**

Commander Butler #6133:

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, your pre-disciplinary hearing, rescheduled at the request of the FOP, 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:** (CPD2017-0069) On or about June 6, 2017, you, Commander Michael Butler #6133, were complicit in assisting Harry Gant in attempting to evade or defeat tax imposed by Title 26 U.S. Code and failed to pay taxes under Ohio Revised Code Section 5747 by making cash payouts totaling \$7,175 to officers knowing they weren't going to receive 1099's. This conduct would constitute a crime under the laws of the United States and the State of Ohio, all in violation of Manual of Rules 2.01 and 5.01. (*Group III Violation*)

**Specification #2:** (CPD2017-0069) In 2017, upon taking the position of Cleveland Division of Police Special Events Coordinator, you, Commander Michael Butler #6133, did fail to give full disclosure in writing of your business and financial relationship with security companies of Willo Security, Gant and Associates and LEMS. Your role of Special Events Coordinator did create the outside appearance of impropriety and/or a conflict of interest, all in violation of General Police Order 1.3.33. (*Group III Violation*)

**Specification #3:** (CPD2017-0069) On or about February 3, 2018, you, Commander Michael Butler #6133, did willfully attempt to evade or defeat tax imposed by Title 26 U.S. Code and failed to pay taxes under the Ohio Revised Code Section 5747 when you failed to claim at least \$7,500 in earnings from Harry Gant (Gant and Associates) on your 2017 tax statement, all in violation of Manual of Rules 2.01

and 5.01. (*Group III Violation*)

**Specification #4:** (CPD2017-0069) On or about February 5, 2017, you, Commander Michael Butler #6133, did willfully attempt to evade or defeat tax imposed by Title 26 U.S. Code and failed to pay taxes under the Ohio Revised Code Section 5747 when you claimed \$15,431 in income from Willo Security on your 2016 tax statement when in fact you received \$23,289.05 in compensation after taxes. This conduct would constitute a crime under the laws of the United States and the State of Ohio, all in violation of Manual of Rules 2.01 and 5.01. (*Group III Violation*)

**Specification #5:** (CPD2017-0069) On or about February 5, 2017 through on or about February 5, 2018 and through your money transactions with Harry Gant, Willo Security and LEMS, you, Commander Michael Butler #6133, did engage in dishonest, untruthful and fraudulent behavior when you failed to disclose your full earnings from these business entities to the federal government, all in violation of General Police Order 1.07.06. (*Group III Violation*)

**Specification #6:** (CPD2017-0069) It was determined that, you, Commander Michael Butler #6133, did engage in conduct that would tend to diminish the esteem of the Division of Police or its personnel in the eyes of the public. You did diminish the esteem of the Division based on the outside entities investigating you and your associates, all in violation of Manual of Rules 5.01. (*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**

#### **26 U.S. Code § 7201 - Attempt to Evade or Defeat Tax**

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

#### **26 U.S. Code § 7206 – Fraud and False Statements**

Any person who—

**(1) Declaration under penalties of perjury**

Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

**(2) Aid or assistance**

Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or

**(4) Removal or concealment with intent to defraud**

Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or



**Ohio Revised Code- Section 5747.15- Failure to File or Remit Tax- Filing Frivolous, Dilatory or Fraudulent Claim**

(A) In addition to any other penalty imposed by this chapter or Chapter 5703. of the Revised Code, the following penalties shall apply:

(1) If a taxpayer, a qualifying entity, an electing pass-through entity, or an employer required to file any report or return, including an informational notice, report, or return, under this chapter fails to make and file the report or return within the time prescribed, including any extensions of time granted by the tax commissioner, a penalty may be imposed not exceeding the greater of fifty dollars per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent, of the sum of the taxes required to be shown on the report or return, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which filed.

(2) If a taxpayer fails to pay any amount of tax required to be paid under section 5733.41 or Chapters 5747. or 5748. of the Revised Code, except estimated tax under section 5747.09 or 5747.43 of the Revised Code, by the dates prescribed for payment, a penalty may be imposed not exceeding twice the applicable interest charged under division (G) of section 5747.08 of the Revised Code for the delinquent payment.

(3)(a) If an employer fails to pay any amount of tax imposed by section 5747.02 of the Revised Code and required to be paid under this chapter by the dates prescribed for payment, a penalty may be imposed not exceeding the sum of ten per cent of the delinquent payment plus twice the interest charged under division (F)(5) of section 5747.07 of the Revised Code for the delinquent payment.

(b) If a qualifying entity or an electing pass-through entity fails to pay any amount of tax imposed by section 5733.41, 5747.38, or 5747.41 of the Revised Code and required to be paid under this chapter by the dates prescribed for payment, a penalty may be imposed not exceeding the sum of ten per cent of the delinquent payment plus twice the applicable interest charged under division (G) of section 5747.08 of the Revised Code for the delinquent payment.

(4)(a) If an employer withholds from employees the tax imposed by section 5747.02 of the Revised Code and fails to remit the tax withheld to the state as required by this chapter on or before the dates prescribed for payment, a penalty may be imposed not exceeding fifty per cent of the delinquent payment.

(b) If a qualifying entity withholds any amount of tax imposed under section 5747.41 of the Revised Code from an individual's qualifying amount and fails to remit that amount to the state as required by sections 5747.42 to 5747.453 of the Revised Code on or before the dates prescribed for payment, a penalty may be imposed not exceeding fifty per cent of the delinquent payment.

(5) If a taxpayer, a qualifying entity, an electing pass-through entity, or an employer files what purports to be a return required by this chapter that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of the tax levied by section 5733.41, 5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised Code, a penalty of up to five hundred dollars may be imposed.

(6) If a taxpayer, a qualifying entity, or an electing pass-through entity makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.

(7) If any person makes a false or fraudulent claim for a refund under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. The penalty imposed under division (A)(7) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 5747.13 of the Revised Code as tax, penalty, or interest imposed under section 5733.41, 5747.02, 5747.38, or 5747.41 of the Revised Code, without regard to whether the person making the claim is otherwise subject to the provisions of this chapter or Chapter 5733. of the Revised Code, and without regard to any time limitation for the assessment imposed by division (A) of section 5747.13 of the Revised Code.

(B) For purposes of this section, the taxes required to be shown on the return shall be reduced by the amount of any part of the taxes paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Any penalty imposed under this section shall be in addition to all other penalties imposed under this section. All or part of any penalty imposed under this section may be abated by the commissioner. All or part of any penalty imposed under this section may be abated by the commissioner if the taxpayer, qualifying entity, electing pass-through entity, or employer shows that the failure to comply with the provisions of this chapter is due to reasonable cause and not willful neglect.

#### **Ohio Revised Code 718.35 Fraud**

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with a tax administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the municipal corporation or a tax administrator.

#### **General Police Order 1.3.33: Duty to Avoid the Appearance of Impropriety**

**POLICY:** Trust is largely dependent upon the perceptions formed by persons whose views are from outside the process. Citizens and employees must feel secure in the belief that all dealings internal and external of the Division are free from the appearance of impropriety or a conflict of interest.

It is the policy of the Division of Police to uphold and promote the highest standards of ethics from all of its employees. Members shall never compromise their honesty or integrity, and shall always remain committed to the values of law enforcement and public service. Division members shall avoid the appearance of impropriety in their roles as public servants and shall never use their position for improper gain or influence. Reference the Manual of Rules and Regulations 3.01, 3.02, 3.07 and 3.08.

## PROCEDURES

- I. No member, while engaged in their duties, shall have a direct or indirect interest in the outcome of the execution of those duties, or have any outside interest that materially interferes with the ability of the Division to fulfill its mission in providing the citizens of Cleveland with fair, unbiased and impartial public service. Members shall not engage in any activity or have any interest that is incompatible with their official duties or that would impair their independence, judgment or action in the performance of those duties.
- II. If a member's duty causes them to have a direct or indirect interest in the outcome of an investigation, or a member has occasion to know any person involved in an investigation, which would give rise to an actual or perceived potential conflict of interest and/or which would create the appearance of impropriety, the member shall immediately notify, in writing, their commanding officer that such potential conflict exists. The member shall make full disclosure to the commanding officer of the nature of the interest, conflict or appearance of impropriety.
- III. When a commanding officer becomes aware of a potential conflict or situation which would create the appearance of impropriety, the commanding officer shall take appropriate action to eliminate the conflict of interest or the appearance of impropriety. The commanding officer shall review all pertinent facts and disclosures, and shall determine whether the member should continue with their duties involving a potential conflict or whether those duties should be reassigned to a member for whom no such conflict exists.
- IV. If the commanding officer determines that the member should continue in their questioned duties, the commanding officer shall notify the Chief or designee in writing explaining the justification for allowing the member to continue in those duties involving the potential conflict.

### General Police Order 1.07.06: Disciplinary Guidance (effective November 12, 2019)

#### DEFINITIONS:

**False Statement** - a statement that is deliberately made and meant to deceive, or a statement that is intentionally untrue.

**Untruthfulness** - the act of being intentionally deceitful, the willful perversion of the truth in order to deceive, cheat, or defraud.

**Group III Violation** - is conduct that involves a serious abuse or misuse of authority, unethical behavior, or an act that results in an actual or serious and adverse impact on officer or public safety or to the professionalism of the Division. Any violation of law, rule, policy or training which foreseeably results in death or serious physical harm to another person; or constitutes a willful and wanton disregard of Division values; or involves any act which demonstrates a lack of the integrity, ethics or character related to an officer's fitness to hold the position of police officer; or involves egregious misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law; or involves any conduct which constitutes the failure to adhere to any contractual condition of employment or requirement of certification mandated by law.



- I. *The following are examples of violations in each disciplinary category. The violations listed are not intended to be all-inclusive.*

3. *Group III Violations*

*False report, false statement, untruthfulness; dishonesty*

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

**II. Administrative Compliance**

- 2.01 Personnel shall not violate any law of the United States, the State of Ohio, Charter provision or ordinance of the City of Cleveland, or neglect to perform any duty required by law, nor shall they engage in any conduct that would constitute a crime under the laws of the United States, the State of Ohio, or the Charter provisions or ordinances of the City of Cleveland.

**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.

**HEARING INFORMATION**

The pre-disciplinary hearing is scheduled for **Friday, October 21, 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: 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,

A handwritten signature in black ink, appearing to read "Karrie D. Howard". The signature is fluid and cursive, with the first name "Karrie" being more prominent.

Karrie D. Howard, Chief Director  
Department of Public Safety

KDH:dad:bpc

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  
Christopher Viland, Superintendent, Internal Affairs Unit  
Jarod Schlacht, Lieutenant, Officer-in-Charge, Internal Affairs Unit  
Melissa Dawson, Sergeant, Officer-in-Charge, Employee Assistance Unit  
James O'Malley, President, Fraternal Order of Police, Lodge #8  
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