



City of Cleveland
Frank G. Jackson, Mayor

Department of Public Safety
Michael McGrath, Director
601 Lakeside Avenue, Room 230
Cleveland, Ohio 44114-1015
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www.cleveland-oh.gov

January 13, 2017

Patrol Officer Frank Garmback III #1582

Patrol Officer Garmback III #1582:

Please be advised a conference has been scheduled before the Director of Public Safety and/or his representative, to determine whether you violated the following rules of the Manual of Rules, Department of Public Safety, and the rules of the Civil Service Commission of the City of Cleveland. The Chief of Police believes that if the allegations set forth in this notice are true, that discipline exceeds his ability to impose.

STATEMENT OF POLICY

In part:

The Manual of Rules and Regulations sets forth the conduct and behavior to be followed by officers and employees. Any violation of these rules and regulations 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, regulations, 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 Regulation and a General Police Order, the Rule or Regulation provision shall be adhered to.

SWORN POLICE RANKS

Rule 1.07: Patrol Officer

Patrol Officers shall be held responsible for the good order of their assignment and shall be prepared at all times to inform their superior officers of the conditions of their post, beat, or zone.

They shall be under the immediate supervision of the head of the administrative unit to which assigned. They shall perform such duties and work such hours as designated by their superior officer. They shall cooperate with all other personnel in the performance of police duties.

They shall acquire a thorough knowledge of the criminal laws and the rules of evidence so that they may carry out their duties in an efficient manner.

Specification #1: On November 22, 2014, you (Patrol Officer Frank Garmback III #1582) did not employ proper tactics when he operated the zone car up to what was reported to be an armed suspect thereby violating the Policy of General Police Order 2.1.01.

Specification #2: On November 22, 2014, you (Patrol Officer Frank Garmback III #1582) failed to report your arrival time to the radio dispatcher immediately upon arriving at the location of your radio assignment.

All in violation of the rules, regulations and procedures of the Division of Police, Department of Public Safety.

General Police Order 1.1.01: City of Cleveland Mission Statement and Ethics Policy

PURPOSE: To establish a Mission Statement that provides vision, purpose and direction for the Division of Police and to establish an ethics policy to guide the actions of all its members.

POLICY: Members of the Division of Police shall carry out their mission in accordance with the strictest ethical guidelines. Division members shall conduct themselves in a manner that fosters public confidence in the integrity of Cleveland's government, its processes, and its accomplishments. Members of the Division of Police shall be guided by the values expressed in the City of Cleveland Mission Statement, the City of Cleveland Ethics Policy, and the Division of Police Manual of Rules and Regulations.

City of Cleveland Mission Statement

We are committed to improving the quality of life in the City of Cleveland by strengthening our neighborhoods, delivering superior services, embracing the diversity of our citizens and making Cleveland a desirable, safe city in which to live, work, raise a family, shop, study, play and grow old.

Specification: As enumerated in specification for violation of Rule 1.07.

General Police Order 1.1.02: Values Mission Statement

PURPOSE: To establish a Values Mission Statement for the Division of Police that provides vision, purpose and direction for the members of the Division.

POLICY: Members of the Division of Police shall not only be guided by the City Mission Statement, but by the values that the members of the Division shall live by.

Values Mission Statement of the Cleveland Division of Police

The Mission of the members of the Cleveland Division of Police is to enhance the quality of life, strengthen our neighborhoods and deliver superior services with professionalism, respect, integrity, dedication and excellence by working in partnership with our neighborhoods and community.

Professionalism We take pride in ourselves, our profession and our community. We will be role models for our community by enthusiastically excelling in quality performance.

Respect We will treat all people with dignity, compassion, courtesy and without prejudice. We will protect the constitutional and civil rights of everyone through impartial enforcement of the law.

Integrity We hold ourselves accountable to the highest standards of moral and ethical conduct, we maintain public trust by being honest, competent and consistent with our values and actions.

Dedication We dedicate ourselves to improving the quality of life by developing a partnership with the community and being committed to protecting life and property, thus reducing fear which leads to a safer community for all.

Excellence We hold ourselves to the highest standards of law enforcement. We will continuously improve the quality of service to the community through education, training and development.

We the members of the Cleveland Division of Police take P.R.I.D.E. in the community that we serve.

Specification: As enumerated in specification for violation of Rule 1.07.

General Police Order 2.1.01: Use of Force (effective August 8, 2014)

PURPOSE: To establish guidelines for members of the Cleveland Division of Police relative to the use of force. To provide direction and clarity in those instances when a person's actions require an appropriate use of force response.

POLICY: A respect for human life shall guide members in the use of force. Division members shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the life of the member or others. Excessive force is strictly prohibited.

A member's responsibility is the protection of the public. Standards for the use of force are the same on-duty and off-duty. Members shall not use force that may injure bystanders or hostages, except to preserve life or prevent serious bodily injury. Deadly force is never justified solely to protect property. The use of force is not left to the unregulated discretion of the involved member. Use of force decisions are dictated by the actions of the resistant or combative person, Division policy, proper tactics, and training. Justification for the use of force is limited to the facts actually known or reasonably perceived by the member at the moment that force is used. Deadly force shall not be used to effect an arrest or prevent the escape of a person unless that person presents an imminent threat of death or serious bodily injury to members or others.

Specification: As enumerated in specification for violation of Rule 1.07.

MANUAL OF RULES FOR THE CONDUCT AND DISCIPLINE OF EMPLOYEES OF THE CLEVELAND DIVISION OF POLICE

II. ADMINISTRATIVE COMPLIANCE

Rule 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.

Specification: As enumerated in specification for violation of Rule 1.07.

Rule 2.03: Personnel shall perform all duties required by rules, regulations, general police orders, directives, or orders of the Division of Police.

Specification: As enumerated in specification for violation of Rule 1.07.

Rule 2.04: Personnel shall study all rules, regulations, general police orders and directives pertaining to their duties, and shall be held accountable for any action contrary to these instructions.

Specification: As enumerated in specification for violation of Rule 1.07.

Rule 2.14: The following are additional grounds for disciplining personnel, including removal, in addition to the grounds stated in Civil Service Commission rule 9.10:

- a. Incompetence
- b. Gross neglect of duty
- f. Any other reasonable and just cause

Specification: As enumerated in specification for violation of Rule 1.07.

IV. DUTY

Rule 4.05: Officers shall use only the amount of force reasonably necessary to effect the arrest and detention of subjects as governed by Division of Police policy and directives.

Specification: As enumerated in specification for violation of Rule 1.07.

VII. COMMUNICATION

Rule 7.03: Personnel shall report arrival time to the radio dispatcher immediately upon arriving at the location of a radio assignment.

Specification: As enumerated in specification for violation of Rule 1.07.

CIVIL SERVICE COMMISSION

Rule 9.10 TENURE

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:

1. Neglect of duty.
3. Incompetence or inefficient performance of duties.
5. Conduct unbecoming an employee in the public service.
10. Willful violation of any of the provisions of law governing the Civil Service of the City or of the rules or regulations of the Commission.
18. For other failure of good behavior which is detrimental to the service, or for any other act of misfeasance, malfeasance or nonfeasance in office.

Specification: As enumerated in specification for violation of Rule 1.07.

The pre-disciplinary conference is scheduled for **Monday, January 30, 2017, at 1400 hours** in the office of the Director of Public Safety. Should you desire union representation, it is your responsibility to notify your union of this conference. 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 Office a minimum of 48 hours prior to the scheduled hearing. 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 Office via email (bcarney@city.cleveland.oh.us) or fax (216-623-5584) 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. No overtime shall accrue as a result of their attendance. If the witnesses are Divisional members and scheduled to work during the hearing, prior permission for their attendance **MUST** be obtained from their appropriate Command Officer.

In accordance with General Police Order 1.1.12: Sworn Officers Uniform Regulations, you are to appear in **full uniform of the day and have your badge, city issued identification card with you**. Any witnesses that will appear are to be in full uniform of the day. Failure to attend as ordered may subject you to additional disciplinary charges. **You shall PERSONALLY contact Lieutenant Brian Carney of the Case Preparation Office IMMEDIATELY if there are any conflicts that would cause your lack of attendance to the scheduled conference.**

THIS WILL BE YOUR TOUR OF DUTY

THESE CHARGES MAY BE AMENDED AT A LATER DATE

Patrol Officer Frank Garmback III #1582
January 13, 2017
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Regards,

A handwritten signature in black ink, appearing to read "Michael McGrath". The signature is fluid and cursive, with the first name "Michael" and last name "McGrath" clearly distinguishable.

Michael McGrath, Director
Department of Public Safety

MM:bpc:kfs

cc: Calvin D. Williams, Chief, Cleveland Division of Police
Stephen Loomis, President, Cleveland Police Patrolmen's Association