

**Michael C. O'Malley**  
CUYAHOGA COUNTY PROSECUTOR

May 21, 2019

Chief Calvin Williams  
Cleveland Police Department  
1300 Ontario Street  
Cleveland, Ohio 44113

Re: Officer Joseph DiMuzio, Badge # 8508

Dear Chief Williams,

The Cuyahoga County Prosecutor's Office is required by law to obtain and to disclose to the defense any and all potential impeachment evidence relative to its witnesses. Potential impeachment evidence includes, but is not limited to, any disciplinary actions against officers and any instances involving dishonesty or a lack of candor, or a demonstration of bias. The Cuyahoga County Prosecutor's Office has determined that the following material is potential impeachment evidence that this Office must disclose to opposing counsel concerning Officer Joseph DiMuzio: Letter dated 11/07/2018 regarding pre-disciplinary hearing (Pages 6 of 7), a copy of which is attached.

We respectfully request that you notify Officer DiMuzio of this decision.

Thank you very much.

Respectfully,

Lisa Reitz Williamson  
First Assistant Prosecuting Attorney

Cc: Ronald Bakeman, Superintendent, CPD Internal Affairs

**OFFICE OF THE PROSECUTING ATTORNEY**  
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City of Cleveland  
Frank C. Jackson, Mayor

Department of Public Safety  
Division of Police  
Calvin D. Williams, Chief  
1300 Ontario Street  
Cleveland, Ohio 44115-3544  
216/723-5000 • Fax: 216/622-9981

November 7, 2018

**Lieutenant Joe DiMuzio #8508**



Lieutenant DiMuzio #8508:

This letter is to advise you (Lieutenant Joe DiMuzio #8508) of the result of the administrative pre-disciplinary hearing you attended on September 27, 2018, in the Conference Room of the Chief of Police to determine whether you violated the following General Police Orders, rules 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 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.

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

**General Police Order 1.1.02: Values Mission Statement**

**General Police Order 9.1.03: Duties of Command and Superior Officer**

**Divisional Notice #12-224 Storage of Issued Firearms in Vehicles**

**Divisional Notice #15-81 Disciplinary Guidance**

**Divisional Notice #17-324 Disciplinary Guidance**

**The Manual of Rules for the Conduct and Discipline of Employees of the Cleveland Division of Police: Rules 1.05, 2.02, 2.03, 2.04, 2.06, 2.07, 2.08, 2.10, 2.13, 2.14 (a)(b)(e)(f), 4.03, 4.08, 4.12, 5.01 and 5.09.**

**Civil Service Commission Rule 9.10: (1)(3)(5)(7)(8)(9)(10) and (18)**

**Specification #1:** On August 3, 2017, you (Lieutenant Joseph DiMuzio #8508) entered a BlueTeam entry, Record ID #10241, for verbal counseling of Det. Carla Crowell. On February 4-5<sup>th</sup>, 2018, you made specific recommendations for discipline in violation of GPO 1.07.06, Divisional Notices 15-81 and 17-324. Your Form-1, dated February 4, 2018, states "I respectfully request a written reprimand for Detective Crowell." In the comments/response from DiMuzio to McPike, you stated "Verbal counseling and additional written reprimand requested." In the incident summary, you stated "also request for written reprimand as outlined in investigative summary following a second work product review." Under instructions from DiMuzio to McPike, you stated "At your convenience, please review the verbal counseling issued and the additional discipline of written reprimand."

**Specification #2:** On August 3, 2017, you (Lieutenant Joseph DiMuzio #8508) entered a BlueTeam entry, Record ID #10241, for verbal counseling of Det. Carla Crowell with allegations of Neglect of Duty, a Group III offense, which is not consistent with General Police Order (GPO) 1.1.11 (revised January 1, 2018, GPO 1.07.06). On September 5, 2017, you were directed by Capt. McPike to submit supporting evidence of the allegations. On December 15, 2017, you were directed to have a "supervisor type a Form-1 summarizing the investigation, detailing policy violations and recommend discipline." You failed to re-submit the BlueTeam entry until February 5, 2018, which was still substandard. On April 3, 2018, you were again ordered by Act. Cmdr. Ross to complete an investigative package addressing the specific issues identified. On April 17, 2018, you finally submitted the completed investigation to Act. Cmdr. Ross. As of August 7, 2018, you still have failed to outline any disciplinary charges and/or specifications for Det. Crowell pursuant to GPO 1.1.11. You were in neglect of your duties and insubordinate as the Officer-in-Charge, Lieutenant assigned to the Crime Scene and Records Unit, in violation of Rules 1.05, 2.06, 2.07, 2.13 and 2.14, GPO 9.1.03 and GPO 1.1.11.

**Specification #3:** On November 7, 2017, you (Lieutenant Joseph DiMuzio #8508) entered a BlueTeam entry, Record ID #11343, for verbal counseling of Det. Darren Robinson with allegations of Group III offenses, which is not consistent with General Police Order (GPO) 1.1.11 (revised January 1, 2018, GPO 1.07.06). On November 27, 2017, Chief Williams gave a direct order that "this entry needs to be properly investigated and a packet with a supervisory recommendation for charges forwarded ASAP." On November 28, 2017, D.C. Pretel directed "please cause a formal supervisory investigation to be conducted and forwarded including a recommendation of disciplinary charges." On December 15, 2017, Capt. McPike directed "ensure a proper investigation is done. Have Det. Robinson type a Form-1. Ensure a supervisor types a Form-1 detailing the results of the investigation, policy violations and recommend discipline."

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On January 2, 2018, you failed to obey these orders and stated "All of our investigations are thorough, following the guidance of the disciplinary matrix, Det. Robinson warrants a VC." On April 3, 2018, you were again ordered by Act. Cmdr. Lt. Ross to complete an investigative package addressing the specific issues identified. On April 17, 2018, you finally submitted the completed investigation to Act. Cmdr. Lt. Ross. You were in neglect of your duties and insubordinate as the Officer-in-Charge, Lieutenant assigned to the Crime Scene and Records Unit, in violation of Rule 1.05, 2.06, 2.07, 2.13 and 2.14, GPO 9.1.03, GPO 1.1.11 (GPO 1.07.06) and Divisional Notices 15-81 and 17-324.

**Specification #4:** On October 31, 2017, you (Lieutenant Joseph DiMuzio #8508) entered a BlueTeam entry, Record ID #11242, for verbal counseling of Todd Clemens with allegations of Group III offenses, including falsifying official Crime Scene Entry Log Sheets, which is not consistent with General Police Order (GPO) 1.1.11 (revised January 1, 2018, GPO 1.07.06). On November 27, 2017, Chief Williams gave a direct order that "this investigation needs to have a proper supervisory review and recommendations attached for charges." On November 28, 2017, D.C. Preterl directed "Please submit formal supervisory investigation including disciplinary charge recommendations." On December 15, 2017, Capt. McPike directed "ensure a proper investigation is done. Have Det. Clemens type a Form-1. This Form-1 from the supervisor must detail the policy violations and recommend the type of discipline." On January 2, 2018, you failed to obey these orders and stated "We completed a thorough investigation, Det. Clemens has no prior discipline while under my command, his actions warrant a verbal counseling as per the necessary steps outlined in the DN. I would like clarification if possible. I followed the matrix as defined in the DN." On April 3, 2018, you were again ordered by Act. Cmdr. Lt. Ross to complete an investigative package addressing the specific issues identified. On April 17, 2018, you finally submitted the completed investigation to Act. Cmdr. Lt. Ross. You were in neglect of your duties and insubordinate as the Officer-in-Charge, Lieutenant assigned to the Crime Scene and Records Unit, in violation of Rule 1.05, 2.06, 2.07, 2.13 and 2.14, GPO 9.1.03, GPO 1.1.11 (GPO 1.07.06) and Divisional Notices 15-81 and 17-324.

**Specification #5:** On May 10, 2018, you (Lieutenant Joseph DiMuzio #8508) did knowingly and intentionally leave your city-issued firearm in the passenger compartment of your city owned commuter vehicle, in violation of DN 12-224 and Rule 6.05.

**Specification #6:** On May 11, 2018, you (Lieutenant Joseph DiMuzio #8508) did knowingly and intentionally make a false statement to your immediate superior officer Act. Cmdr. Lt. Ross, when you stated that the firearm in your vehicle was a facsimile firearm, in violation of Rule 3.12.

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**Specification #7:** On May 11, 2018, you (Lieutenant Joseph DiMuzio #8508) did knowingly and intentionally make a false Form-1 report to your immediate superior officer Act. Cmdr. Lt. Ross, when you stated that the firearm in your vehicle was a facsimile firearm, in violation of Rule 3.12.

**Specification #8:** On May 23, 2018, you (Lieutenant Joseph DiMuzio #8508) did knowingly and intentionally act in a deceptive and dishonest manner when you presented a facsimile firearm represented in your Form-1. You presented an actual firearm and stated this firearm was the firearm identified in the vehicle, knowing that the actual firearm in the passenger compartment of your vehicle was a completely different firearm, in violation of Rule 3.12.

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

In attendance at the administrative pre-disciplinary conference were you, President Brian Berley, Vice President Jarrold Zarlenga and Attorney Robert Phillips of the Fraternal Order of Police, Lieutenant Daniel Ross Acting Commander of the Bureau of Special Investigations, Captain James McPike of the Fifth District, Ayesha Bell Hardaway of the Federal Monitoring Team, Lieutenant Brian Carney of the Case Preparation Office and Deputy Chief of Field Operations Donat Drummond, who presided over the conference.

During the conference, you acknowledged receipt of the charging letter; you and your representatives waived the reading of your charge letter and were then afforded the opportunity to be heard. You entered a plea of "Not Guilty" to the allegations set forth in the charging letter.

Upon carefully reviewing the evidence presented by the Division, the memorialized record, as well as the arguments of you and your representatives the Hearing Officer recommended the following:

- that you be found "Guilty" of the amended charge of unsatisfactory performance regarding Specifications 1-4; and
- that the verbal counseling be reinstated and sustained for an unsecured firearm regarding Specifications 5-8.

I have accepted the recommendation of the Hearing Officer and I find there is just cause to impose discipline. I base my determination regarding Specifications 1-4 upon the following facts in the record:

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- Your choice of documented language in the verbal counseling to the Detectives that you supervised indicated that they had committed criminal violations. This language prompted your superiors to question the leniency of the verbal counseling that you administered. This language also prompted your superiors to direct you to conduct a thorough investigation of this apparently serious misconduct so that disciplinary proceedings could be conducted.
- You admitted - both in your written explanation and in your pre-discipline hearing testimony - that the description you provided was an exaggeration of the Detectives' conduct. You claim that you were only trying to encourage the Detectives to improve their performance. This inaccuracy is disturbing. Providing an accurate description of employee performance and conduct is the foundation of holding employees accountable.

Your explanation for exaggerating the wording of the verbal counseling lacks credibility. You claim that it was a question of a poor choice of "adjectives" and that you were unfamiliar with the BlueTeam system. You are a highly experienced police officer, including promotions to Sergeant and Lieutenant of Police and conducting complex Federal undercover operations. Despite this impressive record of accomplishments, which relied greatly upon possessing excellent communication skills that required providing accurate information, you claim that you were unable to perform basic reporting responsibilities.

- Your decision to take it upon yourself to impose disciplinary action is not within your authority. All members of the Division of Police are responsible for knowing the contents of the GPO's and DN's, which directs that recommendations for disciplinary action should not specify or recommend particular disciplinary sanctions.
- Your documented responses in BlueTeam for the Detective's policy violations stating that it only warrants verbal counseling is defiant behavior by you and unbecoming a Lieutenant within the Cleveland Division of Police.
- The length of time that it took for you to complete the investigations for the Detectives is unacceptable.

It is unacceptable by former Commander McPike to allow this improper behavior and substandard investigations completed by you to be submitted to the Chief's Office. This unacceptable behavior constituted a mitigating factor in assessing appropriate discipline.

As such, I find you "Guilty" of the amended administrative charge of unsatisfactory performance for Specifications 1-4, and I am issuing you a "Written Reprimand" (Group I offense, first offense, mitigating factor: no previous discipline).

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In addition, I will take at face value your claim that you lacked experience and training in utilizing BlueTeam. Consequently, you will be required to attend training for supervisory investigations and BlueTeam training in the near future. Your commanding officer shall ensure this training is completed and notify the Case Preparation Office upon completion.

I base my determination regarding Specifications 5-8 upon the following facts in the record:

- The video clearly showed that a gun was in the passenger compartment of your city owned commuter vehicle.
- The gun in your car was the same model as a standard police-issued firearm.

These facts justified the issuance of a verbal counseling for leaving your firearm in your vehicle. This verbal counseling was withdrawn when Specifications 5-8 were recommended. It is now reinstated.

In addition, I believe that you were being deceptive during the investigation of the firearm for the following reasons:

- You did not have your firearm while on duty when the firearm was discovered in the vehicle.
- When you were first questioned about this discovery, you failed to indicate that it was not your duty firearm in the vehicle at the time of the incident. You also never indicated that the object in your vehicle was a facsimile.
- When you produced what you claimed was the firearm in your vehicle, it was obvious that the firearm was real and not a facsimile. You admitted during the pre-discipline hearing that the firearm you produced was real.
- Your explanation for this discrepancy between what you stated was in your vehicle and what you produced as the purported object is that you used "poor adjectives." This explanation lacks credibility.

However, the investigation of the unsecured firearm left in the City vehicle that was completed by Acting Commander Ross produced insufficient evidence to establish conclusively such dishonesty. There was no documented photographic evidence of the firearm you produced or an identification of that firearm. For these reasons, I am dismissing Specifications 5-8 due to insufficient evidence.

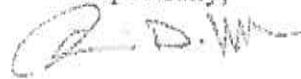
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It is the Division's earnest desire that that this letter will serve as a deterrent against future acts of this nature. Any prospective acts of same or similar conduct may lead to progressive discipline. Pursuant to the terms and conditions of the collective bargaining agreement between the City of Cleveland and the Fraternal Order of Police Lodge #8, a record of the disciplinary actions or penalties will not be considered after three (3) years from the date of the action.

Respectfully,



Calvin D. Williams  
Chief of Police

CDW:bpc

cc:

Joellen O'Neill, Deputy Chief, Executive Officer  
Donal Drummond, Deputy Chief, Field Operations  
Deon McCaulley, Deputy Chief, Administrative Operations  
Harold Pretel, Deputy Chief, Homeland Special Operations  
Deirdre Jones, Commander, Bureau of Support Services  
Sammy Morris, Commander, Fifth District  
Nyeole West, Director, Department of Human Resources  
Kandice Ezell, Administrative Manager, Department of Public Safety  
Barry Withers, Acting Secretary, Civil Service Commission  
Carla Ellis, Lieutenant, Officer-in-Charge, Personnel Unit  
William Mokshefsky, Sergeant, Officer-in-Charge, Personnel Unit  
Melissa Dawson, Sergeant, Officer-in-Charge, Employee Assistance Unit  
Ronald Bakeman, Superintendent, Internal Affairs Unit  
Brian Betley, President, Fraternal Order of Police, Lodge #8  
Matthew Barge, Federal Monitoring Team, PARC  
Richard Rosenthal, Federal Monitoring Team, PARC  
Hassan Aden, Federal Monitoring Team, PARC  
Gregory White, Consent Decree Coordinator  
Sean M. Smoot, Director & Chief Legal Counsel, PB & PA of Illinois  
Christine M. Cole, Vice President & Executive Director, Crime & Justice Institute  
Nicole Porter, Attorney, U. S. Department of Justice, Civil Right Division  
Michael Evanovich, Contractor, U. S. Department of Justice, Civil Right Investigator  
Ayesha Bell Hardaway, Assistant Professor of Law, Case Western Reserve University