



SHAKER HEIGHTS

October 15, 2020

Michael Spuzzillo, Corporal
Shaker Heights Police Department
3355 Lee Road
Shaker Heights, OH 44120

Dear Officer Spuzzillo:

On Wednesday, October 14, 2020, I met with you to conduct a Pre-disciplinary Hearing relative to an incident on September 29, 2020, where it is alleged that you made an obscene gesture towards a group of peaceful protestors. Richard Mastnardo, Commander; John Cole, Commander; Daniel Grispino, Lieutenant; C. Randolph Keller, Chief Prosecutor/Assistant Law Director; Dominic Saturday, OPBA Attorney, and I were present at the Hearing.

The purpose of this Hearing was to provide you with your constitutional rights and rights under the applicable collective bargaining agreement to notice and a fair hearing in response to Commander Cole's investigation of the events, which included alleged violations of Departmental Rules and Regulations and/or General Orders.

The alleged violations, contained in the investigative report of Commander Cole, are enumerated in each of the categories that are discussed in this letter. At the outset, this letter will confirm that based on our discussions during the Pre-disciplinary Hearing the following allegation of violation has been removed from my consideration.

On Wednesday, September 30, 2020, you, Corporal Michael Spuzzillo #49, were aware that your actions on Tuesday, September 29, 2020, had violated the rules of the Shaker Heights Police Department and you, as an 18 year veteran who had been disciplined, were aware that the Shaker Heights Police Department would be in need of your statement. You, Corporal Michael Spuzzillo #49, purposely consumed alcohol as to make yourself unavailable to submit a statement. (Manual of Rules §I (D) (1) "Compliance with Rules" 12) (f) Neglect of Duty," §I (E) General Duties (3); General Order 0102 – Code of Ethics)

A summary of the rules and regulations alleged to have been violated are as follows:

- **General Order 2601, Departmental Rules and Regulations, section (I), General Conduct, § (C), Professional Behavior, § (1), Unbecoming Conduct;**
- **General Order 2601, Departmental Rules and Regulations, section (I), General Conduct, § (C), Professional Behavior, § (5), Deportment;**
- **General Order 2601, Departmental Rules and Regulations, section (I), General Conduct, § (D), Official Obligations, § (1), Compliance with Rules, § (2), Satisfactory**



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Performance, § (3c), Instructions from Authoritative Source, § (7b), Public Statements and Appearance, (§) 9, Identification, (§) 11, Courtesy, § (12f), Neglect of Duty;

- **General Order 2601, Departmental Rules and Regulations, section (I), General Conduct, § (E), General Duties, § (3), Department Directives.**

In addition, you did not meet the standards set forth in the following General Orders of the Shaker Heights Police Department:

- **General Order 0102 Code of Ethics;**
- **General Order 0112 Bias Free Policing Policy Section;**
- **General Order 0103 Limits of Authority § I, (c), (iv);**
- **General Order 2210 Extra Duty Detail and/or Outside Employment §II, (A), (B), & §III, (A), & (E);**
- **General Order 3301 §VIII, (D) (1) (i), (a) & (ii) (a-d);**
- **General Order 0401 Response To Threats §I (B), and**
- **General Order 8303 DMVARS §I (A) (1) & 3, §II.**

I have read the alleged violations and your accompanying actions as documented in Commander Cole's investigation. Furthermore, I have considered your explanation for your actions, which you provided during your Pre-disciplinary Hearing. I have determined that you are in violation of the aforementioned Departmental Rules and Regulations and General Orders that are the subject of this letter.

1. YOUR INABILITY TO CONTROL YOUR IMPULSIVITY.

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49 were on-duty and in full police uniform which included a Department body camera and other readily identifiable police equipment. You, Corporal Michael Spuzzillo #49 were assigned to an approved, extra duty detail assignment, e.g., Regional Mobile Field Force Team, and operating an unmarked police vehicle outside of a public, National, high profile Presidential debate in the City of Cleveland. You, Corporal Michael Spuzzillo #49 were in company with another uniformed, law enforcement officer in a caravan/convoy of marked and unmarked police vehicles. You, Corporal Michael Spuzzillo #49 made a public statement, e.g., obscene gesture, not authorized by the Shaker Heights Police Department. (Manual of Rules §I (C) (1) "Professional Behavior, Unbecoming Conduct" (5) (a) "Department" § (D) 1) "Compliance with Rules" (11) "Courtesy" § (E) (3) "General Duties"; General Order 5401 Media Relations)

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49 disobeyed the direct orders of your Mobile Field Force Supervision team by not being able to control yourself, e.g. "momentary loss of control," in a non-confrontational situation and were removed from duty. (Manual of Rules §I (D) (1) "Official Obligations, Compliance with Rules" (2) Satisfactory Performance; (3) (C) "Instructions From an Authoritative Source" (12) (f) "Neglect of Duty," §(E)(3))

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49, directed an obscene gesture at an attendee outside of the Presidential Debate and failed to activate your Department issued body camera. (Manual of Rules §I (C) (1) “Professional Behavior, Unbecoming Conduct” (5) (a) “Department” § (D) 1) “Compliance with Rules” (11) “Courtesy” §I (E) General Duties (3); General Order 0102 – Code of Ethics, General Order 0112 – Bias Free Policing and General Order 8303 - DMVARS)

The ability to control his or her impulsivity is an essential job requirement of a police officer. By your own admission, you admitted that you “momentarily lost it.” This acknowledgment, along with your admission that you were angry, upset and hastily reacted during your statement to Commander Cole regarding this incident, are demonstrative of an undeniable inability to control your impulsivity.

Additionally, your last two employment evaluations from your direct supervision further document your overall frustration with the Department, as evidenced by, among others, your engaging in impulsive comments concerning the Department which are detrimental to both your position and the Department. Your uncontroverted inability to control your impulsivity, an essential job requirement for your position, is one of the most significant factors of my decision making.

2. YOUR ACTIONS UNDOUBTEDLY RISKED THE SAFETY AND WELL BEING OF YOUR TEAMMATES AND THE CITIZENS IN ATTENDANCE AT THE PROTEST.

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49 were aware or, with heedless indifference, failed to notify/identify to the other uniformed officer accompanying you that you had engaged in an action, e.g., obscene gesture, that was not welcomed; and, from your own experience, has been known to agitate others; thereby subjecting the other officer to possible harm. (Manual of Rules §I (C) (5) (b) “Professional Behavior, Unbecoming Conduct, Department” (11) “Courtesy” (12)(f) “Neglect of Duty”; General Order 0401 – Response to Threats)

In some ways, this second issue is directly related to the first.

Your lack of impulse control placed the safety of your Mobile Field Force Team and the citizens in attendance at the peaceful protest at substantial risk. As an approximately 24 year veteran police officer, you should have an intimate understanding of the importance of de-escalation of situations where there is a substantial risk to the safety of citizens and officers.

Your actions are exponentially more troubling given the fact that a considerable amount of your National and local Mobile Field Force training you received focused on the essential and critical tactic of de-escalation, in situations exactly like the one that you were in on September 29, 2020.

Instead of mindfulness of the critical importance of de-escalation in a situation for which you have received more training than a vast majority of law enforcement personnel as a Mobile Field Force member, you admitted that you succumbed to your lack of self-control and made a gesture so provocative that it could have caused a riot. Such an outcome may well have proven catastrophic.

3. THE CONSIDERABLE NUMBER OF GENERAL ORDER AND POLICY VIOLATIONS FOR WHICH YOU HAVE RECEIVED EXTENSIVE TRAINING.

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49, purposely directed an obscene gesture at a citizen(s) who were attending and/or had attended a Black Lives Matter event and/or otherwise exercising their constitutional rights. The obscene gesture was captured on video and became the subject of local, regional and National news stories. (Manual of Rules §I (C) (1) "Professional Behavior, Unbecoming Conduct" (5) (a) "Department" § (D) 1) "Compliance with Rules" (11) "Courtesy" §I (E) General Duties (3); General Order 0103 – Limits of Authority and General Order 0112 – Bias Free Policing)

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49, were aware and/or made aware by the actions of your teammates that the subject matter of the video/news story that your obscene gesture was the focus of would bring discredit to the Mobile Field Force Team and Shaker Heights Police Department. (Manual of Rules §I © (1) "Professional Behavior, Unbecoming Conduct")

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49 were made aware and/or otherwise became aware of a local, regional and/or National news story of the obscene gesture captured on video that you knew you had given, and you failed to directly identify yourself/notify your Mobile Field Force Supervision Team and/or another sworn member of the Team whom you were watching the video with, of your actions. (Manual of Rules §I (C) (1) (5) (b) "Professional Behavior, Unbecoming Conduct, Department" (9) "Identification" (12)(f) "Neglect of Duty")

On Tuesday, September 29, 2020, the Mobile Field Force Supervision Team inquired as to whether you, Corporal Michael Spuzzillo #49 and/or any other member of your team had displayed the obscene gesture and you, Corporal Michael Spuzzillo #49 failed to identify yourself to your Supervisors prior to being singled out. (Manual of Rules §I (C)(1) "Professional Behavior, Unbecoming Conduct" (5) (b) "Professional Behavior, Department;"(D) (1) "Compliance with Rules," (9) Identification (12) "Neglect of Duty")

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49, engaged in actions, e.g., obscene gesture at an otherwise peaceful event, in direct conflict with the Mission, e.g. protect the attendees, of Mobile Field Force Supervision Team and were immediately removed from the Mobile Field Force Team. (Manual of Rules §I (D) (1) "Compliance with Rules" (2) Satisfactory Performance; (3) (C) Instructions from an Authoritative Source (12) "Neglect of Duty" §I (E) General Duties (3); General Order 0102 – Code of Ethics and General Order 3301 - Training)

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49, were removed from the Mobile Field Force Team by Police Supervisors assigned to the Presidential Detail and you failed to notify your immediate supervisor or, the Shaker Heights police department Command Staff. (Manual of Rules §I (D) (1) "Official Obligations, (12) (f) Neglect of Duty)

On Tuesday, September 29, 2020, you, Corporal Michael Spuzzillo #49, were removed from the Mobile Field Force Team by Police Supervisors assigned to the Presidential Detail prior to the event's conclusion and you submitted paperwork requesting full payment; and, including, premium pay. (Manual of Rules §I (D) (1) "Compliance with Rules" 12) (f) Neglect of Duty," § (E)(3) "General Duties"; General Order 2202 - Overtime)

The sheer number of general order and policy violations that have resulted from your actions, including those involving integrity and ethics, in the backdrop of the years of training and in some instances specialized training that you have received to promote avoidance of those violations is deeply concerning.

This Department's training curriculum, both mandatory and elective, has placed substantial emphasis for your entire tenure with our Department on mindfulness, de-escalation, appropriate safety tactics, comportment in furtherance of the Mission, and bias free policing in a variety of training scenarios.

It is my conclusion that this many violations, in the backdrop of all of the training that you have received over the years, vitiates any suggestion that your lack of serious or active discipline mitigates my decision.

4. A DISREGARD FOR THE MISSION OF THE POLICE DEPARTMENT, THE CULTURE OF THE CITY YOU WORK IN, AND THE OVERALL NATIONAL CLIMATE HAVE BROUGHT AN UNMISTAKABLE AND IMMEASUREABLE EMBARRASSMENT TO THE DEPARTMENT AND THE CITY.

Your lack of self-restraint which allowed your impulsive behavior has embarrassed the Department and the City on local, state and National levels, and could result in negative consequences with the Department's interactions with its citizens. Your actions reveal you lack the necessary awareness and sensitivity concerning law enforcement reform and those who have been affected by police brutality.

As a Shaker Heights police officer for over 18 years, you should be keenly aware of the culture of the community you serve and that many citizens are allies to the Black Lives Matter movement. Your actions prove that, at the very least, you are indifferent to those concerns. Through numerous phone calls, emails and social media responses, I can attest that your actions were deeply offensive to many of our citizens. Furthermore, your actions towards Black Lives Matter protestors erroneously suggests to others that our Department is unsympathetic to their cause.

Your reasoning for your actions is less important than what they represent to the Shaker Heights community. How can a citizen believe that you will carry out your oath of office in a fair and impartial manner while protecting others constitutional guarantees when you blatantly disregard those who are protesting against police brutality?

In conclusion, there are critical underlying reasons for my disciplinary decision. Your inability to exercise self-control and succumb to your impulsivity on this and previous occasions causes me to reach the conclusion that you are unable to perform the essential job requirement of self-restraint paramount to being a police officer.

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This impulsivity potentially placed the safety of your teammates and the citizenry at substantial risk, despite your receipt of some of the most comprehensive and best training as a Mobile Field Force team member.

Third, the sheer number of general order and policy violations, for which you have received extensive training over the years mitigates my consideration of any lack of serious or active discipline.

The times that we find ourselves in, now more than ever, require us to consider the desires of the community as to how we police and our commitment to bias free policing and meaningful reform. Your actions have severely damaged the perception of our Department and the City in these vitally important areas of 21st century policing.

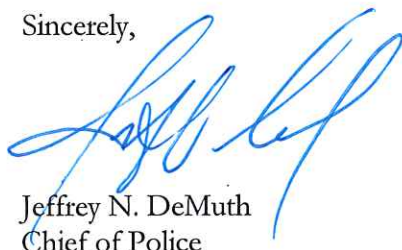
Therefore due to the findings of the aforementioned violations and the documentation of the severity of your actions, the following sanction will be applied:

- Your employment as a police officer with the City of Shaker Heights is TERMINATED.

As you are aware, this situation has understandably received intense scrutiny from the residents of Shaker Heights, as well as local and national news outlets. As a result, the City and its leadership must continue to respect and adhere to their obligations to keep its residents and those news entities appropriately informed.

You are reminded to review the Labor Agreement regarding your right to a grievance procedure, and to contact Commander Richard Mastanardo regarding the surrender of any and all relevant equipment still in your possession.

Sincerely,



Jeffrey N. DeMuth
Chief of Police

JND:sko

ec: David E. Weiss, Mayor
Jeri E. Chaikin, Chief Administrative Officer
William M. Ondrey Gruber, Director of Law
C. Randolph Keller, Chief Prosecutor
Sandra Middleton, Human Resources Manager
Richard J. Mastnardo, Jr., Commander
Daniel D. Grispino, Lieutenant
Thomas D. Clementi, Sergeant
Dominic Saturday, Esq., OPBA