



MEMORANDUM

The City of
OKLAHOMA CITY
Police Department

TO: Daniel Holtzclaw, Officer
Operations Bureau / Springlake

FROM: Johnny Kuhlman, Deputy Chief *J.K.*
Investigations Bureau

DATE: October 24, 2014

SUBJECT: Predetermination Hearing Notification

An investigation has been conducted by the Oklahoma City Police Department arising from your actions, which took place between December 20, 2013 and June 18, 2014. The investigation contains numerous allegations which if sustained, support a finding that you violated Departmental policies, procedures, and/or rules. The allegations of misconduct are:

Allegation 1:

On December 20, 2013, you contacted Ms. Shardayreon Hill in the area of NE 27th Street and N. Lindsay. Ms. Hill was transported to SW Medical Center for examination. You again contacted Ms. Hill at SW Medical Center where you touched her breast.

Allegation 2:

On December 20, 2013, you contacted Ms. Shardayreon Hill in the area of NE 27th Street and N. Lindsay. You contacted Ms. Hill at SW Medical Center where you placed her hand on the exterior part of your pants on your crotch area.

Allegation 3:

On December 20, 2013, you contacted Ms. Shardayreon Hill in the area of NE 27th Street and N. Lindsay. You contacted Ms. Hill at SW Medical Center where you placed your penis in her mouth.

Allegation 4:

On December 20, 2013, you contacted Ms. Shardayreon Hill in the area of NE 27th Street and N. Lindsay. You contacted Ms. Hill at SW Medical Center where you inserted your finger into her vagina.

DEFENDANT CITY'S
EXHIBIT

54

CIV-16-184-HE

exhibitster.com

Allegation 5:

On January 9, 2014, you contacted Ms. Shardayreon Hill in the area of 809 NE 81st Street, where you exposed your penis to her while you were off-duty and not in uniform.

Allegation 6:

On March 14, 2014, you contacted Ms. Carla Raines in the area of NE 16th and N. Fonshill Avenue where you directed her to expose her breast to you.

Allegation 7:

On February 27, 2014, you contacted Ms. Tabitha Barnes outside her home located at [REDACTED], where you directed her to expose her breast to you.

Allegation 8:

On March 25, 2014, you contacted Ms. Tabitha Barnes outside her home located at [REDACTED], where you touched her breast.

Allegation 9:

On March 25, 2014, you contacted Ms. Tabitha Barnes outside her home located at [REDACTED], where you directed her to expose her genitalia area to you.

Allegation 10:

On March 25, 2014, you illegally entered the home of Ms. Tabitha Barnes located at [REDACTED]

Allegation 11:

On March 26, 2014, you contacted Ms. Tabitha Barnes for a third time at her residence, located at [REDACTED], where you stalked her by intimidating her when you threatened her about having unpaid tickets and that you'd be back.

Allegation 12:

On April 14, 2014, you made a voluntary contact with Ms. Florene Mathis in the area of NE 15th and N. Jordan. During the time you were with Ms. Mathis, you touched her breast on the outside of her clothing.

Allegation 13:

On April 24, 2014, you contacted Ms. Rosetta Grate in the area of 14th and N. Jordan. You transported her to her residence, located at [REDACTED] where you forced her to perform oral sex on you.

Allegation 14:

On April 24, 2014, you contacted Ms. Rosetta Grate in the area of 14th and N. Jordan. You transported her to her residence, located at [REDACTED] where you vaginally raped her with your penis.

Allegation 15:

On May 7, 2014, you made a voluntary contact with Ms. Sherry Ellis in the area of NE 16th Terrace and Highland. During the time you were with Ms. Ellis, you touched her breast on the outside of her clothing.

Allegation 16:

On May 7, 2014, you made a voluntary contact with Ms. Sherry Ellis in the area of NE 16th Terrace and Highland. During the time you were with Ms. Ellis, you forced her to perform oral sex on you.

Allegation 17:

On May 7, 2014, you made a voluntary contact with Ms. Sherry Ellis. During the time you were with Ms. Ellis, you transported her to the area of NE 18TH and N. Miramar where you vaginally raped her with your penis.

Allegation 18:

On May 8, 2014, after contacting Ms. Terri Morris, you transported to the area of the 700 block of NE 24th where you forced her to perform oral sex on you.

Allegation 19:

On May 8, 2014, you contacted Ms. Terri Morris and transported her to the area of the 700 block of NE 24th where you directed her to expose her breast.

Allegation 20:

On May 8, 2014, you contacted Ms. Terri Morris and transported her to the area of the 700 block of NE 24th where you directed her to unzip her pants to expose her genitalia area to you.

Allegation 21:

On May 8, 2014, you contacted Ms. Terri Morris and transported her to the area of the 700 block of NE 24th where you moved the zipper of her pants with your hand to expose her genitalia area to you.

Allegation 22:

On May 26, 2014, you contacted Ms. Carla Johnson in the area of NE 14th and Kelham where you grabbed her breast outside her clothing.

Allegation 23:

On May 26, 2014, you contacted Ms. Carla Johnson in the area of NE 14th and Kelham where you touched her vagina.

Allegation 24:

On June 18, 2014, you contacted Ms. Kala Lyles. You transported her to the area of NE 18th and N. Miramar where you directed her to expose her breast to you.

Allegation 25:

On June 18, 2014, you contacted Ms. Kala Lyles. You transported her to the area of NE 18th and N. Miramar where you touched her breast.

Allegation 26:

On June 18, 2014, you contacted Ms. Kala Lyles. You transported her to the area of NE 19th and N. Miramar where you forced her to perform oral sex on you.

Allegation 27:

On June 18, 2014, you contacted Ms. Kala Lyles. You transported her to the area of NE 18th and N. Miramar where you vaginally raped her with your penis.

Allegation 28:

On June 18, 2014, you stopped Ms. Janne Ligons on traffic in the area of NE 50th and Beverly. After placing her in the backseat of your assigned police vehicle, you directed her to expose her breast to you.

Allegation 29:

On June 18, 2014, you stopped Ms. Janne Ligons on traffic in the area of NE 50th and Beverly. After placing her in the backseat of your assigned police vehicle, you forced Ms. Janne Ligons to perform oral sex on you.

The allegations if sustained could constitute violations of all or part of the following:

POLICY

205.10 LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duties are to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my Department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

210.0 LOYALTY

In the performance of his duty to serve society, an officer is often called upon to make difficult decisions. He must exercise discretion in situations where his rights and liabilities and those of the Department hinge upon his conduct and judgment. An officer's decisions are not easily made and occasionally they involve a choice, which may cause him hardship or discomfort. An officer must be faithful to his oath of office, the principles of professional police service, and the objectives of the Department, and in the discharge of his duty he must not allow personal motives to govern his decisions and conduct.

215.0 CONDUCT UNBECOMING A POLICE EMPLOYEE

A police officer is the most conspicuous representative of government, and to the majority of the people he is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized, and when his actions are found to be excessive,

unwarranted, or unjustified, they tend to be criticized far more severely than comparable conduct of persons in other walks of life. Since the conduct of an officer or civilian employee, on or off-duty, may reflect directly upon the Department, each police employee must at all times conduct himself in a manner which does not bring discredit to the employee, the Department, or the City.

250.0 ATTENTION TO DUTY

As most police work is necessarily performed without close supervision, the responsibility for the proper performance of the employee's duty lies primarily with the employee himself. An officer carries with him a responsibility for the safety of the community and his fellow officers. He discharges that responsibility by the faithful and diligent performance of his assigned duty. Anything less violates the trust placed in him by the people and will not be tolerated by the Department.

RULES

100.0 COMPLIANCE WITH POLICIES, PROCEDURES AND RULES

All personnel of the Oklahoma City Police Department shall comply with the policies, procedures, and rules contained within the Operations Manual.

Employees shall adhere to the Oath of Office, the Code of Ethics, all laws of the United States and the State Oklahoma, and the Charter and Ordinances of the City of Oklahoma City.

115.0 NEGLECT OF DUTY

No employee shall fail to give suitable attention to the performance of duty. Examples include but are not limited to: failure to take appropriate action on a crime scene, disorder or other act or condition deserving attention; absence without leave; failure to report to duty at the time and place designated; unnecessary absence from one's assignment during a tour of duty; failure to perform duties or comply with any police procedure, rule or regulation, law, or special order.

345.0 ON / OFF-DUTY CONDUCT

Engaging in conduct on or off-duty which adversely affects the morale or efficiency of the Department, or which has a tendency to destroy public respect for the Department or its employees, or to destroy confidence in the operation of the police service is strictly prohibited.

CITY PERSONNEL POLICIES:

ARTICLE 1200 - SEPARATIONS AND DISCIPLINARY ACTIONS

SECTION 1201 – DISCIPLINARY GUIDELINES

The Personnel Director with the approval of the City Manager may establish disciplinary guidelines by outlining appropriate practices and techniques of employee discipline and suggesting types of actions for disciplinary situations. A Department Director may make department/division rules and regulations, consistent with Personnel Policies, governing the discipline of employees.

SECTION 1203 – CAUSE FOR DISCIPLINARY ACTION OR TERMINATION

Any action which reflects discredit upon the City of Oklahoma City is a direct hindrance to the effective performance of the municipal government function and shall be cause for discipline or termination.

Any discipline, including termination, given to employees covered by a collective bargaining agreement will be for cause. A department recommending termination of an employee must inform the employee of the reason(s) for termination and provide an opportunity to rebut any charges prior to taking final action, except as provided in §1003, herein.

Actions which may result in discipline or termination include, but are not limited to, those listed below:

1203.01 Violation of the Charter, Ordinances, administrative policy, rule, or regulation of the City, department, division, or work section.

1203.02 Failure to satisfactorily perform assigned work.

1203.03 Any conduct which is offensive, violates the common decency or morality of the community, or is unbecoming of a City employee.

1203.04 Insubordination or failure to follow the orders of one's supervisor(s).

1203.20 Negligent or willful damage to, interference with, or waste of material, equipment, property, or work time.

1203.21 Failure to follow any safety policy, rule or regulation, or any conduct that would place the employee, fellow employee, or citizen at unnecessary risk. (Refer to Section 405)

1203.29 Any other activity which is not compatible with good public service.

1203.30 Any behavior, action, or inaction the City Manager determines is not in the best interest of the City.

OPTIONS:

You are entitled to a hearing to review your conduct. There are three options available to you:

First, you may appear before a Department Review Board. The Board will be conducted under the attached procedural guidelines and will be chaired by Deputy Chief Johnny Kuhlman. The Department Review Board will make findings of fact concerning the alleged violations. Following their deliberation, a recommendation will be submitted to the Chief of Police, who shall make the final decision. If you choose this option, you will be notified of the hearing date.

Second, you may appear before Deputy Chief Kuhlman for a hearing. This hearing will be conducted utilizing the same attached procedural guidelines. Following the hearing, Deputy Chief Kuhlman will make the recommendation he deems appropriate to the Chief of Police.

If the allegation(s) is/are sustained, you are advised the appropriate disciplinary action could include a range of discipline up to and including termination of employment from the Oklahoma City Police Department.

Third, if you wish to admit you violated the aforementioned policies, procedures and rules, you may waive options one and two. In this instance you may discuss the matter directly with the Chief of Police. Should you choose this option, you will be notified in writing of the date and time.

You may bring with you an employee representative, regardless of the option you choose.

You must advise my office of your decision in writing, no later than 5:00 PM, November 3, 2014.

For further information you should refer to Procedure 160.10 DEPARTMENT REVIEW BOARD, Revised 9/01).

Attachments

DEPARTMENT REVIEW BOARD PROCEDURAL GUIDELINES

The affected employee will be notified in writing of the date and time the Board is to convene and of the allegations to be heard by the Board. Such notification will be made at least 10 days prior to the convening of the Board, and will be in compliance with existing contracts.


The Board is the employee's opportunity to be heard and to be presented with and to respond to the Police Department's evidence. The Board will be conducted under the following general guidelines, which are listed in Procedure 160.10 DEPARTMENT REVIEW BOARD (Revised 9/01).

- A. The Board is an informal administrative hearing board and the rules of evidence prevailing in judicial proceedings are not binding. Any and all documentary, testimonial or other evidence deemed relevant may be received in evidence.
- B. The Board is an administrative board which the employee has been ordered to attend relating solely to the employee's performance, ability and fitness as an employee of the Department; statements, information or other evidence obtained solely from this proceeding cannot and will not be used against the employee in any subsequent criminal proceeding.
- C. The employee will be allowed to be present during the presentation of the Department's evidence and be allowed to ask questions of the witnesses and/or to respond to any evidence presented.
- D. The employee will be allowed to present witnesses, documentation and other relevant evidence in his/her own behalf.
- E. Board members will be allowed to ask questions of witnesses with regards to any evidence presented.
- F. After the evidence has been presented, the Board will deliberate in executive session and make findings of fact in determining whether the allegations shall be sustained, not sustained, exonerated or unfounded.
- G. The Board will report its findings to the Chief of Police in a confidential report. The Chief of Police shall make the final decision on the allegations and disciplinary action.
- H. The employee may appeal any action taken through either the Oklahoma City Personnel Policy Grievance Procedure, the FOP Collective Bargaining Agreement, or the AFSCME Collective Bargaining Agreement.

RECEIPT OF PRE-DETERMINATION HEARING NOTIFICATION

I acknowledge the receipt of the Pre-Determination Hearing Notification memorandum dated, Oct 27, 2014, along with a copy of the Procedural Guidelines for the Department Review Board.

	<u>10-27-14</u>	<u>11:20</u>
Employee Signature	Date	Time

	<u>10-27-14</u>	<u>11:20 a.</u>
Witness Signature	Date	Time