

City of Cincinnati



Mayor John Cranley

Office of Mayor John Cranley

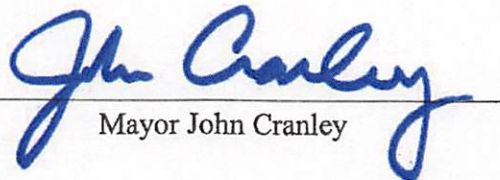
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October 12, 2020

MOTION

I MOVE, in light of the attached report highlighting cases where arbitrators overturned police disciplinary decisions, that the Administration prioritize efforts to reform the arbitration process.

I FURTHER MOVE that the Administration work with the Fraternal Order of Police on arbitration reforms in upcoming contract renegotiations. Proposed provisions should work to preserve due process, while also removing barriers to police accountability. Any reform measures should make it easier, not harder, for the Chief to appropriately discipline officers.


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BACK ON THE JOB: THE CASES

Cincinnati has rehired 18 fired police officers and police dispatchers in the past 10 years. Most returned after arbitrators ruled their firings were unjustified, and a few reached settlements with the city that allowed them to return to work. One officer, Eric Schneider, was fired and rehired twice. The following is based on personnel files, court records, police internal investigations records and the Enquirer archive.

Sgt. Barry Carr

Fired November 1999, reinstated March 2000

■ **Why fired:** Carr was fired for repeated wage garnishments, which are assessed to paychecks when someone owes a debt he is unable to pay. Debt is considered a problem because it could allow outsiders to influence an officer. Carr received 15 garnishments in a three-year period. He was suspended and, when the garnishments continued, fired in 1999. He previously was disciplined for neglect of duty in three separate incidents related to job performance.

■ **Why rehired:** Reinstated by settlement agreement with the city.

■ **Performance since return:** He received at least five wage garnishments since he returned to work and was suspended twice because of them. He has received reprimands for failing to bring in a doctor's excuse, failing to turn in paperwork on time and failing to process a citizen's complaint. He also was warned about missing a grand jury appearance. His most recent evaluation says he is "capable and competent" but struggles with deadlines and administrative duties.

Sgt. Patrick Caton

Fired February 2003, reinstated April 2006



Caton

■ **Why fired:** Caton was charged and acquitted of assault in the death of Roger Owensby Jr. in 2000. Police said Owensby, a father and Army veteran, died after Caton and other officers tackled and restrained him. The officers said they were trying to determine whether Owensby was a drug suspect. Caton was acquitted of assault. The city paid a \$6.5 million settlement to Owensby's relatives. It is the largest such settlement in city history. In 2002, Caton was suspended for using a racial slur while the internal investigation into the Owensby case continued. No one heard the slur directly, but it was caught on his cruiser's recorder and brought to the attention of supervisors.

■ **Why rehired:** Reinstated by an arbitrator, upheld by court order. The arbitrator concluded that Caton failed to give first aid to Owensby and failed to notify a supervisor of the use of force, but that evidence was contradictory and insufficient to prove excessive force. The city appeared in court and lost.

■ **Performance since return:** He has received no discipline since returning to work. His 2007 evaluation says he meets standards and is a good officer. He received one citizen complaint against him, but a review board did not sustain the allegation. He was promoted to sergeant earlier this year after posting a good score on the civil service exam.

Officer Terrance Dobbins

Fired November 2001, reinstated August 2002



Dobbins

■ **Why fired:** Dobbins was fired for dishonesty, insubordination and failure of good behavior related to an incident in which he allegedly punched someone in the face. Police officials say he used unnecessary force, failed to notify a supervisor about the use of force and included false information in a report about the incident. Prior to his firing, he received seven reprimands and a 16-hour suspension for offenses such as insubordination, failing to follow orders, missing court appearances and filing an improper offense report.

■ **Why rehired:** Reinstated by an arbitrator.

■ **Performance since return:** He was arrested in December on charges of conducting an unauthorized strip search of a woman who was in custody. He denies the allegation. His police powers have been suspended pending the outcome of his case in municipal court. He also was reprimanded in 2006 for conducting an improper search. In that case, police officials say, Dobbins placed a woman in the back of his cruiser without justification and ordered her to pull her bra away from her body. His most recent evaluation says he meets standards and is "an intelligent, hard-working officer."

Officer Andre Ewing

Fired April 1999, reinstated August 1999

■ **Why fired:** He was fired after three women accused him of asking them for sex. They claimed he made inappropriate comments and asked them how much they would charge him. He also was accused of sending inappropriate comments to a police dispatcher and giving contradictory statements to police when asked about specific incidents. Ewing denied the allegations. Ewing previously received two reprimands for neglect of duty.

■ **Why rehired:** Reinstated by an arbitrator. An arbitrator decided Ewing violated department policy by calling one of the women a derogatory word, but that the evidence did not support the women's claims or his dismissal.

■ **Performance since return:** His two most recent evaluations found he "meets standards" in most areas and has a positive attitude, but he needs improvement in attendance and work product. He received a reprimand this year for missing three court appearances and another in 2005 for being absent without permission.

Sgt. Robert Hill

Fired July 2000, reinstated January 2001



Hill

■ **Why fired:** Hill was fired for subduing a 65-year-old Alzheimer's patient too aggressively at a Madisonville convenience store. The incident was captured on video, which shows Hill grabbing and forcing Robert Wittenberg to the floor. Wittenberg's doctor

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Sgt. Robert Hill



Hill

Fired July 2000, reinstated January 2001

■ **Why fired:** Hill was fired for subduing a 68-year-old Alzheimer's patient too aggressively at a Madisonville convenience store. The incident was captured on video, which shows Hill grabbing and forcing Robert Wittenberg to the floor. Wittenberg's doctor

said he suffered fractured ribs, a punctured lung and a lacerated liver. Hill referred to the takedown in an electronic message to another officer, saying "Beat three ain't soft." The city settled a lawsuit with Wittenberg's family for \$700,000, the largest excessive force settlement in city history. Hill also was disciplined for making derogatory remarks about Madisonville residents during an interview with investigators about the incident.

■ **Why rehired:** Reinstated by an arbitrator. An arbitrator found Hill acted in a "reasonable manner" because a dispatcher had "embellished" conditions at the scene, leading Hill to believe an intoxicated man was threatening people.

■ **Performance since return:** He has been promoted to sergeant and his evaluations describe him as a good supervisor who "serves as a resource to young officers." He has received no discipline since his return.

Officer Stephen Hoerst

Fired November 2005, reinstated December 2006

■ **Why fired:** Hoerst was fired for insubordination and failure of good behavior after his supervisors said he was absent without permission from his work station at the telephone crime reporting unit. They also said he disregarded an order from his supervisor not to leave the building. Prior to his firing, Hoerst was charged with soliciting in 2003 after he was accused of offering a woman \$100 for sex. Hoerst denied the allegation and the charge later was dropped. Hoerst paid a fine on a misdemeanor disorderly conduct charge and continued to work

as an officer. His personnel file lists a string of procedural violations for missing court dates, failing to process reports on time and failing to care for department equipment. He was suspended three times and reprimanded five times before his firing.

■ **Why rehired:** Reinstated by settlement agreement with city.

■ **Performance since return:** Hoerst received an 80-hour suspension last year for an incident that occurred while he was appealing his firing. He was charged with speeding and operating a car while intoxicated in October 2006, but those charges were dismissed and he pleaded no contest to a misdemeanor charge of willful or wanton disregard of safety on a highway. He was then convicted of that charge. He has received no other discipline since returning to work.

Officer Lisa Johnson

Fired October 1999, reinstated August 2002

■ **Why fired:** Johnson was fired after she was charged with misdemeanor theft for involvement in an alleged coupon scam that netted \$14 from a Kroger store. Her court record and personnel file appear to have been expunged, so no information is available on how the case was resolved.

■ **Why rehired:** Reinstated by settlement agreement with city.

■ **Performance since return:** Recent evaluations say she meets standards and is an active beat officer who can be counted on by her fellow officers. She has received no discipline since returning to work.

Officer Robert Johnson

Fired December 2002, reinstated September 2003



R. Johnson

■ **Why fired:** Johnson and his partner, Robert Kidd, were accused of driving an intoxicated woman home and having sex with her while they were on duty. The woman, Kandy Linticum, claimed she was too drunk to consent and sued the city and the officers. The officers initially denied sexual involvement with her but later admitted they had consensual sex. Johnson had sex with Linticum a second time, two weeks after the first incident. After a civil trial, a jury found the officers committed battery and awarded Linticum \$10,000. No criminal charges were filed. Between 2000 and 2002, Johnson received three reprimands for missed court appearances and procedural violations.

■ **Why rehired:** Reinstated by an arbitrator. The arbitrator found the department did not uniformly apply discipline.

■ **Performance since return:** He has received no discipline since returning to work. His evaluations say he meets or exceeds standards in most areas and describe him as a conscientious officer with "excellent interpersonal skills."

Officer Robert Kidd

Fired December 2002, reinstated September 2003

■ **Why fired:** Kidd and his partner, Robert Johnson,

were accused of driving an intoxicated woman home and having sex with her while they were on duty. The woman, Kandy Linticum, claimed she was too drunk to consent and sued the city and the officers. The officers initially denied sexual involvement with her but later admitted they had consensual sex. After a civil trial, a jury found the officers committed battery and awarded Linticum \$10,000. No criminal charges were filed. Prior to the incident with Linticum, Kidd was warned about mishandling evidence and was reprimanded for failing to secure a prisoner, allowing him to escape.

■ **Why rehired:** Reinstated by an arbitrator. The arbitrator found the department did not uniformly apply discipline.

■ **Performance since return:** He received a reprimand in 2007 for missing three court appearances in a one-year period. His most recent evaluation says he meets standards in most areas but needs to improve his patrol practices and problem-solving skills.

Lt. Christopher Matzen

Fired October 2003, reinstated December 2006

■ **Why fired:** Matzen was fired after supervisors accused him of spraying chemical irritant in a suspect's face without justification and failing to properly fill out forms afterward. He also was accused of being dishonest because he placed another lieutenant's name on a form about the incident. Matzen's lawyers said the form he filled out was merely an explanation of the incident and the other lieutenant's name was added because he was the investigating supervisor. He denied any attempt to deceive

■ **Why rehired:** Reinstated by an arbitrator. The arbitrator found the city did not prove he had been dishonest. The city appealed in court, but a judge upheld the arbitrator's decision.

■ **Performance since return:** He has received no discipline since returning to work. His recent evaluations say he "meets or exceeds standards" in every category. Reviewers describe him as a good example for officers and say he has "tremendous potential."

Officer Joshua Phillips

Fired February 2003, reinstated March 2004

■ **Why fired:** Phillips was accused of lying about his involvement in an off-duty pursuit in 2002. Police officials said he made false statements about hitting another driver's car and failed to ask a supervisor to respond to the scene of the accident. Four witnesses told police they saw the crash and were outraged that Phillips left the scene. The firing came one month after the police chief issued a new zero-tolerance policy on dishonesty. He previously had been reprimanded for missing court appearances and had been warned about making an arrest without probable cause.

■ **Why rehired:** Reinstated by an arbitrator.

■ **Performance since return:** He was reprimanded in 2007 after he released his grip on a prisoner, allowing him to fall to the floor. The prisoner suffered lacerations to his elbow and his forehead in the fall. His most recent evaluation says he meets standards and works well with citizens, but he needs to improve in showing up for court appearances.

Officer Anthony Plummer

Fired August 2006, reinstated September 2007

■ **Why fired:** Plummer was fired for violating procedures during a 2006 "family trouble" incident. Police investigators say Plummer arrested a woman at the scene without good reason and unnecessarily escalated a situation that had been under control. It was the second time in three years he was accused of making an improper arrest. Plummer also used a Taser on the woman even though she did not pose an imminent threat, police officials say. A supervisor reported seeing Plummer laughing and taunting the woman. He previously had received a 32-hour suspension for using excessive force when he hit a man with his nightstick.

■ **Why rehired:** Reinstated by an arbitrator.

■ **Performance since return:** He has received no discipline since returning to work. His 2007 evaluation says he meets standards and is a good beat officer.

Sgt. Eric Schneider (first firing)

Fired August 2005, reinstated August 2006

■ **Why fired:** He was indicted on theft in office and tampering with records charges in 2003 after city officials accused him of filing false time sheets that charged the city \$2,200 for hours he didn't work. His supervisors also said he was not properly prepared for court appearances. He was acquitted of the criminal charges. A review prior to his firing described him as a "quality supervisor."

■ **Why rehired:** Reinstated by settlement agreement

with city that resulted in a reduction of his punishment from dismissal to a 320-hour suspension.

■ **Performance since return:** Schneider was fired again last December and reinstated again.

Sgt. Eric Schneider (second firing)

Fired December 2007, reinstated June 2008

■ **Why fired:** Police officials fired him after finding that he allowed two officers he supervises to goof off by watching TV and playing video games when they should have been patrolling the streets. Union officials called the firing excessive and unfair.

■ **Why rehired:** Reinstated by settlement agreement with city. City officials had hoped to use details of his first firing at Schneider's arbitration hearing, but they feared the arbitrator would not allow it and settled for a 20-day suspension.

■ **Performance since return:** Returned to work four weeks ago.

Sgt. John Sess

Fired 1997, reinstated November 2001



Sess

■ **Why fired:** Sess was fired after admitting he planted drugs on a suspect to trick him into confessing to a real crime. Courts have ruled deception may be used to induce a confession, but Sess' supervisors did not feel it was appropriately handled in this case. Sess admitted to the acts while taking a polygraph for a potential transfer to a narcotics unit. He said he was "fired unjustly."

■ **Why rehired:** Reinstated by an arbitrator. The arbitrator found Sess should get his job back because the drugs he planted were not used to get a conviction and because his actions were part of a legitimate maneuver to get a confession. The arbitrator also found that Sess' admission that he smoked marijuana once while off-duty did not warrant a harsh penalty because two other officers who had smoked pot with him were not punished.

■ **Performance since return:** He received good reviews and no disciplinary action after his return. The Citizen Complaint Authority found that he tried to cover up the fact that another officer pushed a man down some stairs during an arrest in 2004, but that allegation did not lead to discipline. Sess retired in 2005.

Officer Freddie Vincent

Fired January 2000, reinstated July 2000



Vincent

■ **Why fired:** He was caught speeding on his motorcycle and was convicted of failing to have an operator's license. He previously had received four suspensions and four reprimands for offenses such as dishonesty, neglect of duty, failure of good behavior and six negligent accidents in a police cruiser. He was fired in 1992 because he failed probation as a new officer. He was reinstated as a recruit in 1995 and became an officer.

■ **Why rehired:** Reinstated by an arbitrator.

■ **Performance since return:** He was ordered to take a remedial course at the police academy in 2003 after he accidentally discharged his gun while making an arrest. He was counseled by his supervisor in 2007 after attempting to buy stolen property while in uniform. Recent evaluations say he frequently requests time off on short notice and needs to increase his productivity. Vincent disputes that contention, saying his supervisor has a "personal issue with me." He was praised as "heroic" by Chief Tom Streicher in 2007 after he pushed another officer behind a car and out of the line of fire during a gunfight with a suspect.

Sgt. Bradley White

Fired June 2005, reinstated December 2005

■ **Why fired:** White was fired after pointing the red laser sight of his Taser at another officer during roll call and then discharging the weapon into the ceiling. White claimed the discharge was "an equipment malfunction," but other officers said he was "hosing playing." He previously had been counseled for failing to take a citizen complaint and for failing to conduct a proper investigation.

■ **Why rehired:** Reinstated by an arbitrator.

■ **Performance since return:** White was reprimanded in 2007 for failing to submit several reports in a timely manner. His most recent review says he meets standards and is a "calming influence" on other officers, but it also cites problems, such as not reporting for duty on time and requesting time off on short notice.

Eugenia Boiman, 911 dispatcher

Fired 1998, reinstated 1999

■ **Why fired:** She was the supervisor of Angela Gibson, a 911 dispatcher who also was fired after her bosses said she mishandled calls related to the fatal shootings of officers Daniel Pope and Ronald Jeter in 1997. City officials concluded Boiman mishandled the situation and canceled one of the first calls for help, contributing to a 47-minute delay in finding the officers.

■ **Why rehired:** Reinstated by an arbitrator. As in Gibson's case, an arbitrator found the police officials did not follow procedures that night and the dispatchers were not to blame for all of the confusion.

■ **Performance since return:** She received a reprimand for procedural problems in 2005, but her evaluations since then have been good. Her most recent review states that she "exceeds expectations." She received three commendations and no complaints during the evaluation period.

Angela Gibson, 911 dispatcher

Fired 1998, reinstated 1999

■ **Why fired:** A civilian 911 operator, Gibson was fired after city officials concluded she made critical mistakes that delayed police response to the fatal shootings of officers Daniel Pope and Ronald Jeter. An earlier response might not have saved the officers, but errors and confusion at the communications center led to a 47-minute delay in finding the officers.

■ **Why rehired:** Reinstated by an arbitrator. An arbitrator said Gibson should not be disciplined and found the officers failed to call for back-up or notify dispatch of their location that night.

■ **Performance since return:** Her most recent evaluations describe her as a "valued employee." She received a commendation from Chief Streicher in 2004 for a "continuous display of excellence" and another in 2005 for her handling of radio calls in a hazardous materials emergency. In 2005, she was counseled for three procedural violations, including one that led to a medical response delay.

— Compiled by Dan Horn