



**TENNESSEE  
PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

**CHANGE OF STATUS**

**NAME:** Hemphill, Preston, R.  
(Last) (First) (Middle)

**DEPARTMENT:** Memphis Police Department **CERTIFICATION NUMBER:** 4607-8885

**SEPARATION:** This is to notify the POST Commission that the named officer is no longer employed by this department as indicated below:

Type of Separation	Effective Date (mm/dd/yyyy)	
<input type="checkbox"/> Resigned	____/____/____	
<input type="checkbox"/> Retired	____/____/____	
<input checked="" type="checkbox"/> Terminated	<u>02</u> / <u>03</u> / <u>2023</u>	Reason: _____
<input type="checkbox"/> Discharged	____/____/____	_____
<input type="checkbox"/> Other	____/____/____	

**New Employer, if known** \_\_\_\_\_

**CHANGE OF NAME/RANK:** From \_\_\_\_\_ to \_\_\_\_\_  
 Effective Date of Change: \_\_\_\_/\_\_\_\_/\_\_\_\_

**LEAVE:** This officer has been granted leave as indicated:  
 From: \_\_\_\_/\_\_\_\_/\_\_\_\_ To: \_\_\_\_/\_\_\_\_/\_\_\_\_

Administrative       Educational       Military  
 Medical       Maternity

Returned to full time status on: \_\_\_\_/\_\_\_\_/\_\_\_\_

**SUSPENSION:** This officer has been suspended for a period of thirty (30) days or more  
 From: \_\_\_\_/\_\_\_\_/\_\_\_\_ To: \_\_\_\_/\_\_\_\_/\_\_\_\_ for the following reason(s)

**FOR POST USE ONLY**

File \_\_\_\_\_ DOE \_\_\_\_/\_\_\_\_/\_\_\_\_

Card: 4x6 \_\_\_\_\_ 3x5 \_\_\_\_\_ DOB: \_\_\_\_\_

DOC: \_\_\_\_/\_\_\_\_/\_\_\_\_ #: \_\_\_\_\_

*Cerelyn J. Davis*

Signature of Agency Head

**Cerelyn J. Davis**

Print/Type Name of Agency Head

**Memphis Police Department**

AGENCY



**TENNESSEE  
PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

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<input type="checkbox"/> Terminated	____/____/____	Reason: _____
<input type="checkbox"/> Discharged	____/____/____	_____
<input type="checkbox"/> Other	____/____/____	

**New Employer, if known** \_\_\_\_\_

**CHANGE OF NAME/RANK:** From \_\_\_\_\_ to \_\_\_\_\_  
 Effective Date of Change: \_\_\_\_/\_\_\_\_/\_\_\_\_

**LEAVE:** This officer has been granted leave as indicated:  
 From: 01/08/2023 To: \_\_\_\_/\_\_\_\_/\_\_\_\_

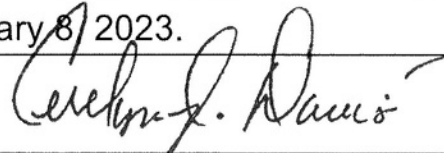
Administrative       Educational       Military  
 Medical       Maternity

Returned to full time status on: \_\_\_\_/\_\_\_\_/\_\_\_\_

**SUSPENSION:** This officer has been suspended for a period of thirty (30) days or more  
 From: \_\_\_\_/\_\_\_\_/\_\_\_\_ To: \_\_\_\_/\_\_\_\_/\_\_\_\_ for the following reason(s)

Officer relieved of duty effective effective January 8, 2023.

FOR POST USE ONLY	
File _____	DOE ____/____/____
Card: 4x6 _____	3x5 _____ DOB: _____
DOC: ____/____/____	#: _____

  
 \_\_\_\_\_  
 Signature of Agency Head

**Cerelyn J. Davis**  
 \_\_\_\_\_  
 Print/Type Name of Agency Head

**Memphis Police Department**  
 \_\_\_\_\_  
 AGENCY



**Peace Officer Standards and Training Commission**  
**Decertification Request**

Agency Requesting Decertification: Memphis Police Department

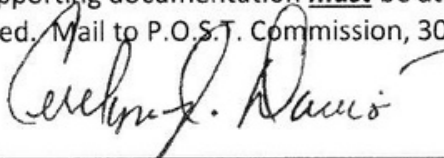
Name of Officer: Preston R. Hemphill PSID#: 4607-8885

Address: [REDACTED]

Please check all that apply:

- 1. Convicted of any state or by federal government of any crime the punishment which could have been imprisonment in a federal or state prison or institution; or
- 2. Convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages, controlled substances, or a sufficient number of misdemeanors to establish a pattern of disregard for the law; or
- 3. Suspended or discharged 30 days or longer, resign in lieu of termination, resign with disciplinary action pending that could have resulted in termination, or discharged by his/her employing law enforcement agency for disciplinary reasons; or
- 4. Found to have supplied or acquiesced in false information being supplied to the P.O.S.T. Commission regarding eligibility for certification; or
- 5. Fail to participate in a 40 hour in-service training program each calendar year; or
- 6. Fail to maintain pre-employment requirements.

\*All supporting documentation **must** be attached in order for the P.O.S.T. Commission to proceed. Mail to P.O.S.T. Commission, 3025 Lebanon Rd., Nashville, Tn. 37214



Date: 02, 08, 2023

Signature of Law Enforcement Agency Head

Cerelyn J. Davis

Print Name

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**City of Memphis  
Police Division  
Inspectional Services Bureau**

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<b>Case # I2023-001</b>	<b>Statement of Charges</b>
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<b>Officer's Name:</b> Hemphill, Preston	<b>IBM #</b> 13941
<b>Rank:</b> Police Officer/II	
<b>Assignment:</b> OCU/ Scorpion Team 1	<b>Date:</b> 01/27/2023

Notice is hereby given that you are being charged with violation(s) of policy, law or regulations as shown below:

DR 104 Personal Conduct: TERMINATION

DR 101 Compliance with Regulations to wit: Weapons (CEW): 40 DAY SUSPENSION

DR 108 Truthfulness: TERMINATION

DR 101 Compliance with Regulations to wit: Uniforms: 30 DAY SUSPENSION

DR 130 Inventory & Processing Recovered Property: 30 DAY SUSPENSION

**Date of Occurrence:** 01/07/2023

**Statement of Particulars:**

On January 7, 2023, you and two of your partners conducted a traffic stop involving a suspected reckless driver at Raines and Ross who later died of injuries sustained during the incident. The subject was removed from the vehicle by you and your partners. During a confrontation while on top of the subject, audio from a body worn camera captured you using the assaultive statement, "Get on the fucking ground. Finna tase yo ass!" The subject was not using profanity or showed signs of violence towards you. The subject ran away from officers on foot down Ross. A second set of officers caught the subject at a different location while you remained with the vehicle. You can be heard on body camera telling your partner "I hope they stomp his ass!" Digital evidence of your actions will shed a negative light on the Memphis Police Department. Your behavior was unprofessional and unbecoming of a sworn public servant. Your actions place you in violation of DR 104 Personal Conduct which states:

***DR 104 PERSONAL CONDUCT***

*The conduct of each member, both on and off-duty, is expected to be such that it will not reflect adversely on other members, the Department, the City of Memphis, or the law enforcement profession. This regulation applies to both the professional and private conduct of all members. It includes not only all unlawful acts by members but also acts which,*

*although not unlawful in themselves, would violate either the Law Enforcement or Civilian Code of Ethics, and would degrade or bring disrespect upon the member or the Department.*

You and your partners removed the subject from the vehicle and used physical force to detain him. You took out your city issued Conducted Energy Weapon (Taser) from the holster and placed it on the subject's leg. After the subject was pepper sprayed on the ground by your partner, the subject got up and appeared to attempt to distance himself. You deployed your taser for three seconds while the subject was on his feet and in running motion from you. The subject was not armed, and did not impose an immediate threat to you or others. The subject was also in the middle of the street while traffic was still present when you deployed the taser. You put everyone involved at risk of serious bodily injuries due to oncoming traffic. It was unknown if the Taser made a physical contact with the subject, but one prong was missing upon your inspection of the cartridge. You performed no further action to locate the missing probe. You have been certified to carry the CEW since September 16, 2022. Therefore, this places you in violation of DR 101- Compliance with Regulations to wit: (Weapons) Chapter 13 Equipment Section 1 Weapons page 23-28, which states in part:

### **DR 101 COMPLIANCE WITH REGULATIONS**

*Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.*

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## **X. Conducted Energy Weapon (CEW)**

*Selected personnel who are certified Crisis Intervention Team (CIT) or certified (CEW) Instructors. Officers will be trained on Conducted Energy Weapon, including Extended Range Impact Weapons.*

### **A. Definitions**

1. *Less Lethal Force - Force applied with the intention to subdue or render a subject non-threatening, with a lower probability of producing fatal results.*
2. *Conducted Energy Weapon (CEW) - The electronic control device is a less lethal, hand held device that discharges an electronic current to override a subject's central nervous system causing temporary incapacitation (probe mode) or discomfort (stun mode).*
3. *Authorized Users - Only active CIT officers and certified Instructors properly trained in the use of CEWs by the Firearms Training Unit are authorized to carry and use an approved and departmentally issued CEW device within the established departmental guidelines.*
4. *CEW Cartridge - Sealed unit that contains the CEW probes.*
5. *CEW Operational Modes:*
  - a. *Drive Stun Mode - The CEW is placed in immediate contact with the subject's body or clothing. Stun mode creates discomfort in the immediate area around the probe contact points and due to the narrow spread of the CEW probes the stun application will likely not cause motor skill dysfunction.*
  - b. *Probe Deployment Mode - Two darts on wires propelled from a cartridge to*

*contact a subject's body. The CEW sends an electrical signal to the probes via the wires, which can disrupt the subject's body's ability to communicate messages from the brain to the muscles to disrupt motor skill functions. Disruption depends upon many factors to include distance between probes, probe placement, and subject's clothing thickness.*

6. *CEW Operational Methods:*

- a. *CEW Displayed - The CEW is withdrawn from the holster and is visible to the subject. The subject complies or the incident concludes without the actual use of the CEW.*
- b. *CEW Arc Displayed - The CEW is withdrawn from the holster and the electric arcing is displayed to the subject. In response to the subject's observation of the Taser arching, the subject complies or the incident concludes without the actual use of the CEW by either probe deployment or stun mode.*
- c. *CEW Laser Pointed - The CEW is withdrawn from the holster and the laser targeting mechanism is activated and pointed in the direction of the subject. In response to the subject's observation of the laser pointing, the subject complies or the incident concludes without the actual use of the CEW by either probe deployment or stun mode.*
- d. *CEW Deployed - The CEW is used in Drive Stun Mode or the Probe Deployment Mode is utilized in an attempt to gain compliance.*

7. *The CEW may be used only against persons who:*

- a. *Present a risk of harm to officers;*
- b. *Are physically resisting;*
- c. *Present a risk of harm to others; or*
- d. *Present a risk of harm to themselves.*

***NOTE: Officers must be aware that tasing a person multiple times may increase the likelihood of the risk of death or serious bodily injury to the person. Officers must be able to articulate the amount of force used when tasing a person multiple times and be aware that tased persons may not be able to respond immediately to officer's commands.***

8. **The CEW shall not be used:**

- a. In any punitive (relating to, involving, or intending to inflict punishment) or coercive manner;
- b. In Drive Stun mode for pain compliance to prod or escort persons;
- c. On a handcuffed or secured individual absent an overly combative behavior that may cause harm to the officer or others and that cannot be reasonably dealt with in any other less obtrusive manner;
- d. **Solely as a compliance technique to overcome passive resistance or on any individual who does not demonstrate an overt intention to use violence or force against the officer or another person;**
- e. To rouse unconscious, impaired or intoxicated persons (\*This does not mean that the CEW cannot be used on an intoxicated person if other factors apply);
- f. On persons operating a moving vehicle or machinery;
- g. **On persons running or fleeing;**
- h. For any purpose of horseplay or curiosity exposure when use of the CEW is

not allowed, which includes, but is not limited to, arc display or laser pointing. Only certified CEW instructors may demonstrate the CEW to the public or media.

- i. **In any environment where the officer knows that a potentially flammable, volatile, or explosive material is present.**

You were required to complete a Response to Resistance form of a true account of the incident on January 7, 2023. In your statement you said the subject attempted to grab your partner's duty weapon. There is no video footage to corroborate that statement. You then provided a conflicting statement to I.S.B investigators and said you did not see the subject grab your partner's gun. You also said the subject fought you and your partner. Video evidence show the subject running away from you while you attempted to grab him. The subject was thrown to the ground by your partner and ran from the scene at Raines and Ross. During your Garrity statement, you were afforded the opportunity to review your use of force narrative and told ISB investigators that the details were correct. Your statements were inconsistent and untruthful, and you documented false statements. Your actions place you in violation of DR 108 Truthfulness which state:

#### **DR 108 TRUTHFULNESS**

*A member shall not give any information, either oral or written, in connection with any assignment or investigation that is either knowingly incorrect, false, or deceitful*

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You did not have your city issued handcuffs during the incident. Upon inspection of your equipment, you provided two sets of handcuffs that you personally owned. Your MPD handcuffs were not in your possession on January 7, 2023. You are required to carry, and be responsible for all city equipment issued to you. You are in violation of DR 101 Compliance with Regulations to wit: MPD P&P Chapter 13 Section 3 Uniforms Subsection VI: Issued Equipment (Handcuffs); page 7 which states in part:

#### **DR 101 COMPLIANCE WITH REGULATIONS**

*Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.*

#### **MPD Chapter 13 Section 3: Uniforms**

##### **VI. Issued Equipment:**

Members shall only carry equipment and other items that have been issued by the department or approved by the Chief of Police Services.

##### **A. Handcuffs:**

*The department issues the Peerless Model 801 Hinged Handcuff in a nickel finish with a handcuff key. Officers shall carry their department issued Peerless Hinged Handcuffs while on duty. Officers may purchase and carry a second set of department-approved hinged or standard link chain handcuffs. The handcuffs shall be similar in color (silver-tone finish) to the current department-issued handcuffs. The department-issued key shall*

be capable of unlocking the secondary handcuffs. A maximum of two sets of cuffs shall be carried on the duty belt.

You were instructed to complete an inventory and document items of monetary value on a Memphis Police tow-in slip. In your statement to I.S.B investigator, you admitted observing a cellphone in the driver seat of the blue Nissan Sentra. You did not document the cellphone on the tow-in slip. The cellphone remained inside of the vehicle upon its arrival at the city Impound Lot. You failed to tag the personal property into Property and Evidence. Your actions place you in violation of **DR 130 Inventory and Processing Recovered Property** which states:

***DR 130 INVENTORY & PROCESSING RECOVERED PROPERTY***

*All members shall properly inventory and process recovered stolen property, evidence, found property, or personal property in conformance with departmental orders and directives. This regulation includes property in vehicles that are taken into police custody.*

(The officer's disciplinary resume will be reviewed and become a part of this file)

Written Response Ordered?

Yes  No

Lt JKM #1866  
Issuing Officer

Sgt. D. Craig #4164  
Charging Officer

I acknowledge receipt of this notice and understand that further investigation may result in additional charges, amendment of the above charges, or dismissal of these charges. I further understand that a written response to these charges at this time is at my discretion unless specifically instructed to file same by the issuing officer.

  
Signature of Officer:

Was officer relieved of duty?  Yes  No

Reviewed by:  Assistant Chief  Deputy Chief  Work Station Commander

Delegated to:  Deputy Chief  Station/Bureau Major/Lt. Colonel/Colonel





HEARING SUMMARY FORM

#I2023-001

Hearing:

February 3, 2023

1015 hours

Location: 2714 Union Ave Ext, Suite 700

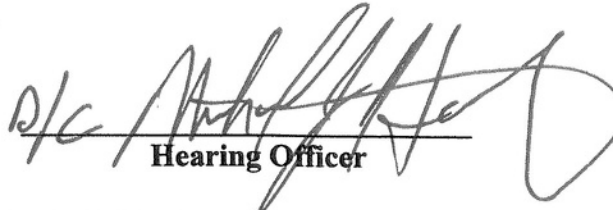
Date

Time

Attended by: PII Preston Hemphill #13941 Hearing Officer: Deputy Chief Michael Hardy #3581  
Lt. Essica Cage-Rosario #1705

**Statement of Hearing Officer:** On Friday, February 3, 2023, at 1015 hours, an Administrative Hearing was conducted for Officer Preston Hemphill #13941, resulting from a Statement of Charges issued to Officer Hemphill by the ISB for violations of DR 104 Personal Conduct, DR 101 Compliance with Regulations to wit: Weapons (CEW), DR 108 Truthfulness, DR 101 Compliance with Regulations to wit: Uniforms, and DR 130 Inventory & Processing Recovered Property.

**Action Ordered:** DR 104 Personal Conduct: SUSTAINED and TERMINATION is ordered.  
DR 101 Compliance with Regulations to wit: Weapons (CEW): SUSTAINED and 40 DAY SUSPENSION is ordered  
DR 108 Truthfulness: SUSTAINED and TERMINATION is ordered.  
DR 101 Compliance with Regulations to wit: Uniforms: SUSTAINED and 30 DAY SUSPENSION is ordered  
DR 130 Inventory & Processing Recovered Property: SUSTAINED and 30 DAY SUSPENSION is ordered.

  
Hearing Officer

Any employee holding a position not exempted from the provisions of Article 34 Civil Service, and not in the initial probationary period, who has been suspended in excess of ten, (10) days, terminated, or demoted, may appeal to the Civil Service Commission within ten, (10) calendar days after notification in writing of such action. In the event of multiple suspensions, only that suspension which causes the total number of days suspended to exceed five, (5) days within a six-month period, and any subsequent suspension within said period shall be appeal able to the Commission. If the disciplinary action is 10 days or less, the officer may submit to a grievance procedure or an internal appeal, but not to both.

In addition, Chapter I Section 5 page 4 states in part: "Commissioned police officers with a status of suspension, probation, non-enforcement, relieved of duty, or leave of absence are not permitted to engage in any Secondary Employment and/or any Off Duty Security Employment where the officer's status is dependent on his/her state commissioned status. No commissioned police officer is permitted to engage in any Secondary Employment and/or Off duty Security Employment for a period of thirty (30) days after the final disposition of (1) any sustained Statement of Charges for violation of the Sick Abuse policy or (2) any sustained Statement of Charges resulting in a suspension and/or reduction in rank" Notification will be made to the Secondary Employment Office regarding this suspension. Violation of the above listed policy could result in additional charges.

Appeal:  Will  Will Not Be Filed

Grievance:  Will  Will Not Be Filed

I understand that by requesting the grievance procedure that I am waiving my right to recourse through the Internal or Civil Service Commission Appeal Process.

2/3/23  
Date

  
Employee Signature

Distribution: MPD Human Resources, Branch Commander/Division Commander, Precinct  
HSF 07/07

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Hearing participants were Officer Preston Hemphill, Lt. Essica Cage-Rosario (MPA), and Deputy Chief Michael Hardy (Hearing Officer). Prior to this hearing, Officer Hemphill had been made aware of the pending charges by being served an Administrative Summons and a copy of the statement of charges on 01/30/2023, which he did sign acknowledging receipt and was provided with a copy.

The charges stem from a complaint regarding allegations that on January 7, 2023, you and two of your partners conducted a traffic stop involving a suspected reckless driver at Raines and Ross who later died of injuries sustained during the incident. The subject was removed from the vehicle by you and your partners. During a confrontation while on top of the subject, audio from a body worn camera captured you using the assaultive statement, "Get on the fucking ground. Finna tase yo ass!" The subject was not using profanity or showed signs of violence towards you. The subject ran away from officers on foot down Ross. A second set of officers caught the subject at a different location while you remained with the vehicle. You can be heard on body camera telling your partner "I hope they stomp his ass!" Digital evidence of your actions shows conduct both encouraging and condoning a willful violation of Memphis Police Department policies, and will shed a negative light on the Memphis Police Department. Your behavior and language were unprofessional and unbecoming of a sworn public servant. Your actions place you in violation of **DR 104 Personal Conduct** which states:

***DR 104 PERSONAL CONDUCT***

*The conduct of each member, both on and off-duty, is expected to be such that it will not reflect adversely on other members, the Department, the City of Memphis, or the law enforcement profession. This regulation applies to both the professional and private conduct of all members. It includes not only all unlawful acts by members but also acts which, although not unlawful in themselves, would violate either the Law Enforcement or Civilian Code of Ethics, and would degrade or bring disrespect upon the member or the Department.*

You and your partners removed the subject from the vehicle and used physical force to detain him. You acknowledged in your statement that you did not witness the alleged reckless driving (a Class B misdemeanor). Your body worn camera footage reflects that at the initiation of the traffic stop, there was no attempt to approach the driver in a manner consistent with the nature of the alleged act. You initially approached the vehicle brandishing your city issued weapon (CEW). The subject was given no opportunity to respond to the command to step out of the vehicle before being removed physically by your partner. You then took out your city issued Conducted Energy Weapon (Taser) from the holster and placed it on the subject's leg while the subject was on the ground. After the subject was pepper sprayed on the ground by your partner, the subject got up and appeared to attempt to distance himself. You deployed your taser for three seconds while the subject was on his feet and in running motion from you. The subject was not armed, did not initiate any physical force or verbal threats, was not physically resisting arrest, and did not impose an immediate threat to you or others. The subject was also in the middle of the street while traffic was still present when you deployed the taser. You put everyone involved at risk of serious bodily injuries due to oncoming traffic. It was unknown if the Taser made a physical contact with the subject, but one prong was missing upon your inspection of the cartridge. You performed no further action to locate the missing probe. You have been certified to carry the CEW since September 16, 2022. Therefore, this places you in violation of **DR 101-Compliance with Regulations to wit: (Weapons) Chapter 13 Equipment Section 1 Weapons page 23-28**, which states in part:

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**DR 101 COMPLIANCE WITH REGULATIONS**

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**X. Conducted Energy Weapon (CEW)**

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3. *Authorized Users - Only active CIT officers and certified Instructors properly trained in the use of CEWs by the Firearms Training Unit are authorized to carry and use an approved and departmentally issued CEW device within the established departmental guidelines.*
4. *CEW Cartridge - Sealed unit that contains the CEW probes.*
5. *CEW Operational Modes:*
  - a. *Drive Stun Mode - The CEW is placed in immediate contact with the subject's body or clothing. Stun mode creates discomfort in the immediate area around the probe contact points and due to the narrow spread of the CEW probes the stun application will likely not cause motor skill dysfunction.*
  - b. *Probe Deployment Mode - Two darts on wires propelled from a cartridge to contact a subject's body. The CEW sends an electrical signal to the probes via the wires, which can disrupt the subject's body's ability to communicate messages from the brain to the muscles to disrupt motor skill functions. Disruption depends upon many factors to include distance between probes, probe placement, and subject's clothing thickness.*
6. *CEW Operational Methods:*
  - a. *CEW Displayed - The CEW is withdrawn from the holster and is visible to the subject. The subject complies or the incident concludes without the actual use of the CEW.*
  - b. *CEW Arc Displayed - The CEW is withdrawn from the holster and the electric arcing is displayed to the subject. In response to the subject's observation of the Taser arching, the subject complies or the incident*

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*concludes without the actual use of the CEW by either probe deployment or stun mode.*

- c. CEW Laser Pointed - The CEW is withdrawn from the holster and the laser targeting mechanism is activated and pointed in the direction of the subject. In response to the subject's observation of the laser pointing, the subject complies or the incident concludes without the actual use of the CEW by either probe deployment or stun mode.*
- d. CEW Deployed - The CEW is used in Drive Stun Mode or the Probe Deployment Mode is utilized in an attempt to gain compliance.*

**7. The CEW may be used only against persons who:**

- a. Present a risk of harm to officers;*
- b. Are physically resisting;*
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**NOTE: Officers must be aware that tasing a person multiple times may increase the likelihood of the risk of death or serious bodily injury to the person. Officers must be able to articulate the amount of force used when tasing a person multiple times and be aware that tased persons may not be able to respond immediately to officer's commands.**

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**8. The CEW shall not be used:**

- a. In any punitive (relating to, involving, or intending to inflict punishment) or coercive manner;
- b. In Drive Stun mode for pain compliance to prod or escort persons;
- c. On a handcuffed or secured individual absent an overly combative behavior that may cause harm to the officer or others and that cannot be reasonably dealt with in any other less obtrusive manner;
- d. **Solely as a compliance technique to overcome passive resistance or on any individual who does not demonstrate an overt intention to use violence or force against the officer or another person;**
- e. To rouse unconscious, impaired or intoxicated persons (\*This does not mean that the CEW cannot be used on an intoxicated person if other factors apply);
- f. On persons operating a moving vehicle or machinery;
- g. **On persons running or fleeing;**
- h. For any purpose of horseplay or curiosity exposure when use of the CEW is not allowed, which includes, but is not limited to, arc display or laser pointing. Only certified CEW instructors may demonstrate the CEW to the public or media.
- i. **In any environment where the officer knows that a potentially flammable, volatile, or explosive material is present.**

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You were required to complete a Response to Resistance form of a true account of the incident on January 7, 2023. In your statement you said the subject was stopped for driving recklessly at a high rate of speed, but you acknowledged that you did not witness the subject driving in such a manner. You stated that you and your partners stopped the driver and attempted to detain him, and he began to resist. You stated that after he stood up from being on the ground, he started fighting with you and with your partner, at which time you deployed your city-issued taser. The video footage does not corroborate your statement. Video evidence shows the subject was not resisting, but was running away from you while you attempted to tase him. Your stated said that the subject attempted to grab your partner's duty weapon and that you heard your partner say "Let go of my gun!" There is no video footage to corroborate these statements. You then provided a conflicting statement to I.S.B. investigators and said you did not see the subject grab your partner's gun. During your Garrity statement, you were afforded the opportunity to review your use of force narrative and told ISB investigators that the details were correct. Your statements were inconsistent and untruthful, and you documented false statements. Your actions place you in violation of **DR 108 Truthfulness**, which states:

***DR 108 TRUTHFULNESS***

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*Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.*

**MPD Chapter 13 Section 3: Uniforms**

**VI. Issued Equipment:**

Members shall only carry equipment and other items that have been issued by the department or approved by the Chief of Police Services.

***A. Handcuffs:***

*The department issues the Peerless Model 801 Hinged Handcuff in a nickel finish with a handcuff key. Officers shall carry their department issued Peerless Hinged Handcuffs while on duty. Officers may purchase and carry a second set of department-approved hinged or standard link chain handcuffs. The handcuffs shall be similar in color (silver-tone finish) to the current department-issued handcuffs. The department-issued key shall be capable of unlocking the secondary handcuffs. A maximum of two sets of cuffs shall be carried on the duty belt.*

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You were instructed to complete an inventory and document items of monetary value on a Memphis Police tow-in slip. In your statement to I.S.B. investigator, you admitted observing a cellphone in the driver seat of the blue Nissan Sentra. You did not document the cellphone on the tow-in slip. The cellphone remained inside of the vehicle upon its arrival at the city Impound Lot. You failed to tag the personal property into Property and Evidence. Your actions place you in violation of **DR 130 Inventory and Processing Recovered Property** which states:

***DR 130 INVENTORY & PROCESSING RECOVERED PROPERTY***

*All members shall properly inventory and process recovered stolen property, evidence, found property, or personal property in conformance with departmental orders and directives. This regulation includes property in vehicles that are taken into police custody.*

At the beginning of the Administrative Hearing, Lt. Cage-Rosario informed the Hearing Officer that Officer Hemphill would like to waive his rights to have each charge read in detail.

**During the Administrative Hearing on February 3, 2023, Officer Hemphill** was informed by the Hearing Officer that he is now afforded the opportunity to make a statement. Officer Hemphill responded, "No sir. I don't have anything to say at this moment," indicating that he did not wish to make a statement.

~~Lt. Cage-Rosario (MPA Representative) was asked if she would like to make a statement. Lt. Cage-Rosario submitted a written statement which will be included in the Administrative File. "To whom It May Concern, The Memphis Police Association (MPA) objects to the Memphis Police Department's decision to proceed with the administrative hearing for Officer Preston Hemphill prior to the conclusion of the TBI's investigation. Per Article 14 (MOU Between the MPA and the COM), "A reasonable amount of time to review the statement of charges (**including all proof to be relied upon by the hearing officer**) is to be given to the representative prior to the administrative hearing." Upon review, several pieces of proof were omitted from the file. Statements from other principal and witness officers were not included in the file. This is only one example of the violations of this officer's right to due process.~~

Not only is this a right under the MOU, but it is a right guaranteed by federal law. See *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985) where the Court provided that a public employee with a property right to his or her employment must be provided notice of charges against them and a hearing to provide them with an opportunity to defend themselves against the charges against them. Additionally, that hearing must be a meaningful one. See *Wagner v. City of Memphis*, 971 F. Supp 308 (W.D. Tenn 1997). In *Wagner*, Mayor Herenton predetermined the outcome of the hearing and the court said there was no due process. This will serve as the MPA's statement for this administrative hearing.

**Hearing Officer convened the hearing on 02/03/2023 at 1000 hrs, without rendering a decision. Hearing reconvened on 02/03/2023 at 1635 hrs. In attendance were Officer Hemphill, Lt. Essica Cage-Rosario (MPA), and Deputy Chief Michael Hardy (Hearing Officer).**

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**In conclusion**, the Hearing Officer carefully reviewed all documents related to each alleged violation of the listed DRs by Officer Hemphill, including the Garrity statements of all the charged officers and the Response to Resistance forms. The Garrity statement made by you and the other charged officers are not consistent with each other and are not consistent with the publicly known injuries and death of Mr. Nichols. Hearing officer additionally considered the written statement submitted by Lt. Cage-Rosario.

The Hearing Officer states in this instance, Officer Hemphill was served with the Statement of Charges before 10:00 a.m. on January 30, 2023. Lt. Cage-Rosario contacted Memphis Police Department on February 1, 2023 at 5:48 p.m. requesting to review the administrative file, and arrangements were made for 1:00 p.m. the next day. The next day, an event occurred and Lt. Cage-Rosario was unavailable, and the review was rescheduled for the morning of February 3, 2023, at which time the representative was able to review the ISB file. Additionally, the body worn camera footage relied upon herein was available publicly as of January 27, 2023.

Upon review of the evidence as it relates to **DR 104 Personal Conduct**, which states in part: **The conduct of each member, both on and off-duty, is expected to be such that it will not reflect adversely on other members, the Department, the City of Memphis, or the law enforcement profession.** This regulation applies to both the professional and private conduct of all members. It includes not only all unlawful acts by members but also acts which, although not unlawful in themselves, would violate either the Law Enforcement or Civilian Code of Ethics, and would degrade or bring disrespect upon the member or the Department.

**The Hearing Officer finds that Officer Hemphill, did violate DR 104 PERSONAL CONDUCT, therefore the charge is SUSTAINED, and TERMINATION is ordered.**

Upon review of the evidence as it relates to **DR 101-Compliance with Regulations to wit: (Weapons) Chapter 13 Equipment Section 1 Weapons page 23-28**, which states in part: **Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.**

**The Hearing Officer finds that Officer Hemphill, did violate DR 101-COMPLIANCE WITH REGULATIONS TO WIT: (WEAPONS) CHAPTER 13 EQUIPMENT SECTION 1 WEAPONS PAGE 23-28, therefore the charge is SUSTAINED, and 40 DAY SUSPENSION is ordered.**

Upon review of the evidence as it relates to **DR 108 Truthfulness**, which states in part: **A member shall not give any information, either oral or written, in connection with any assignment or investigation that is either knowingly incorrect, false, or deceitful.**

**The Hearing Officer finds that Officer Hemphill, did violate DR 108 TRUTHFULNESS, therefore the charge is SUSTAINED, and TERMINATION is ordered.**

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Upon review of the evidence as it relates to **DR 101 Compliance with Regulations to wit: MPD P&P Chapter 13 Section 3 Uniforms Subsection VI: Issued Equipment (Handcuffs); page 7**, which states in part: **Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.**

The Hearing Officer finds that Officer Hemphill, did violate **DR 101 COMPLIANCE WITH REGULATIONS TO WIT: MPD P&P CHAPTER 13 SECTION 3 UNIFORMS SUBSECTION VI: ISSUED EQUIPMENT (HANDCUFFS); PAGE 7**, therefore the charge is **SUSTAINED**, and **30 DAY SUSPENSION** is ordered.

Upon review of the evidence as it relates to **DR 130 Inventory and Processing Recovered Property**, which states in part: **All members shall properly inventory and process recovered stolen property, evidence, found property, or personal property in conformance with departmental orders and directives. This regulation includes property in vehicles that are taken into police custody.**

The Hearing Officer finds that Officer Hemphill, did violate **DR 130 INVENTORY AND PROCESSING RECOVERED PROPERTY**, therefore the charge is **SUSTAINED**, and **30 DAY SUSPENSION** is ordered.

DR 104 Personal Conduct: **SUSTAINED** and **TERMINATION** is ordered.

DR 101 Compliance with Regulations to wit: Weapons (CEW): **SUSTAINED** and **40 DAY SUSPENSION** is ordered

DR 108 Truthfulness: **SUSTAINED** and **TERMINATION** is ordered.

DR 101 Compliance with Regulations to wit: Uniforms: **SUSTAINED** and **30 DAY SUSPENSION** is ordered.

DR 130 Inventory & Processing Recovered Property: **SUSTAINED** and **30 DAY SUSPENSION** is ordered.

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# MEMPHIS POLICE DEPARTMENT MEMORANDUM



**To: Assistant Chief Don Crowe**

**Subject: Hearing Status**

**From: Deputy Chief Hardy**

**Date: 02/03/2023**

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Assistant Chief Crowe,

On February 3, 2023 at 1015 hrs, the Administrative Hearing for Officer Preston Hemphill, #13941 was held. Deputy Chief Hardy #3581 was the Hearing Officer. The charges for DR 104 Personal Conduct and DR 108 Truthfulness were SUSTAINED and TERMINATION was ordered.

The charge for DR 101 Compliance with Regulations to wit: Weapons (CEW) was SUSTAINED and a 40 DAY SUSPENSION was ordered.

The charges for DR 101 Compliance with Regulations to wit: Uniforms and DR 130 Inventory & Processing Recovered Property were SUSTAINED and a 30 DAY SUSPENSION was ordered.

# City of Memphis



Copy

JIM STRICKLAND  
MAYOR

DIVISION OF POLICE SERVICES

TENNESSEE

February 3, 2023



Dear Officer Hemphill,

On February 3, 2023 at 10:15 A.M., an Administrative hearing was conducted for you, Preston Hemphill, #13941, resulting from ISB Case #I2023-001, issued to you for violations of DR 104 Personal Conduct, DR 101 Compliance with Regulations to wit: Weapons (CEW), DR 108 Truthfulness, DR 101 Compliance with Regulations to wit: Uniforms, and DR 130 Inventory & Processing Recovered Property. After careful review of the allegations against you during the Administrative Hearing, the hearing officer found that the charge of violations DR 104 Personal Conduct and DR 108 Truthfulness were sustained and TERMINATION was ordered. DR 101 Compliance with Regulations to wit: Weapons (CEW) was sustained and a 40 DAY SUSPENSION was ordered. DR 101 Compliance with Regulations to wit: Uniforms and DR 130 Inventory & Processing Recovered Property were sustained and a 30 DAY SUSPENSION was ordered.

You have ten (10) calendar days after receipt of written notification of the action taken to file an appeal with the Civil Service Commission. You may file your request for a Civil Service Hearing in person or by mail to the following:

The Civil Service Administration  
City Hall, Room # 406  
125 North Main Street  
Memphis, TN 38103

Your correspondence should be marked to the attention of Brooke Hyman, Secretary of the Civil Service Commission. If you have any questions regarding filing an appeal, please contact Human Resources at (901) 636-6874.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael J. Hardy'.

Deputy Chief Michael J. Hardy  
Special Operations

Cc: Chief of Police Cerelyn Davis  
Assistant Chief Donald Crowe  
Police Services Human Resources  
City Attorney  
City Human Resources