



POLICE DEPARTMENT

March 10, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Randy Bajana  
Tax Registry No. 936165  
33 Precinct  
Disciplinary Case No. 2012-7917

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The above-named member of the Department appeared before the Court on December 11, 2013, charged with the following:

1. Said Police Officer Randy Bajana, while assigned to the 33rd Precinct, on or about August 10, 2011, utilized another Member of Service's confidential password/code on the Property Evidence Tracking System (PETS).

P.G. 219-14, Page 1, Paragraph 1 - DEPARTMENT COMPUTER SYSTEMS

2. Said Police Officer Randy Bajana, while assigned to the 33rd Precinct, on or about October 27, 2011 and December 22, 2011, wrongfully impeded a Department investigation by making false and/or misleading statements to Department investigators when questioned about the facts and circumstances surrounding a Property Clerk's Invoice dated August 10, 2011, in that said Officer stated that he did not utilize another Member of Service's password/code to approve said Invoice.

P.G. 203-10, Page 1, Paragraph 5 - PROHIBITED CONDUCT

The Department was represented by Vivian Joo, Esq., Department Advocate's Office.  
Respondent was represented by John Tynan, Esq., Worth, Longworth & London LLP.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Not Guilty.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Detective Claude Rhone as a witness.

Detective Claude Rhone

Rhone was assigned to the Internal Affairs Bureau (IAB). He investigated a computer misuse allegation against Respondent from August 10, 2011. The original investigation was a targeted integrity test conducted on August 9, 2011. The purpose of the test was to see whether the targeted member would invoice found property correctly. The property involved was cans of spray paint and United States currency. An undercover officer (UC) posing as a citizen was set up to say that she found the items.

The targeted member did not respond to the job, however. Police Officers Erick Mero and Anthony Melendez of the 33 Precinct responded. IAB followed up nonetheless to see whether the officers properly vouchered the property. Rhone testified that the officers did invoice the property, but not until the next day, which was improper.

Rhone described the Property and Evidence Tracking System (PETS). PETS was the Department's relatively new computerized system used to account for invoiced property. Like the older carbon-paper system, property must be entered in PETS by the arresting, recovering, or assigned officer. A supervisor had to approve the entry. This could be done at the invoicing officer's computer terminal, or the officer could send the invoice to the supervisor's computer as

part of a queue. The supervisor's entry was time-stamped and her signature, electronically saved on PETS, was placed on the document. Respondent was the property officer at the 33 Precinct.

Department's Exhibit (DX) 1 was the invoice listing spray paint, a T-shirt, a backpack and a wallet. The invoice listed Respondent as the invoicing officer and Sergeant Fredy Cruz as the approving supervisor. Respondent entered the information on August 10, 2011, at 0703 hours. Both the invoicing and approval were done at 0733 hours.

DX 2 was the invoice listing \$80 United States currency. This information was entered by Respondent at 0736 hours. The invoicing was completed by him, however, almost an hour later, at 0824 hours. The invoice was approved at 0824 by then-Sergeant Jeannette Chetaitis (now a lieutenant).

The investigation revealed that Cruz was not at work when the signature was made. He stated this at his official Department interview and his Activity Log confirmed it. Rhone indicated that Cruz was scheduled to begin work on August 10, 2011, at 0800 hours.

IAB conducted an official Department interview of Mero. Mero told IAB that Respondent assisted him in vouchering the property because he was not well-versed in PETS. "[T]o [Mero's] knowledge," Respondent "was the one that signed off on the invoice that was signed at 0733 hours," i.e., that Respondent signed Cruz's name on the invoice. Mero knew that Respondent signed DX 1 as Cruz because Respondent finished working on that invoice while Respondent and Mero were in the property office. For the second invoice, Mero asked the desk officer, Chetaitis, for assistance.

Rhone first conducted an official Department interview of Respondent on October 27, 2011 (see DX 3, recording; DX 3a, transcript). The interviews of Mero and Cruz were performed prior to that. Rhone indicated that Respondent stated he assisted Mero in

“completing” the DX 1 invoice. “[A]t some point,” Respondent asked Mero to sign out of PETS after Mero was done. Respondent then left the station house to report to a detail. Respondent was unaware of who placed Cruz as the approving officer but it could have been Mero because Mero was completing the voucher.

As a result of Respondent’s assertion, IAB re-interviewed Mero “to clarify statements made by” Respondent. Mero adhered to his account that Respondent completed DX 1 using Cruz’s PETS credentials.

Rhone also interviewed Chetaitis, who confirmed that she “was approached” to approve the DX 2 invoice, and did so.

Rhone testified that IAB conducted a second interview of Respondent on December 22, 2011, in order to reconcile the conflicting versions of his first interview and that of Mero (see DX 4, recording; DX 4b, transcript). Respondent again denied signing Cruz’s name on DX 1 and stated that he did not know who did.

Mero was interviewed a third time and again maintained that Respondent approved the voucher.

Rhone indicated that he conducted an audit of PETS to see if there were any other vouchers where Respondent was listed as the entering or invoicing officer and Cruz as the supervisor. The audit did not “offer any assistance,” however.

Rhone testified that Mero was issued a command discipline (CD) for failing to voucher the property in a timely manner. Melendez received a CD for failing to issue the UC a receipt for the found property. Finally, Cruz got a CD for failing to secure his computer code.

Rhone testified that IAB concluded that Respondent signed as Cruz on DX 1 because Chetaitis indisputably signed DX 2. IAB deduced that Respondent signed as Cruz at 0733, left for the detail, and Mero went to Chetaitis for approval of DX 2.

After the investigation was completed, Rhone requested that the Management Information Systems Division (MISD) revoke the PETS codes of Respondent and Cruz because they were compromised. They had to request new ones.

On cross examination, Rhone testified that Mero did not indicate that Melendez was present during the invoicing process.

Respondent said in his interviews he was unsure of how Cruz's signature had appeared on DX 1. Respondent denied using Cruz's credentials himself to shadow-approve the invoice. Rhone did not check the property office for any document listing supervisors' names, tax numbers and passwords.

Cruz and Chetaitis denied giving their information to Respondent or anyone else.

When asked whether he determined if other supervisors besides Chetaitis were working between 0730 and 0830 hours on the day in question, Rhone answered, "No. I did not interview any other supervisors at the time."

Rhone agreed that it was possible Mero used Cruz's code.

On re-direct examination, Rhone testified that Melendez was the operator and Mero the recorder on the day in question. They had agreed that Mero would voucher any property.

Another reason that Rhone concluded Respondent, not Mero, used Cruz's code was that as property officer, Respondent commonly interacted with Cruz.

Upon examination by the Court, Rhone stated that the "code" actually consisted of the user's tax number and Windows login password. The user's signature was saved by PETS on a

signature pad upon going through training on the system. Thus, the fact that Cruz's signature on DX 1 was in print and not cursive had no bearing on Rhone's investigation.

Chetaitis worked a day tour as well on August 10, 2011.

Respondent's Case

Respondent testified on his own behalf.

Respondent

Respondent had been the property officer at the 33 Precinct for almost three years. In that role, he handled all property invoiced into the command. He assisted officers in vouchering property, made sure that property was vouchered properly, and ensured that necessary items were taken to the warehouses. His office was right behind the desk officer.

Respondent noted that MISD required users to change their Windows passwords periodically. Respondent testified that officers had the option of adding a new signature on the pad, for example, if someone got promoted and wanted a different rank next to his name.

On August 10, 2011, Mero asked Respondent for help in invoicing some property. If officers were trained on PETS, they could invoice property themselves, but Respondent was there to assist. Respondent already was logged onto PETS, so he let Mero use his computer. Mero "was supposed to be doing it" but Respondent was listed as the vouchering officer. Respondent asserted that he did not recall anything else about that property. Respondent indicated that Mero also vouchered currency.

Respondent testified that prior to his official Department interview, he did not recall what supervisor signed DX 1. There were about 10 supervisors assigned there at the time.

Respondent denied that he kept a list of supervisors' names, tax numbers and Windows passwords to assist in invoicing property. He did not know Cruz's information.

On cross examination, Respondent stated that as property officer, he also was responsible for scanning the barcodes of each piece of invoiced property. He still had to go out on patrol sometimes.

Respondent stated that in his time as property officer, he had listed himself as invoicing officer only about 20 times.

Respondent verified and signed off as invoicing officer on both vouchers in question. He was not in the room the whole time that Mero worked on DX 1. He signed off as invoicing officer and then went to a detail. Respondent indicated that he stated during the official interview process that he left for the detail after 0800 hours, perhaps around 0830. He also had stated that he did not recall Cruz being there.

Respondent testified that Chetaitis was the domestic violence sergeant. She was present while the property was invoiced. Cruz was the conditions sergeant.

Upon examination by the Court, Respondent clarified that he was the precinct's only property officer. There was not one per tour. Respondent normally worked day tours. He indicated that the desk officer came in to the property office periodically to perform inspections. It was possible that Chetaitis was assigned as desk officer that day.

There was no PETS signature pad in the property room. They were located at the precinct desk and the complaint room. Someone signed in as either the invoicing officer or approving supervisor could elect to use the signature pad to make a new signature. You had to re-type your user name and password to do so, though.

Respondent was basically familiar with Cruz's signature from prior invoices. He often signed off on conditions vouchers. According to Respondent, the signature on DX 1 was Cruz's true signature.

### FINDINGS AND ANALYSIS

Respondent is charged with using the user name and password of a supervisor to approve a property invoice as that supervisor on the Property and Evidence Tracking System. He also is charged with giving inaccurate answers at his official Department interviews when he denied using that supervisor's information.

On August 9, 2011, Police Officer Erick Mero recovered property in the course of an integrity test of which he was not actually the subject. IAB nevertheless tracked the progress of the property and found that Mero wrongfully did not voucher the items until August 10, 2011. When IAB examined further, they found that there were two vouchers. The first, DX 1, was for innocuous items like spray paint and a T shirt. The second, DX 2, was for United States currency.

PETS was a computerized tracking system. It worked by having the property entered, invoiced, and approved by various officers. The entering and invoicing officer could be the same person but the approver had to be a supervisor. These entries were done by having the member enter his tax number and Windows password on the computer. PETS then automatically placed the member's signature on the invoice. When trained on PETS, a member had to create a signature using a signature pad.

DX 1 listed Respondent as the entering officer at 0703 hours and invoicing at 0733. It listed Sergeant Fredy Cruz as the supervisor at 0733. IAB's investigation, however, revealed



that Cruz did not arrive at work until something like 0800. When IAB officially interviewed Mero, Mero alleged that he was not familiar with PETS and asked Respondent, who was in the property room, for help. According to Mero, Respondent completed the voucher himself while Mero still was in the room. Thus, according to IAB and the Advocate, Respondent must have signed off on the voucher as Cruz.

Respondent agreed, during his interviews and at trial, that he helped Mero with DX 1. He stated, however, that he left to go to a detail while Mero worked on the voucher. Respondent said that he was not in the room the whole time Mero worked on DX 1, and indicated that he actually left for the detail sometime after 0800 hours. In any event, Respondent did not know who signed Cruz's name upon the invoice.

The Advocate argued that Mero's version of events was true and Respondent's false. They pointed out that Respondent was the property officer and objectively would have had more access than Mero to various members' sign-on information. They also argued that Respondent more likely used Cruz's information than Mero because of what happened with the second invoice. It was undisputed that Sergeant Jeannette Chetaitis signed DX 2, the cash voucher, herself while she was present in the station house as desk officer. The Advocate suggested that if Mero had used Cruz's information for the first voucher, he would have used it for the second voucher as well. He would have had no reason to go to Chetaitis. Respondent, on the other hand, had to go to a detail. He could not use Cruz's information for DX 2, leaving it to Mero to find a real supervisor.

The problem with the Advocate's argument is that while it presents a reasonable course of events, it is not the only reasonable possibility. First, whoever used Cruz's information had to know both his six-digit tax number and Windows password. MISD requires this password to be

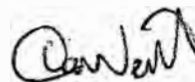
difficult to hack: it must have a mix of letters, numbers, and special characters. There was no evidence of a written list in the property office. In the absence of any indication that there was such a list, the Department's argument relies on the foundation that Respondent had committed Cruz's information to memory. And there is no evidence of that either.

Further, the Advocate's argument relies on the assumption that Mero had no reason to use Chetaitis for the second voucher if he already knew Cruz's information. But it is not necessarily the case that whoever used Cruz's information had prior knowledge of it and committed it to memory. It also is possible that another officer had Cruz's information and gave it to Mero to make the entry in question. And this is the whole problem with the Department's case: it relies on surmise and conjecture, not established facts from which the Court can draw a reliable conclusion as to credibility.

Moreover, the use of Cruz's information seems to have been premised on the lack of an available supervisor. Once Chetaitis became available, Mero might have thought it was a safer bet to approach her.

In sum, it is possible that Respondent knew Cruz's information, used it to complete DX 1, and then left Mero to complete DX 2. It also is possible, however, and no less likely, that Mero received Cruz's information, used it to complete DX 1, but used a live supervisor to complete DX 2. The Court is not convinced that the first scenario is more likely and thus cannot find Respondent guilty on that basis. Therefore, Respondent is found Not Guilty of Specification No. 1, wrongfully using Cruz's information. Because Specification No. 2 charges Respondent with falsely stating at his official Department interviews that he did not use Cruz's information, he also is found Not Guilty of that specification.

Respectfully submitted,



David S. Weisel  
Assistant Deputy Commissioner – Trials

**APPROVED**

APR 18 2014  
  
WILLIAM J. BRATTON  
POLICE COMMISSIONER