



POLICE DEPARTMENT

October 27, 2022

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In the Matter of the Charges and Specifications :

- against - :

Captain Raul Maisonet :

Tax Registry No. 939385 :

Emergency Service Unit :

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Louis C. La Pietra, Esq.
La Pietra & Krieger, PC
30 Glenn Street- Suite 105
White Plains, NY 10603

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Said Captain Raul Maisonet, currently assigned to Property Clerk Division, while on and off duty, on or about and between December 13, 2016 and January 29, 2017, in Bronx County, having become aware of or receiving an allegation of corruption or serious misconduct involving a Member of the Service, on three (3) occasions, did fail and neglect to notify his Commanding Officer and/or the Internal Affairs Bureau Action desk, as required.

P.G. 207-21, Pages 1 and 2

ALLEGATIONS OF CORRUPTION AND SERIOUS MISCONDUCT AGAINST MOS

2. Said Captain Raul Maisonet, currently assigned to Property Clerk Division, while on and off duty, on or about January 30, 2017, in Bronx County, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Captain Maisonet offered a sum of United States Currency to "MOS-2" to reimburse the cost of damages suspected to be caused by Captain Maisonet's child's mother, "MOS-1."

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

PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

3. Said Captain Raul Maisonet, currently assigned to Property Clerk Division, while on duty, on or about May 2, 2018, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that Captain Maisonet provided misleading statements during his Department Patrol Guide 206-13 Hearing.

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

PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on September 29, 2022. Respondent, through his counsel, entered a plea of Guilty to the subject charges, and testified in mitigation of the penalty. A recording of Respondent's official Department interview was introduced into evidence, as well as text messages and emails sent by Respondent. A stenographic transcript of the trial record has been prepared and is available for the Police

Commissioner's review. Having reviewed all of the evidence in this matter, I find that mitigation is warranted, and recommend a total penalty of thirty (30) vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

For a period of several years beginning in 2014, Respondent was involved in romantic relationships with two separate women at the same time: he was already living with a female MOS ("MOS-1"), with whom he had a child, when in February 2014 he also became involved with a second woman ("MOS-2"), who was not yet employed with the Department when they met, but became an MOS by the time of these incidents. Late in 2016, problems arose with the relationships, leading to the charges in this case.

Specifically, on or about December 13, 2016, damage was caused to MOS-2's personal vehicle, which had been scratched with a key. MOS-2 contacted Respondent about what occurred, and allegedly informed him that she suspected MOS-1 of being responsible. In an email sent by Respondent to MOS-2 on December 15, 2016, he wrote: "She knows because she told me out of her own mouth, she knows I'm with you, she knows I see you, she knows we go out, she knows we've been seen together. She is going to stop, you will not be fucked with, called, your property will be fine, your job is fine, I promise you. It will never be an issue again." (Dept. Ex. 1) The following day, December 16, Respondent sent another email to MOS-2 in which he stated: "If I knew that answer I would tell you, if I was able to answer for you I would also. I told you I will pay for it or I'll give you half, whatever you want." (Dept. Ex. 2) Respondent also sent text messages to MOS-2 acknowledging the accusations against MOS-1 and offering to pay for the damage. (Dept. Exs. 3 & 4)

On or about December 29, 2016, the vehicle of MOS-2 was spray-painted with the words, "Maisonet's slut." MOS-2 again allegedly informed Respondent that she suspected

MOS-1 of causing the damage. On a third occasion, on or about January 29, 2017, MOS-2's vehicle was vandalized with paint, and damage was caused to the windshield and side mirror. The vehicle of MOS-2's mother also was spray-painted with Respondent's name, and a note was left on the car referring to MOS-2 as a "homewrecker." Again, MOS-2 allegedly informed Respondent what occurred and that she suspected MOS-1 was responsible.

At the time these incidents were occurring, Respondent, [REDACTED]

[REDACTED]

Specification 1 charges Respondent with failing to notify IAB, on three separate occasions, regarding allegations that MOS-1 had committed misconduct by damaging the personal vehicles of MOS-2. Specification No. 2 alleges that not only did Respondent fail to report this allegation of misconduct, he also offered to pay MOS-2 for the damage caused to her vehicle. Respondent admitted that he failed to notify IAB, and that he offered to pay for the vehicle damage. He testified that one reason he did not notify IAB was because he was suspicious of the accusations made by MOS-2, since she did not let him see the actual text messages she claimed she was receiving from MOS-1. He also acknowledged that he was being protective of MOS-1, given their relationship. Additionally, at that time Respondent was [REDACTED] and was preoccupied with [REDACTED]. Nevertheless, Respondent did concede that it was his responsibility to have reported the accusations to IAB, and that he made a mistake by choosing not to report it. He also acknowledged that it "wasn't really smart" of him to offer to pay for the damage to the car. (Tr. 40, 43-51, 77-79)

After Respondent returned [REDACTED] in April 2018, he was officially interviewed by the Department on May 2. A recording of the interview, along with the accompanying transcript, were admitted into evidence as Dept. Exs. 5 & 5A. Specification 3 alleges that during the interview Respondent twice made misleading statements, in that he did not fully acknowledge being aware in December 2016 that MOS-2 had accused MOS-1 of causing the vehicle damage, even though his emails and texts to MOS-2, cited above, suggested otherwise. (Dept. Ex. 5A at 11-14)

Respondent admitted that he made misleading statements during the interview. He testified that the tone of the questioning during the interview was hostile and aggressive, and his stress level quickly rose. He did not believe that MOS-1 was actually responsible for all that was claimed by MOS-2, and so he was being protective of her during the interview and “very defensive” in his answers. Respondent also noted that due to the passage of time between the December 2016 emails and the Department interview on May 2, 2018, he could not recall the contents of the specific emails until they were shown to him during the interview. (Tr. 33-35, 42, 55, 69, 74-77, 80)

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department’s Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent’s employment record also was examined (*see* 38 RCNY §15-07). Information from his personnel record that was considered in making this penalty recommendation is in an attached memorandum. Respondent has no formal disciplinary record.

Respondent, who was appointed to the Department on July 11, 2005, has pleaded guilty to making misleading statements during his official Department interview. He also has admitted

to failing to notify IAB about the three accusations against MOS-1, and offering to pay MOS-2 for the damage to her car. The Department Advocate recommends a total penalty of 30 vacation days and dismissal probation, the presumptive penalty for intentionally making a misleading statement. The defense counters that dismissal probation is not appropriate for Respondent, who has performed his duties without incident for several years since the events in this case; counsel contends that there are mitigating factors here that justify a lesser penalty.

On the one hand, it is troubling that Respondent provided misleading statements during his Department interview, particularly when asked questions involving MOS-1. It is the goal of any internal investigation to get to the truth, and misleading statements are contrary to that goal. Although Respondent was directly confronted with emails and text messages he had sent, the tone of the questioning during that portion of the interview was not unduly aggressive. Respondent was not completely forthcoming in some of his responses, and there must be accountability. Additionally, Respondent bypassed proper channels by not reporting the allegations against MOS-1 to IAB on three separate occasions, even going so far as to offer to reimburse MOS-2 for the damage to her car after the first incident. Even if he was preoccupied with [REDACTED] Respondent was responsible for making the proper notifications to IAB, which he admittedly failed to do.

Nevertheless, there are mitigating factors here that support a lesser penalty than that recommended by the Department Advocate. The Disciplinary Guidelines list potential mitigating factors for cases involving misleading statements, including “embarrassing” situations involving “interpersonal relationships.” Although Respondent did not specifically articulate at trial that he was “embarrassed” during his interview, he did make clear that he was being protective of MOS-1, with whom he has a long-term live-in relationship and a child. Even as he

testified at trial about these incidents, which happened six years ago, Respondent still appeared visibly uneasy as he addressed the accusations of wrongdoing allegedly committed by MOS-1.

Additionally, the Guidelines also list the extended length of time that has elapsed between an event and a statement as a potential mitigating factor, as well as a member's "unique underlying stressors" at the time of his statements. Here, Respondent's Department interview occurred on May 2, 2018, almost 18 months after the incidents involving the vehicles.

Moreover, at the time he was questioned, Respondent had just [REDACTED]

[REDACTED]

It is important to balance the need for accountability with a recognition of Respondent's strong record with the Department [REDACTED] as well as the mitigating factors in this case. Under the totality of the circumstances presented here, I find that a mitigated penalty of twenty (20) vacation days is warranted for the misleading statements made by Respondent. Additionally, a total of ten (10) vacation days is appropriate to address the misconduct under Specifications 1 and 2, with that penalty to run consecutively to the misleading statements charge. In declining to recommend a period of dismissal probation, I note that more than four years have passed since Respondent's official Department interview of May 2, 2018, and it has been nearly six years since the events of December 2016; during that time period, Respondent has had no disciplinary incidents, and is currently assigned to the elite Emergency Service Unit. Accordingly, I recommend that Respondent forfeit a total of thirty (30) vacation days, a significant forfeiture that will hopefully serve as a deterrent to future misconduct.

APPROVED

DEC 22 2022
KEECHANT L. SEWELL
POLICE COMMISSIONER

Respectfully submitted,

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
CAPTAIN RAUL MAISONET
TAX REGISTRY NO. 939385
DISCIPLINARY CASE NO. 2018-19225

Respondent was appointed to the Department on July 11, 2005. He has been awarded one medal for Meritorious Police Duty and 10 medals for Excellent Police Duty.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials