



POLICE DEPARTMENT

January 19, 2021

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2019-21293
Sergeant Nikolaos Stefopoulos	:	
Tax Registry No. 944294	:	
Strategic Response Group 5 SI	:	

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

Before: Honorable Paul M. Gamble  
Assistant Deputy Commissioner Trials

APPEARANCES:

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

For the Respondent: John D'Alessandro, Esq.  
The Quinn Law Firm  
399 Knollwood Road, Suite 220  
White Plains, New York 10603

To:

HONORABLE DERMOT F. SHEA  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

## CHARGES AND SPECIFICATION

1. Said Sergeant Nikolaos Stefopoulos, while on-duty and assigned to Narcotics Borough Staten Island, on or about and between May 26, 2019, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: Sergeant Stefopoulos wrongfully recorded footage from a precinct incident onto his personal cellular telephone without permission and disseminated said footage to other Members of the Service.

P.G. 203-10, Page 1, Paragraphs 4 & 5

P.G. 212-122, Page 1, Paragraph 1 &  
Additional Data

PUBLIC CONTACT –  
PROHIBITED CONDUCT  
REQUEST TO ARCHIVE AND/OR  
OBTAIN FOOTAGE FROM  
CLOSED CIRCUIT TELEVISION  
(CCTV) CAMERAS ACCESSIBLE  
THROUGH THE DOMAIN  
AWARENESS SYSTEM (DAS)

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on December 1, 2020.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. The Department called Lieutenant Matthew Harrison and Sergeant Stephanie Robles as its witnesses. Respondent testified on his own behalf. 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 Respondent Not Guilty.

## ANALYSIS

The following facts are not in issue in this case. On May 26, 2019, Respondent was present in the 120<sup>th</sup> Precinct stationhouse while on duty as a supervisor in the Narcotics Borough Staten Island unit (T. 18-19, 35, 55). Respondent's team had previously executed a search warrant and they were lodging prisoners at the precinct (T. 55). While standing behind the Front Desk making entries in the command log regarding those prisoners, he observed Lieutenant Matthew Harrison, the 120<sup>th</sup> Precinct Second Platoon Commander, playing a video recording

which depicted a prisoner in the cell area disarming an Emergency Services Unit officer<sup>1</sup>(T. 33-34, 56; Dept. Ex. 3). The video was maintained in the Domain Awareness System (DAS), which is a limited-access database maintained by the Department (T. 14-15). In order for Members of Service who are not assigned to the precinct in which the recording was made to access it, they must first seek authorization from the Lower Manhattan Initiative (T. 19-20; P.G. § 212-122).

Respondent took his personal mobile telephone, activated the video camera and began recording the video (T. 19-20, 35). Lieutenant Harrison looked up and him and asked what he was doing; Respondent replied that he wanted to show it to the members of his unit for training purposes, as a lesson on situational awareness (T. 18-19, 36-39). Lieutenant Harrison acquiesced in the face of Respondent's statement of intention, although he had the authority to order him to stop recording the video (T. 18, 28-29, 36, 42, 45-47). Respondent asked the operator of the video to replay it from the beginning it so that he could record it in its entirety; the operator did so and Respondent recorded the video from beginning to end (T. 59).

Respondent admitted that he forwarded the recording on his mobile phone to seven members of his unit (T. 20, 59-60). All of the members of the unit who were sent the video by Respondent admitted that they received it: one member of his unit, Police Officer Valenti, admitted that she forwarded the recording to Police Officer Tulik, assigned to the 122<sup>nd</sup> Precinct (T. 21, 23-24). Tulik admitted receiving the recording from Valenti but further admitted that she also received a copy of the recording from her training officer, Police Officer DeJesus (T. 24-25). Police Officer DeJesus admitted sending Tulik the recording but stated that he received

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<sup>1</sup> The Emergency Services Unit officer was at the precinct on May 26, 2019, in response to a request from precinct personnel to assist in dealing with a prisoner who was believed to be emotionally disturbed (T. 12).

copies of the recording from multiple sources on the WhatsApp platform, as well as from his father, a retired corrections officer (T. 25).

There is no dispute that the video was never released to third parties through an official Department disclosure<sup>2</sup>. Each member of Respondent's unit, as well as Respondent, denied sharing the recording with third parties (T. 22).

Respondent testified that when he saw the video, he considered it "the perfect video to show an officer with regard to the complacency" (T. 57). He explained, "[I]f I could show this video to my team, that would show just how dangerous complacency, with respect to police work, is especially when we're doing car stops, constantly out-numbered, executing no-knock search warrants, conducting field stops, wearing plain clothes" (*Id.*).

Respondent testified that he turned to Lieutenant Harrison and said, "Hey, I want to show this video to my guys. Is it okay if I record this, because I don't have access to this?" (T. 58). He "noticed that the video is being played in the 'DAS-Lite System' (DAS). Only members of that command have access to that video. So, every member of the respective command has access to the 'DAS-Lite' (DAS) video" (T. 58-59).

Respondent testified that in response to his request, Lieutenant Harrison asked him why he wanted to record the video; he replied that he "wanted to show it to my guys for training purposes . . . This perfectly illustrates why police officers should not be complacent" (T. 59). According to Respondent, Lieutenant Harrison replied, "Fine" (*Id.*).

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<sup>2</sup> Although there was evidence that a member of the media contacted the Deputy Commissioner for Public Information (DCPI) on June 1, 2019, and requested comment on the video (Dept. Ex. 1), Respondent was not charged with making an unauthorized disclosure to the media without the permission of DCPI.

Respondent testified that he considered his use of the video recording in the manner which he distributed it to his team members, and for the training purpose he asserted, constituted official Department business (T. 64).

I find Lieutenant Harrison to be a credible witness who testified regarding the performance of official duties in a forthright manner. His credibility was enhanced when he admitted that by allowing Respondent to record the video as he did, they both violated Patrol Guide Procedure 212-122.

I further find Respondent credible. While I am mindful that he is an interested witness in this proceeding, his testimony appeared logical, forthright and plausible. In addition, most of the factual assertions he made were corroborated by Lieutenant Harrison's testimony, as well as by statements taken from members of his unit who eventually received copies of the video he recorded.

There can be no greater responsibility for a Member of Service in a supervisory role than the safety and well-being of Members of Service who are subject to his authority. In this case, Respondent made a copy of a closed circuit video which depicted a suspect in a holding cell grabbing a Taser from the belt of an Emergency Services officer. The credible evidence supports a finding that his purpose in making the recording was to show it to the members of his narcotics team to demonstrate the value of officer vigilance.

Despite the Assistant Department Advocate's argument, I find the evidence further supports a finding that, under the circumstances presented here, Respondent's stated purpose for recording the video constituted official Department business. I credit Respondent's assertion that he intended to use the video for training purposes: there is no evidence in the record to contradict this finding. Teaching armed police officers to be mindful of their physical proximity

to suspects seems to fit well within the broad category of official Department business; indeed, officer safety is an integral component of the performance of their sworn duty to enhance public safety.

What is in issue here is whether the manner in which Respondent obtained the recording was itself wrongful, regardless of his intentions with respect to its use. I find credible Respondent's assertion that he knew he was not authorized to access the video without securing authorization. I further find it credible that he sought permission from Lieutenant Harrison to record the video. While Respondent asserted that he explicitly asked for authorization, and Lieutenant Harrison testified that he only recalled Respondent stating why he wanted to record the video, there is no dispute that Harrison did not prevent him from making the recording, as he had the authority to do by virtue of his rank.

As it turns out, both Respondent and Lieutenant Harrison were mistaken, apparently honestly, as to the proper avenue for obtaining permission to record the video. Lieutenant Harrison admitted this mistake during his testimony. In light of this undisputed fact, the Department has not established evidence of a bad faith motive or ignorance of available facts which would be considered negligent; under long-standing precedent, such a technical violation of the Patrol Guide would be considered to have been in good faith (*see Disciplinary Case Nos. 2015-14067 & 2015-14068* [October 20, 2016]).

I find that the Department has met its burden of proof by a preponderance of the relevant, credible evidence that Respondent's recording of the video was a technical violation of the Patrol Guide; I further find, however, that because Respondent did so in good faith reliance upon the tacit permission he received from a Member of Service who was senior in rank to him, that he is Not Guilty of Specification 1.

Respectfully submitted,

*Paul M. Gamble*  
Paul M. Gamble  
Assistant Deputy Commissioner Trials

**APPROVED**  
APR 28 2021  
*[Signature]*  
DERMOT SHEA  
POLICE COMMISSIONER