



POLICE DEPARTMENT CITY OF NEW YORK

December 21, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Janice Collins
Tax Registry No. 940991
Crime Scene Unit
Disciplinary Case No. 2014-11676

Charges and Specifications:

1. Said Police Officer Janice Collins, while assigned to the 101st Precinct, while on-duty, on or about August 18, 2013, failed to properly safeguard a firearm at a crime scene resulting in the loss of said firearm.

P.G. 202-21, Page 1, Paragraph 8 – PROHIBITED CONDUCT

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

Appearances:

For Department Advocate's Office: Joshua Kleiman, Esq.

For Respondent: John Tynan, Esq.

Date of Hearing:

October 13, 2015

Decision:

Guilty of the sole Specification

Trial Commissioner:

ADCT Paul M. Gamble

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 13, 2015. Respondent, through her counsel, entered a plea of Not Guilty to the subject charge. The Department called Sergeant Doreen Hand, Sergeant Traci Jamerson-Barrett and Police Officer Nancy Mecca as witnesses. Respondent testified on her own behalf.

A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Guilty of the misconduct.

FINDINGS AND ANALYSIS

Respondent is charged in this case with a single specification of failing to properly secure a crime scene, resulting in the loss of a firearm.

It is not in dispute in this case that on August 18, 2013, Respondent was assigned to the 101st Precinct. Her immediate supervisor that day was Sergeant Traci Jamerson-Barrett, who reported for duty at approximately 0655 hours. During her turnover briefing as the incoming patrol supervisor, Sergeant Jamerson-Barrett was made aware of a "shots fired" emergency call which had summoned police to [REDACTED] in Far Rockaway, New York, at approximately 0114 hours that morning. Sergeant Jamerson-Barrett assigned Respondent to the crime scene. Respondent was able to secure a ride from one of the sector cars and arrived at the location at approximately 0740 hours (*T. 44, 122*).

Upon arriving at [REDACTED] Respondent observed crime scene tape extending from the front of the location to a telephone pole in front of the address (*T. 17, 101*). She also observed numerous shell casings on the lawn in front of the location, as well as a bullet-riddled vehicle parked at the curb (*T. 107, 108, Department Exhibit 1F*). Respondent was met by the two uniformed police officers she was relieving, who informed her of shell casings in the street and a firearm in the rear of the driveway. According to Respondent, the officers had been seated in their police vehicle and were

waiting for the arrival of an Evidence Collection Team. Respondent was shown the evidence and its location before the officers departed the scene at approximately 0800 hours (*T. 101-102*).

Almost immediately thereafter, Respondent noticed a male standing within the crime scene by the front door to the residence (*T. 104-105*). The male appeared to be upset and was engaged in some sort of heated exchange with other individuals inside the residence (*T. 106*). All of the occupants of the residence were advised to stay away from the front of it, as that area was a police crime scene (*T. 113*). The Respondent took up a position in the middle of the driveway where she kept watch over the firearm (*T. 108*). Respondent remained at the location until approximately 0840 hours, when she saw the Evidence Collection Team arriving (*T. 49, 118*). Respondent then walked from the rear of the driveway to the front of the location (*T. 118*). At the same time, she observed the male she had previously seen entering and leaving the residence exit the residence again (*Id.*). Respondent met Police Officer Nancy Mecca from the Evidence Collection Team and informed her that there were ballistics on the ground (*T. 49, 120*). When Police Officer Mecca replied that she was not there to process the shell casings but the firearm, Respondent informed her that the firearm was in the back yard (*T. 49*). When Police Officer Mecca asked who was safeguarding it, Respondent replied that it was only her (*Id.*). At that point, Respondent escorted Police Officer Mecca back down the driveway to lead her to the firearm. When Respondent returned to the location of the firearm, where she had stood prior to walking toward the front of the location, she discovered that the firearm had been removed (*T. 49, 110*). Respondent then contacted the 101st Precinct Desk Supervisor and informed him of the situation (*Id.*). Sergeant Jamerson-Barrett

responded to the location within minutes and Respondent informed her of the situation (*Id.*).

Among the duties of a Police Officer, as set forth in Patrol Guide 202-21, is "render[ing] all necessary police service in assigned area and as otherwise directed" (*P.G. 202-21[8]*). All members of the Department are prohibited from "engaging in conduct prejudicial to good order, efficiency, or discipline of the Department" (*P.G. 203-10 [5]*).

Respondent, through her own testimony, admits making several observations upon her arrival at [REDACTED] which would have alerted a properly attentive police officer that the crime scene was insecure and required her to take affirmative steps to secure it. First, Respondent observed a single strip of crime scene tape extending from the shot-up automobile to the front on the residence. Once she was briefed on the location of various pieces of evidence and realized the true parameters of the crime scene, the first step she should have taken was to ask the officers whom she was about to relieve for crime scene tape to expand the physical borders of the area under her responsibility. Second, although Respondent testified that all of the occupants who came out of the residence were warned to stay away from the crime scene in front of their home, when she saw the unidentified male exit the residence, she should have warned him again, in stronger terms if necessary, to remain inside until the police had completed their investigation. Third, given the tangible risk of harm to the public represented by a loose firearm, she should have recognized its paramount evidentiary value over that of the shell casings and remained in close proximity to it until it was recovered by the Evidence Collection Team. Fourth, there was no need for her to walk away from the firearm to greet Police Officer Mecca when she arrived because Officer Mecca would have

undoubtedly walked over to where she was standing, since Respondent was the only other police officer on the scene. Finally, if Respondent felt that additional officers were necessary to secure the crime scene, based upon the observations she made after assuming her post, she should have called back to the command and made the request.

While the term "secure a crime scene" is not defined in the Patrol Guide, common sense suggests that if the area is important enough that a New York City Police Officer was assigned to secure it, then nothing within the crime scene should be removed and no one without official authorization should have access to that area. The tribunal rejects Respondent's contention that she was distracted by the unknown male; in fact, had he actually been as disruptive as Respondent suggests, she should have contacted her precinct and asked for backup. The tribunal also rejects Respondent's assertion that she was never trained in the manner of securing a crime scene. Respondent admitted having being assigned to perform that very function "numerous times" (*T. III*). The unassailable fact is that Respondent knowingly walked away from a piece of evidence without necessity and, in so doing, permitted a persons or persons unknown to remove the firearm. Respondent is therefore found guilty.

It does not matter that Sergeant Jamerson-Barrett was disciplined for her role in the failure to properly secure the crime scene; nor does it matter that the two police officers whom Respondent relieved were apparently no more diligent than she in addressing the deficiencies of the de facto perimeter they had guarded. Once Respondent reported to the location of her duty assignment, it was incumbent upon her to report any inability to fulfill her assigned tasks, seek clarification if she did not understand her

mission or request additional resources if she felt she could not complete her task with the resources at hand.

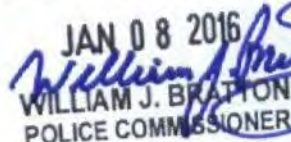
PENALTY RECOMMENDATIONS

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on January 31, 2006. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

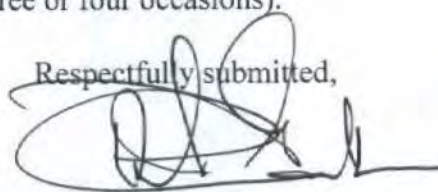
The Department has requested that Respondent forfeit five vacation days. I agree. Respondent has argued that she should not suffer a penalty, as the responsibility for securing the crime scene rests with Sergeant Jamerson-Barrett. Having found Respondent Guilty of the specification, I reject her argument regarding her lack of culpability.

A sanction of five vacation days is consistent with previous decisions of this tribunal and fundamental fairness (*Case Nos. 81257/05 and 82685/07* [March 24, 2008] Fourteen-year member forfeits 15 vacation days for failing to properly safeguard a crime scene, resulting in the loss of evidence from the scene. Respondent never visually inspected the evidence or the inside of the house in which the crime scene was located; instead, he remained in an RMP parked outside. In an unrelated case, Respondent played pool or had a drink with a known drug dealer on three or four occasions).

APPROVED

JAN 08 2016

WILLIAM J. BRATTON
POLICE COMMISSIONER

Respectfully submitted,



Paul M. Gamble
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JANICE COLLINS
TAX REGISTRY NO. 940991
DISCIPLINARY CASE NO. 2014-11676

Respondent was appointed to the Department on January 31, 2006. Her last three annual evaluations were 3.0 overall ratings of "Competent" in 2013 and 2014 and a 4.5 rating of "Extremely/Highly Competent" in 2012. She has eight medals for Excellent Police Duty.

Respondent has no prior formal disciplinary history. [REDACTED]

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials