



POLICE DEPARTMENT CITY OF NEW YORK

January 11, 2017

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Matthew St. Denis
Tax Registry No. 949915
Critical Response Command
Disciplinary Case No. 2016-15548

Police Officer Stephanie Hanna
Tax Registry No. 943941
Firearms Suppression Section
Disciplinary Case No. 2016-15547

Charges and Specifications:

Disciplinary Case No. 2016-15548

1. Said Police Officer Matthew St. Denis, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, failed to safeguard a person deemed an emotionally disturbed person at [REDACTED] Hospital until that person had been seen by a psychiatrist.
P.G. 216-05, Page 4, Paragraph 29 – MENTALLY ILL OR EMOTIONALLY DISTURBED PERSONS
2. Said Police Officer Matthew St. Denis, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, upon becoming aware that a person with cognitive impairment to the extent that said person required hospitalization had gone missing, failed to request the response of a patrol supervisor.
P.G. 207-23, Page 3, Paragraph 3 – MISSING PERSONS
3. Said Police Officer Matthew St. Denis, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to conduct a thorough search upon losing custody of an emotionally disturbed person, and further failed to notify any supervisors of said situation.
P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONDUCT – PROHIBITED CONDUCT – GENERAL REGULATIONS
4. Said Police Officer Matthew St. Denis, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, was discourteous to Person B, to

wit: said Police Officer refused to drive Person B home from the hospital and told her she should walk.

P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL

Disciplinary Case No. 2016-15547

1. Said Police Officer Stephanie Hanna, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, failed to safeguard a person deemed an emotionally disturbed person at [REDACTED] Hospital until that person had been seen by a psychiatrist.
P.G. 216-05, Page 4, Paragraph 29 MENTALLY ILL OR EMOTIONALLY DISTURBED PERSONS
2. Said Police Officer Stephanie Hanna, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, upon becoming aware that a person with cognitive impairment to the extent that said person required hospitalization had gone missing, failed to request the response of a patrol supervisor.
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3. Said Police Officer Stephanie Hanna, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to conduct a thorough search upon losing custody of an emotionally disturbed person, and further failed to notify any supervisors of said situation.
P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONDUCT – PROHIBITED CONDUCT – GENERAL REGULATIONS
4. Said Police Officer Stephanie Hanna, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, was discourteous to Person B, to wit: said Police Officer refused to drive Person B home from the hospital and told her she should walk.
P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL
5. Said Police Officer Stephanie Hanna, while on-duty and assigned to the 28th Precinct, on or about August 20, 2015, was discourteous to Person C, to wit: said Police Officer rolled the car window up while Person C was attempting to speak to her.
P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL

Appearances:

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

For Respondents: John Tynan, Esq.
Worth, Longworth & London, LLP
111 John Street - Suite 640
New York, NY 10038

Hearing Date:
December 14, 2016

Decision:
Pleaded Guilty (both Respondents)

Trial Commissioner:
ADCT Jeff S. Adler

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on December 14, 2016. Respondents, through their counsel, each entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondents, having pleaded Guilty, are found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

On the afternoon of August 20, 2015, Respondents answered a call for assistance regarding an emotionally disturbed person ("EDP") with a prior psychiatric history. Respondents, in uniform, responded to [REDACTED] in Manhattan, but the EDP, Person A, no longer was at the location. Person A's mother, Person B, was there, and pointed the officers in the direction her son had gone. A few minutes later, Respondents located Person A, who was with their supervisor, Sergeant Rodriguez,

and the sergeant's driver. The sergeant related to Respondent Hanna what Person B had told him: that her son had issues, that she and Person A had argued that morning, and that she wanted her son to go to the hospital for evaluation.

At the direction of the sergeant, his driver handcuffed Person A, and Respondents were instructed to take him to the hospital for evaluation. Upon arrival at [REDACTED] Hospital, Respondents escorted a handcuffed Person A into triage, where he was seen by a triage nurse. While Person A was waiting to be seen by a psychiatrist, he needed to use the restroom, and Respondents removed his handcuffs for that purpose. When he emerged from the restroom, Person A returned to the triage area, but Respondents chose not to re-cuff him. Person A had not yet been seen by a psychiatrist. While Respondents' attention was focused elsewhere, in a conversation with a security guard, a nurse from triage ran over to inform the officers that Person A had fled.

Rather than immediately notifying a supervisor or calling for back-up, Respondents chose to go looking for Person A on their own. They exited the hospital in his direction of flight, and searched for about 10 minutes. When Respondents were unable to locate Person A, they returned to the hospital and prepared to resume patrol in their RMP, still without alerting a supervisor to the situation. Person A's elderly mother, who moved around with the aid of a wheeled-walker, asked for a ride or assistance in getting back home, but the officers said they were unable to help her. Additionally, Respondent Hanna rolled up her car window and ignored any attempts of a hospital security officer to speak with her.

Respondents resumed patrol, and sometime later finally spoke with Sergeant Rodriguez about what happened with Person A. A level-1 mobilization was ordered, and

Person A was located back at his home at approximately 2100 hours that evening, about three hours after he had fled from the hospital.

Respondent Hanna testified that when the officers first came upon Person A, he was sitting on the curb refusing to talk. Person A did eventually agree to speak with Respondent Hanna, telling her that he was not getting along with his mother, and that he just wanted her to leave him alone. The sergeant said, "We can't stand out here all day", and decided that Person A had to go, so Respondents escorted Person A to the hospital. (Tr. 19-21, 33)

According to Respondent Hanna, the officers were not far from Person A when he went to the restroom, approximately 10 feet away. She acknowledged, though, that they did not escort him into the restroom, and that he was not re-cuffed before going back to the triage room. She admitted that about two minutes later, while she and her partner were speaking with a security guard, a nurse informed them that Person A had left. Respondent Hanna explained that the reason they didn't call their supervisor was because they were focused on trying to find Person A. This they failed to do, and returned to the hospital 5-10 minutes later, still without notifying a supervisor. (Tr. 23-24, 47-51, 61)

Respondent Hanna was unsure how Person B arrived at the hospital, either from riding in the ambulance or being dropped off by the supervisor. According to Respondent Hanna, the officers did not give Person B a ride home because they could not fit her and her walker into their car. She admitted that she rolled up her car window rather than patiently engage anyone outside the RMP in conversation. (Tr. 18, 25-26, 54, 57)

In assessing her overall conduct during this incident after-the-fact, Respondent Hanna acknowledged that it would have been smarter and safer for all involved for the officers to have made sure that Person A remained handcuffed at the hospital, and that they should have escorted him more carefully. She also recognized that she and her partner should not have assumed that they could locate Person A themselves, and should immediately have notified their supervisor of the situation. (Tr. 90)

Respondent St. Denis testified that he agreed to remove Person A's handcuffs so he could use the restroom. The officer did not escort Person A into the restroom, but stood about 10 feet away. Person A, no longer in handcuffs, then returned to the triage area to await the psychiatrist. Respondent St. Denis explained that Person A "wasn't being aggressive or violent," and the officer felt that Person A was no longer a threat to the officers or the hospital staff. (Tr. 68-70, 77-78)

While Person A was waiting in triage, the officers' attention was focused elsewhere. Respondent St. Denis testified that as they were talking with a security guard, the officers were alerted that Person A had fled. The officers spent at least 10 minutes searching for Person A outside the hospital, but did not call a supervisor. They then returned to the hospital, and made no effort to assist Person A's mother in getting a ride home. Respondents resumed patrol, still without notifying a supervisor of the situation. (Tr. 71-74, 79-84)

Respondent St. Denis, who has been with the Department since July, 2011, acknowledged that at the time of the incident his understanding of the relevant patrol guide sections was "clearly flawed". He explained how he "laments" the choices he made that day: he recognized that he did not properly safeguard Person A, and that after

Person A fled from their custody the officers should immediately have notified a supervisor. Respondent St. Denis "guaranteed" that if the same situation were to arise today he would handle it differently, consistent with the applicable guidelines. (Tr. 87)

PENALTY RECOMMENDATIONS

In order to determine an appropriate penalty, Respondents' service records were examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent St. Denis was appointed to the Department on July 6, 2011 and Respondent Hanna was appointed on January 10, 2007. Information from their personnel records that was considered in making these penalty recommendations is contained in the attached confidential memoranda.

Section 216-05 (29) of the Patrol Guide, the relevant section for dealing with an EDP on the date of the incident, provided that a member of the service must "safeguard patient at hospital until examined by psychiatrist." Once an officer receives a report that an individual has gone missing, Section 207-23 (3) requires the officer to request that a patrol supervisor respond.

By their own admissions, each Respondent here failed to follow the guidelines in dealing with Person A. In particular, they erred in not properly safeguarding Person A, and not notifying a supervisor once Person A went missing. Also, Respondents were discourteous to Person A's mother in their haste to resume patrol. For their misconduct, the Department Advocate recommends that each Respondent forfeit fifteen (15) vacation days. Counsel for Respondents counters that a penalty of five (5) vacation days for each Respondent is more appropriate. Counsel acknowledges the mistakes that the officers

made in not safeguarding the individual in their custody and not calling for a supervisor; however, he argues that in choosing to un-cuff Person A Respondents were acting out of compassion for him, and that it was a reflex action to try to locate Person A by themselves when he went missing.

On the one hand, this tribunal was impressed with Respondents' recognition of the mistakes they made, and their commitment to learning from the experience.

Respondent St. Denis came across as genuinely troubled by his failure to follow the patrol guidelines, and determined to handle this type of situation better in the future.

Respondent Hanna, meanwhile, expressed a clear grasp of the safety implications from their mishandling of events that day, and how their actions interfered with Person A's receiving the proper care that he needed.

At the same time, this tribunal is mindful of the several valid concerns raised by the Department Advocate. The chain of events of August 20 was largely set in motion by Respondents choosing to take matters into their own hands. Rather than secure Person A until the hospital psychiatrist had evaluated him, the officers took it upon themselves to decide that he was not a threat, and chose to un-cuff him. When they failed to keep a close watch on Person A, he was able to flee from the hospital. The officers then compounded their mistake by not promptly notifying a supervisor, which unduly delayed the process of locating Person A. Fortunately, after a level 1 mobilization was ordered, Person A was located back at his home a few hours later.

The case precedent in this area deals with situations involving escaped prisoners. The Department Advocate cited *Disciplinary Case No. 13281/15* (Dec. 30, 2015), where a five-year officer with no disciplinary history negotiated a penalty of ten (10) days

already served on suspension for allowing a prisoner to escape from a hospital while Respondent was using the restroom. In a slightly older matter, *Disciplinary Case No. 84412/08* (Dec. 8, 2010), a four-year officer with no disciplinary history negotiated a penalty of fifteen (15) days already served on suspension for allowing his un-cuffed prisoner to escape from a Bellevue Hospital restroom while the officer was speaking with a nurse. One notable distinction between these two cases and the present one is that here, Person A was not under arrest for committing a crime, and so this was not a case where a "prisoner" was allowed to escape. Nevertheless, the officers still had an obligation to safeguard the EDP in their custody, for his safety and the safety of others.

Taking into account the totality of the issues and circumstances in this matter, including the nature of the misconduct, the manner in which Respondents expressed how they've learned from their mistakes, their lack of disciplinary history, and the legal precedent, I recommend that each Respondent forfeit twelve (12) vacation days as an appropriate penalty.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

JUN 08 2017

JAMES P. O'NEILL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MATTHEW ST. DENIS
TAX REGISTRY NO. 949915
DISCIPLINARY CASE NO. 2016-15548

Respondent St. Denis was appointed to the Department on July 6, 2011. His last three annual performance evaluations were as follows: he received an overall rating of 4.0 "Highly Competent" in 2015 and an overall rating of 3.5 "Highly Competent/Competent" in both 2014 and 2013. He has been awarded no medals to date.

[REDACTED]

Respondent St. Denis has no prior formal disciplinary history.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER STEPHANIE HANNA
TAX REGISTRY NO. 943941
DISCIPLINARY CASE NO. 2016-15547

Respondent Hanna was appointed to the Department on January 10, 2007. Her last three annual performance evaluations were as follows: she received an overall rating of 3.5 "Highly Competent/Competent" in 2015 and an overall rating of 4.0 "Highly Competent" in both 2014 and 2013. She has been awarded one medal for Excellent Police Duty. [REDACTED]

Respondent Hanna has no prior formal disciplinary history.

Jeff S. Adler
Assistant Deputy Commissioner Trials