



POLICE DEPARTMENT

June 30, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Charesse Davis
Tax Registry No. 927864
43 Precinct
Disciplinary Case No. 2013-8971

Police Officer Manuel Delarosa
Tax Registry No. 945171
43 Precinct
Disciplinary Case No. 2013-8972

The above-named members of the Department appeared before me on May 19, 2015, charged with the following:

Disciplinary Case No. 2013-8971

1. Said Police Officer Charesse Davis, on or about December 5, 2011, at approximately 1359 hours, while on-duty, while assigned to the 43rd precinct, in the vicinity of [REDACTED] Bronx County, did fail to prepare a Complaint Report upon receiving a complaint from an individual known to the Department.

P.G. 207-07 – PRELIMINARY INVESTIGATION OF COMPLAINTS

2. Said Police Officer Charesse Davis, on or about December 5, 2011, at approximately 1359 hours, while on-duty, while assigned to the 43rd precinct, in the vicinity of [REDACTED] Bronx County, upon receiving the complaint mentioned above in Specification One, did fail and neglect to record this encounter in her activity log.

P.G. 212-08 – ACTIVITY LOGS

Disciplinary Case No. 2013-8972

1. Said Police Officer Manuel Delarosa, on or about December 5, 2011, at approximately 1359 hours, while on-duty, while assigned to the 43rd precinct, in the vicinity of [REDACTED], Bronx County, did fail to prepare a Complaint Report upon receiving a complaint from an individual known to the Department.

P.G. 207-07 - PRELIMINARY INVESTIGATION OF COMPLAINTS

2. Said Police Officer Manuel Delarosa, on December 5, 2011, at approximately 1359 hours, while on-duty, while assigned to the 43rd precinct, in the vicinity of [REDACTED], Bronx County, upon receiving the complaint mentioned above in Specification One, did fail and neglect to record this incident in his activity log.

P.G. 212-08 – ACTIVITY LOGS

The Department was represented by David Bernstein, Esq., Department Advocate's Office. Respondents Davis and Delarosa were represented by Craig Hayes, Esq.

Respondents through their counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. The Department submitted a recording and a transcript as evidence. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 2013-8971

Respondent Davis is found Guilty. The penalty is the loss of 15 vacation days.

Disciplinary Case No. 2013-8972

Respondent Delarosa is found Guilty. The penalty is the loss of 15 vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

On December 5, 2011, at approximately 2 PM, Respondents were in uniform on patrol in an RMP in the vicinity of [REDACTED] in the Bronx. In an integrity test conducted by Internal Affairs, an undercover officer approached both Respondents and stated to them that she had been pickpocketed and her wallet containing her metro card and driver's license was missing. The undercover stated to the Respondents that while she was on her way to the station, "there was a group of girls and they—I felt bumped and then when I got to the station... my wallet is gone." (Dept X 1 and Dept X 2, p. 2). Respondent Davis told her that it, "is probably going to be classified as lost property, like you lost your wallet because you didn't—you don't know who took it." (Dept X 1 and Dept X 2, p. 3) The undercover told the Respondents she needed something to show that her driver's license was gone. When the undercover asked Respondents if she could get the necessary paper from the Respondents, they told her they didn't have the paper she needed. They informed her that she would have to go to the precinct to make a report and that it is going to be considered lost, not stolen, property. (Dept X 1 and Dept X 2, p. 3-5).

Respondents did not fill out a complaint report and did not make any entries regarding the encounter in their Activity Logs.

Respondents both testified that based on what they know now they would have handled the situation differently and would have taken a report. (Tr. pp. 13, 28).

Respondent's position is that the penalty should be mitigated since this was not a clear grand larceny and the situation as described to the Respondents did not require a "full force" NYPD pursuit involving a complaint report and referral to the Detective

Squad. Respondents argue that they were making a judgment call from the very vague information they received when they decided it was a lost property case as opposed to a grand larceny. Respondents also state that any implication that the failure to file a complaint report caused any significant impact on crime statistics is exaggerated.

Respondents suggest that the tape of the encounter should have been used as a teaching tool for the Respondents back at the precinct and should not have resulted in formal discipline.

The Department Advocate's position is that the undercover provided information to the Respondents which indicated property had been taken from her person and that constitutes Grand Larceny, even if she couldn't describe who took the property. They further argue that Respondents had to take a complaint report even if they believed that this was lost property as opposed to a Grand Larceny case.

The Department Advocate cites several reasons why the failure to prepare a complaint report is significant misconduct. They state that not only is it important to have accurate complaint reports so that the complaint reports can be followed up and investigated appropriately by the detective squad to hopefully catch a perpetrator, but also to allow the Department to discover crime patterns and trends and ensure efficient deployment of resources and manpower.

PENALTY

Disciplinary Case No. 2013-8971 and Disciplinary Case No. 2013-8972

In order to determine an appropriate penalty, Respondent Davis's and Respondent Delarosa's service records were examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent Davis was appointed to the Department on July 11,

2001. Respondent Delarosa was appointed to the Department on July 18, 2007.

Information from each Respondent's personnel record that was considered in making these penalty recommendations are contained in an attached confidential memorandum.

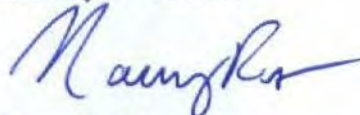
The penalty for Respondent Davis is the loss of 15 vacation days. The penalty for Respondent Delarosa is the loss of 15 vacation days.

As stated in the P.G. 207-01:

Proper complaint reporting is essential for statistical analysis, discovery of crime patterns and trends, efficient deployment of resources, and uniform crime reporting. Every member of the service involved in this process has a responsibility and obligation to ensure the integrity of this vital, strategic resource.

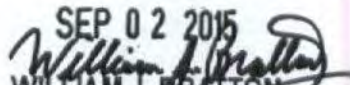
In two previous cases with almost identical fact patterns of Integrity tests where the undercover reported being bumped and then noticing property missing, Disciplinary Cases Nos. 2013-9528 and 2013-9340, penalties of the loss of 15 vacation days were negotiated and approved by the Police Commissioner. Nothing presented in mitigation in the current cases call for applying an inconsistent penalty.

Respectfully submitted,



Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPROVED

SEP 02 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

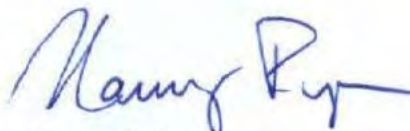
POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MANUEL DELAROSA
TAX REGISTRY NO. 945171
DISCIPLINARY CASE NO. 2013-8972

On his last three performance evaluations, Respondent Delarosa received an overall rating of 4.5 "Extremely Competent/Highly Competent" once and 4.0 "Highly Competent" twice. He has been awarded one medal for Excellent Police Duty. [REDACTED]

[REDACTED]
Respondent Delarosa has no prior formal disciplinary record.

For your consideration.



Nancy R. Ryan
Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER CHARESSE DAVIS
TAX REGISTRY NO. 927864
DISCIPLINARY CASE NO. 2013-8971

On her last three performance evaluations, Respondent Davis received an overall rating of 4.5 "Extremely Competent/Highly Competent" once and 3.5 "Highly Competent/Competent" twice. She has been awarded one medal for Meritorious Police Duty. [REDACTED]

s [REDACTED]

[REDACTED] Respondent Davis has no prior formal disciplinary record.

For your consideration.



Nancy R. Ryan
Assistant Deputy Commissioner – Trials