



POLICE DEPARTMENT

May 19, 2023

In the Matter of the Charges and Specifications
- against -

Police Officer Susan Arias
Tax Registry No. 964892
45 Precinct

Police Officer Justin Clavell
Tax Registry No. 969019
45 Precinct

Police Officer Jeverson Cruz
Tax Registry No. 968352
45 Precinct

Police Officer Osayande Grant
Tax Registry No. 966604
45 Precinct

Police Officer Edwin Lugo
Tax Registry No. 950786
45 Precinct

Case Nos.

2022-25435
2022-25043

Case No.
2022-25045

Case No.
2022-25436

Case No.
2022-25044

Case No.
2022-25042

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

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Ayisha Amjad, 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

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

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CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2022-25435

1. Police Officer Susan Arias, while assigned to the 45 Precinct, on or about February 14, 2022, caused a false entry in a Domestic Incident Report and/or City of Yonkers Police Department Incident Report.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

2. Police Officer Susan Arias, while assigned to the 45 Precinct, on or about February 14, 2022, having been involved in an unusual police occurrence or an off-duty domestic incident, failed to notify the Operations Unit.

P.G. 212-32, Page 1, Paragraphs 1 & 2

OFF DUTY INCIDENTS
INVOLVING UNIFORM
MEMBERS OF THE SERVICE

P.G. 208-37, Page 4, Additional Data

FAMILY OFFENSES AND
DOMESTIC VIOLENCE
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE

P.G. 208-36

FAMILY OFFENSES/
DOMESTIC VIOLENCE

3. Police Officer Susan Arias, while assigned to the 45 Precinct, on or about February 14, 2022, in Yonkers, New York, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer falsely identified herself and/or another person to on duty City of Yonkers Police Department Police Officers.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

4. Police Officer Susan Arias, while assigned to the 45 Precinct, on or about February 14, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer impeded an investigation by providing false or inaccurate information to, failing to cooperate with, and/or acting discourteously toward on-duty City of Yonkers Police Department Police Officers.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

Disciplinary Case No. 2022-25043

1. Police Officer Susan Arias, on or about January 12, 2022, while on-duty and assigned to the 45 Precinct, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer failed to take police action by not conducting a proper investigation and not arresting an individual known to the Department, for violating a valid Order of Protection.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

Disciplinary Case No. 2022-25045

1. Police Officer Justin Clavell, on or about January 12, 2022, while on-duty and assigned to the 45 Precinct, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer failed to take police action by not conducting a proper investigation and not arresting an individual known to the Department, for violating a valid Order of Protection.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

Disciplinary Case No. 2022-25436

1. Police Officer Jeverson Cruz, while assigned to the 45 Precinct, on or about February 14, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer allowed another Police Officer to provide false information for entry in a Domestic Incident Report and/or City of Yonkers Police Department Incident Report.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

2. Police Officer Jeverson Cruz, while assigned to the 45 Precinct, on or about February 14, 2022, having been involved in an unusual police occurrence or an off-duty domestic incident, failed to notify the Operations Unit.

P.G. 212-32, Page 1, Paragraphs 1 & 2

OFF DUTY INCIDENTS
INVOLVING UNIFORM
MEMBERS OF THE SERVICE

P.G. 208-37, Page 4, Additional Data

FAMILY OFFENSES AND
DOMESTIC VIOLENCE
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE

P.G. 208-36

FAMILY OFFENSES/
DOMESTIC VIOLENCE

3. Police Officer Jeverson Cruz, while assigned to the 45 Precinct, on or about February 14, 2022, in Yonkers, New York, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer allowed another Police Officer to identify him by a false name to on duty City of Yonkers Police Department Police Officers.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

Disciplinary Case No. 2022-25044

1. Police Officer Osayande Grant, on or about January 12, 2022, while on-duty and assigned to the 45 Precinct, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer failed to take police action by not conducting a proper investigation and not arresting an individual known to the Department, for violating a valid Order of Protection.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

Disciplinary Case No. 2022-25042

1. Police Officer Edwin Lugo, on or about January 12, 2022, while on-duty and assigned to the 45 Precinct, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to take police action by not conducting a proper investigation and not arresting an individual known to the Department, for violating a valid Order of Protection.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on April 20, 2023. Respondents Arias, Clavell, Cruz, Grant, and Lugo, through their counsel, entered pleas of Guilty to the charged misconduct, and testified in mitigation of the penalties. The Department introduced into evidence Body Worn Camera ("BWC") footage from the first incident, and police reports prepared in connection with the second matter. 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 recommend that Respondents Arias, Clavell, Grant, and Lugo each forfeit 10 vacation days on the first matter, and that Respondents Cruz and Arias

each forfeit 30 vacation days on the second matter, with Respondent Arias's penalties running consecutively to each other, bringing her total forfeiture to 40 days.

SUMMARY OF EVIDENCE IN MITIGATION

Respondents Arias, Clavell, Grant, and Lugo have pleaded guilty for their failure to take police action in connection with an alleged assault that occurred on January 12, 2022. In a separate matter that took place on February 14, 2022, Respondents Arias and Cruz have pleaded guilty to providing false information to Yonkers Police Officers who were investigating an off-duty verbal dispute between Respondents. The two cases will be discussed separately.

Assault case

On January 12, 2022, Lugo and Arias were assigned to a call of a 10-34, assault in progress, at a multi-use apartment building in the Bronx, which housed some emotionally disturbed residents. Clavell and Grant also responded as the back-up unit. Upon arrival, the four officers took the elevator to the 11th floor where they encountered a woman ("the perpetrator"), with whom they were familiar based on multiple prior interactions with her as an emotionally disturbed person.

BWC footage from each of the officers (Dept. Exs. 1-4) captures the interaction between Respondents and the perpetrator. As the officers step off the elevator, the perpetrator admits to them that she "attacked" a woman ("the victim"), who is now in Apartment 10. She attempts to tell the officers how she already has been to court for a matter involving the same victim; Lugo tries to focus the perpetrator instead on what just happened, and she becomes agitated that they're not listening. Lugo walks into the perpetrator's apartment and confirms that the victim is not there. The officers then escort the perpetrator to the elevator, uncuffed, along with two EMS workers who have just arrived. The perpetrator appears to be dancing with herself and clapping

her hands as they step onto the elevator. She starts pressing the elevator buttons, including the alarm, and so the officers place her in handcuffs as she struggles and screams.

Once they reach the ground floor, the officers can be seen on video walking the perpetrator toward the building's exit; as they pass a caseworker, the perpetrator repeatedly shouts at her, "You're gonna die, bitch." The officers escort the perpetrator to the ambulance, then Lugo sends Clavell and Grant back to the building to speak with the caseworker and gather information about the victim. She tells them that the victim, who is now in Apartment 10E, has a knot on her head and abrasions on her face from being attacked by the perpetrator. She also states that there is an order of protection in effect against the perpetrator. The caseworker offers to bring them to the apartment where she has the paperwork, but Clavell tells her they want to see the victim first. As they are waiting for the elevator, which is taking a long time to come since the perpetrator pressed all the buttons, Lugo calls them back to the ambulance to assist with the perpetrator, who is screaming and kicking as they struggle to secure her. The officers inform Lugo what they learned from the caseworker. After the perpetrator is secured, Lugo informs the other officers that all four of them will go to the hospital where the perpetrator will be evaluated.

Respondent Lugo testified that the perpetrator's behavior was combative and erratic. Based on his prior dealings with her, Lugo suspected that she wanted to be arrested, with the hope that she would then be relocated to a different residence. Lugo asked the dispatcher to try to contact the victim through the 911 call, to no avail. Before leaving the scene to go to the hospital, Lugo called to request that a second ambulance be sent for the victim. Lugo conceded that he never saw the victim, nor did he return to the scene to look for her. He also did not arrest the perpetrator for assaulting the victim. Lugo acknowledged that he should have gone back to investigate further. (Tr. 59-66, 71, 74-75, 81-83, 86-89)

Similarly, Respondents Arias, Clavell, and Grant testified that they did not arrest the perpetrator for assaulting the victim,¹ nor did they return to the location, or call for back-up, to investigate further. Instead, when the officers left the hospital, they resumed patrol and handled another call. Arias explained that her focus during the incident was on “trying not to get hurt” by the perpetrator, but she conceded that she did not do a proper and complete investigation. Clavell testified that in hindsight, he recognizes that they should have had somebody “confirm and check on the victim.” Grant also acknowledged that he could have gone back to the location to investigate further, or at least have reached out to a supervisor to have someone check on the victim. (Tr. 30-31, 43, 48-49, 94-100, 110-16, 121-25, 131-34, 140-41)

Yonkers case

In the early morning hours of February 14, 2022, a neighbor called the police after hearing loud arguing, and a female crying, inside the apartment shared by Respondents Arias and Cruz. Several officers responded and spoke with Arias and Cruz; their interaction is captured in the BWC footage of one of the Yonkers’ officers (Dept. Ex. 5). Arias is standing in the doorway during most of the conversation, and doing most of the talking; Cruz can be seen standing behind her, inside the apartment.

The Yonkers officers ask Arias to step outside to make sure she is okay, but she and Cruz refuse, insisting they are fine, and that they were just having a verbal dispute. The Yonkers officers can be heard on video pressing Arias to cooperate, but she continues to refuse, stating that she and Cruz are just roommates, and it is not a domestic situation. Arias and Cruz do identify themselves as police officers, and eventually agree to provide some pedigree information: Arias tells the Yonkers officers that her name is “Susan Aja,” and she also states

¹ Respondent Arias testified that at a later date, she was instructed by Bronx Inspections to return to the location, at which time she arrested the perpetrator in connection with this incident. (Tr. 141)

that Cruz's name is "Jason Rodriguez." Cruz, who is standing there listening, does not correct her. That inaccurate information is reflected in the Domestic Incident Report ("DIR") prepared by the Yonkers Police (Dept. Ex. 6).

Respondents Arias and Cruz both testified that they were just roommates at the time of the incident, and only started dating afterward; however, in his official Department interview on March 24, 2022, Cruz stated that he and Arias had been in a relationship for a year and a half. They each admitted that Arias provided false names to the Yonkers Police, and that Cruz did nothing to correct her. Arias testified that she provided the incorrect names because she was upset and nervous that someone had called the police to her home about a noise complaint. She also acknowledged that she did not notify Operations of the incident, stating that she had never been in this type of situation before and didn't realize she needed to do so. Cruz testified that he was shocked at such a large police presence, since they were only having a minor argument about a space heater. He thought about interjecting when Arias provided the fake names, but did not do so; at trial, he stated that he absolutely should have spoken up. He also admitted that he failed to notify Operations, for which he now takes responsibility. Cruz testified that he and Arias are humans, and that they made mistakes and used bad judgment that night. (Tr. 33-35, 50, 54, 147-50, 164-68)

PENALTY

In order to determine appropriate penalties, 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. Respondents' employment histories also were examined. *See* 38 RCNY § 15-07. Information from

Respondents' personnel records that were considered in making these penalty recommendations are contained in attached memoranda.

Respondents Arias, Clavell, Grant, and Lugo each pleaded guilty for their failure to take police action. Despite being made aware of an assault allegation against a victim with an existing order of protection, the officers did not meet or speak with the victim, nor did they arrest the perpetrator. The Department Advocate recommends the presumptive penalty of 20 vacation days for each Respondent, while defense counsel suggests that five days is appropriate.

On the one hand, there needs to be accountability for the failure of Respondents to prioritize the needs of the victim, and to properly investigate the matter. The officers had information that an assault had taken place: there was a radio call of an assault-in-progress; the perpetrator on the scene admitted to them that she had just assaulted the victim; a case worker informed the officers that there was an injured victim, with an active order of protection, inside an apartment in the building. Nevertheless, Respondents never interviewed the victim, nor did they call for police back-up or notify a supervisor of the need to send someone to do so. Not only was the victim not attended to, there also was an unnecessary delay in effecting the arrest of the perpetrator. Any misgivings the officers felt based on having responded to the location multiple times in the past to deal with this perpetrator did not excuse their failure to conduct a complete investigation here.

To their credit, though, Respondents did acknowledge on the witness stand that there was more that they could and should have done. Although they were understandably preoccupied with safely securing the perpetrator, who was acting erratically, they conceded they should have returned to the scene themselves, or called a supervisor to arrange for another unit to respond.

Additionally, it would be unfair not to recognize that some investigative steps were taken by Respondents. This was not a situation where the officers made absolutely no effort to respond to the call. They did respond, and although they were preoccupied with dealing with the combative perpetrator, the officers did take steps to follow-up with the victim as well. Lugo contacted the dispatcher in an effort to locate the victim through the 911 call, and also called for an additional ambulance for the victim. He had Arias remain with him to deal with the perpetrator, who was behaving violently and erratically, but sent Clavell and Grant back to the building in order to speak with the victim. Those two officers first gathered information from the caseworker about the victim's injuries and location, then waited for an elevator to take them to the victim's apartment. Indeed, Clavell specifically prioritized seeing the victim as soon as possible, rather than wait for the caseworker to retrieve the order of protection paperwork. However, as they were waiting for the elevator, Clavell and Grant, each of whom had less than four years on the job at the time, were called back to the ambulance by Lugo to assist with the perpetrator, and the four officers left the location without meeting with the victim.

For their collective failure in handling this matter, a mitigated penalty is appropriate for each of the four Respondents, none of whom has any formal disciplinary record. Taking into account the totality of the facts and circumstances in this case, I recommend that Respondents Arias, Clavell, Grant, and Lugo each forfeit ten (10) vacation days.

With respect to the Yonkers case, Respondents Arias and Cruz each pleaded guilty in connection with the false names that were provided to the Yonkers Police, leading to false entries being made in the DIR, and for failing to notify Operations of the incident. The Department Advocate asks that each Respondent forfeit 30 vacation days and be placed on one-year dismissal probation, the presumptive penalty for Impeding an Investigation. However, under the

specific circumstances presented here, I am not persuaded a period of monitoring is warranted.

To be sure, it is of great concern that Arias provided the false names to the police, and Cruz stood by and did nothing to correct her. With their actions, they impeded the investigation by the Yonkers police officers, caused incorrect information to be entered into the DIR, and hindered the ability of the officers to notify the NYPD of the incident. Respondents further compounded the problem by failing to notify Operations. As MOS themselves, Respondents should have understood the importance of cooperating with the Yonkers officers.

However, it also is important to keep in mind that this was not a situation where Respondents were impeding an investigation into misconduct that carried a presumptive penalty of termination. Indeed, based on the credible evidence, they had not committed any misconduct at all, and merely were engaged in a minor verbal dispute regarding a space heater. Respondents were shocked and upset at having to deal with the Yonkers police over what they felt was a simple, personal matter. Nevertheless, Respondents correctly acknowledged at trial that they should have acted differently. As Cruz candidly noted in his testimony, he and Arias are humans who made mistakes and used poor judgment that night.

On balance, a penalty of thirty (30) vacation days for each Respondent will appropriately address the totality of the misconduct in this matter. Neither Cruz nor Arias has any formal disciplinary record, and this significant loss of days will hopefully act as a deterrent to future misconduct. With respect to Arias, I recommended that this penalty run consecutively to the ten (10) days in the other matter, bringing her total penalty to forty (40) vacation days.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

NOV 30 2023

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER SUSAN ARIAS
TAX REGISTRY NO. 964892
DISCIPLINARY CASE NOS. 2022-25435; 2022-25043

Respondent was appointed to the Department on January 10, 2018. On her three most recent annual performance evaluations, she was rated “Meets Standards” for 2020, and “Exceeds Expectations” for 2021 and 2022.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER JUSTIN CLAVELL
TAX REGISTRY NO. 969019
DISCIPLINARY CASE NO. 2022-25045

Respondent was appointed to the Department on January 6, 2020. On his most recent performance evaluation, he was rated “Exceptional” for 2022.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER JEVERSON CRUZ
TAX REGISTRY NO. 968352
DISCIPLINARY CASE NO. 2022-25436

Respondent was appointed to the Department on October 7, 2019. On his two most recent annual performance evaluations, he was rated “Exceeds Expectations” for 2021 and 2022.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER OSAYANDE GRANT
TAX REGISTRY NO. 966604
DISCIPLINARY CASE NO. 2022-25044

Respondent was appointed to the Department on October 24, 2018. On his three most recent annual performance evaluations, he was rated “Exceeds Expectations” for 2020, and “Meets Standards” for 2021 and 2022.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER EDWIN LUGO
TAX REGISTRY NO. 950786
DISCIPLINARY CASE NO. 2022-25042

Respondent was appointed to the Department on July 6, 2011. On his three most recent annual performance evaluations, he was rated “Meets Standards” for 2020 and 2022, and “Exceeds Expectations” for 2021. He has been awarded one medal for Excellent Police Duty.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials