



POLICE DEPARTMENT

October 21, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer John Augeri
Tax Registry No. 898915
41 Precinct
Disciplinary Case No. 2013-9479

Police Officer Alfredo Mendez
Tax Registry No. 921583
41 Precinct
Disciplinary Case No. 2013-9481

Police Officer Lissette Sanchez
Tax Registry No. 940700
41 Precinct
Disciplinary Case No. 2013-9478

The above-named members of the Department appeared before the Court on May 14 and July 23, 2015, charged with the following:

Disciplinary Case No. 2013-9479

1. Police Officer John Augeri, 41 Precinct, while assigned to the domestic violence unit on or about and between October 11, 2012 and February 27, 2013, on seven occasions failed to properly conduct patrol and or execute his assignment in that Police Officer Augeri did not conduct the domestic violence home visits that he was supposed to, failed to conduct face-to-face interviews with victims, and failed to assess domestic conditions.

P.G. 206-03, Page 1, Paragraph 26 – DISCIPLINARY MATTERS
NYPD DVU Training Bulletin #8, Series 2004

2. Police Officer John Augeri, 41 Precinct, while assigned to the domestic violence unit on or about and between October 11, 2012 and February 27, 2013, on seven occasions made or caused to be made false entries in Department records in that Police Officer Augeri made

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domestic violence home visit log entries documenting successful visits that were in fact not successful, and transmitted incorrect radio disposition codes.

P.G. 202-29, Interim Order #5, 01/20/12 – DOMESTIC VIOLENCE PREVENTION
OFFICER

P.G. 203-05, Page 1, Paragraph 4 – GENERAL REGULATIONS

P.G. 206-03, Page 1, Paragraph 3 – DISCIPLINARY MATTERS

3. Police Officer John Augeri, 41 Precinct, while assigned to the domestic violence unit on or about February 27, 2013, failed to prepare a domestic violence home visit check list card.

P.G. 202-29, Interim Order #5, 01/20/12 – DOMESTIC VIOLENCE PREVENTION
OFFICER

4. Police Officer John Augeri, 41 Precinct, while assigned to the domestic violence unit, on numerous occasions between October 11, 2012 and February 27, 2013, failed to make activity log entries documenting his activities while conducting domestic violence home visits.

P.G. 206-03, Page 1, Paragraph 6 – DISCIPLINARY MATTERS

Disciplinary Case No. 2013-9481

1. Police Officer Alfredo Mendez, 41 Precinct, while assigned to the domestic violence unit on or about and between October 3, 2012 and February 9, 2013, on fourteen occasions failed to properly conduct patrol and or execute his assignment in that Police Officer Mendez did not conduct the domestic violence home visits that he was supposed to, failed to conduct face-to-face interviews with victims, and failed to assess domestic conditions.

P.G. 206-03, Page 1, Paragraph 26 – DISCIPLINARY MATTERS
NYPD DVU Training Bulletin #8, Series 2004

2. Police Officer Alfredo Mendez, 41 Precinct, while assigned to the domestic violence unit on or about and between October 3, 2012 and February 9, 2013, on fourteen occasions made and or caused to be made false entries in Department records in that Police Officer Mendez made activity log entries and domestic violence home visit log entries documenting successful visits that were in fact not successful, and transmitted incorrect radio disposition codes.

P.G. 202-29, Interim Order #5, 01/20/12 – DOMESTIC VIOLENCE PREVENTION
OFFICER

P.G. 206-03, Page 1, Paragraph 3 – DISCIPLINARY MATTERS

P.G. 212-08 – ACTIVITY LOGS

Disciplinary Case No. 2013-9478

1. Police Officer Lissette Sanchez, 41 Precinct, while on dismissal probation and while assigned to the domestic violence unit on or about and between October 11, 2012 and February 24, 2013, on seven occasions failed to properly conduct patrol and or execute her assignment in that Police Officer Sanchez did not conduct the domestic violence home visits that she was supposed to, failed to conduct face-to-face interviews with victims, and failed to assess domestic conditions.

P.G. 206-03, Page 1, Paragraph 26 – DISCIPLINARY MATTERS
NYPD DVU Training Bulletin #8, Series 2004

2. Police Officer Lissette Sanchez, 41 Precinct, while on dismissal probation and while assigned to the domestic violence unit on or about and between October 11, 2012 and February 24, 2013, on seven occasions made or caused to be made false entries in department records in that Police Officer Sanchez made activity log and domestic violence home visit log entries, and completed domestic violence home visit checklist cards documenting successful visits that were in fact not successful, and transmitted incorrect radio disposition codes.

P.G. 202-29, Interim Order #5, 01/20/12 – DOMESTIC VIOLENCE PREVENTION
OFFICER

P.G. 203-05, Page 1, Paragraph 4 – GENERAL REGULATIONS

P.G. 212-08 – ACTIVITY LOGS

P.G. 206-03, Page 1, Paragraph 3 – DISCIPLINARY MATTERS

The Department was represented by Daniel Maurer, Esq., Department Advocate's Office.

Respondents were represented by John P. Tynan, Esq., Worth, Longworth & London LLP.

Respondents pleaded Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondents are found Guilty.

FACTS

Respondents were assigned to the 41 Precinct's domestic violence unit. At the start of their tour, they reviewed recent domestic incident reports to compile approximately 20 residences that warranted home visits. Sergeant Tobia Hunter-Clark, who investigated the allegations against Respondents for the Domestic Violence Inspections Unit, testified that a successful home visit was one where an officer visited the residence and spoke with a complainant or offender face-to-face. The benefit of visiting a residence was that the officer could assess if the complainant's home environment is safe. Every home visit was noted in a computerized home visit log. For successful home visits, a checklist card also was prepared (Court Exhibit 1). The visiting officer also was responsible for making Activity Log entries that include details such as the time, person visited, address, whether the visit was successful, and any action taken. Successful and unsuccessful home visits had distinct radio code dispositions (Tr. 12-13, 17-19, 68, 86-87).

Hunter-Clark testified that the DVIU's internal statistical analysis showed that the 41 Precinct had an unusually high rate of successful visits. Accordingly, she conducted an audit of Respondents' activity. Her investigation consisted of interviewing domestic violence complainants Respondents claimed to have visited. Surveillance of Respondents was also conducted. Her investigation revealed that Respondent Mendez falsely reported successful home visits on approximately 14 occasions between October 3, 2012, and February 9, 2013. On one of those occasions Respondent Mendez transmitted the radio disposition for a successful visit even though investigators observed that he never even left his car. In his Activity Log, Respondent Mendez indicated that a visit to a location was successful but did not include any further details.

In an April 2013 official Department interview, Respondent Mendez conceded that it was common for him to categorize a phone call as a successful home visit (Tr. 10-11, 19-23).

Respondent Sanchez was found to have reported successful home visits falsely on seven occasions between October 11, 2012, and February 24, 2013. In her official Department interview, she admitted that on one occasion she went to a complainant's residence and marked the visit as successful even though she did not actually see the complainant. She further admitted that at times she might have marked a visit as successful without getting out of her car. She documented these visits in her Activity Log as successful (Tr. 23-26).

Respondent Augeri was found to have reported successful home visits falsely on seven occasions between October 11, 2012, and February 27, 2013. Similarly to his co-Respondents, he failed to conduct the face-to-face interviews and assess the domestic conditions. Concerning a February 27, 2013, visit, Respondent Augeri stated in his official interview that he prepared a checklist card, but investigators never found one. He had hardly any entries in his Activity Log. In his interview, he admitted that he occasionally classified phone calls as successful home visits, and that he prepared checklist cards even when he did not conduct face-to-face interviews with complainants (Tr. 27-29).

In his defense, Respondent Augeri testified that there were times when before getting to a residence he would see the complainant walking outside of the building. In those situations he would speak with the complainant, check to make sure everything was okay, and call those encounters successful home visits. He considered unsuccessful visits those where he was unable to make any contact with the person. About his Activity Log entries, he explained that because he was always the driver and his partner was the recorder, he relied on his partner to note all the necessary information in her log (Tr. 70-74, 80).

Respondent Sanchez testified that, based on her training, she believed a home visit just meant "trying to make contact with the person." The optimal place to make one of these visits was at the residence because this allowed the officers to speak to the victim, make sure the perpetrator was not around in open cases, and make observations. A visit to the residence was not always possible, however, because sometimes the officers could not gain entrance to the building. Other times, the complainants did not want the police there, and the presence of a police officer could escalate problems. In those situations, the Respondents might have met complainants outside of their buildings or at their places of employment. There were times that she went to residences and called complainants on the phone to let her into the building. From outside their buildings, Respondent Sanchez would ask the complainants on the phone if they were okay. The complainants would say that they were fine but would not want to open the door for the police. Respondent Sanchez considered these successful home visits (Tr. 90-92, 95-97).

Respondent Mendez testified that he considered it a successful home visit whenever he made contact with a complainant. He did not think the visit needed to occur in the residence in order for it be deemed a success. He did not "force" his way into apartments because he wanted to gain trust. There were numerous occasions that the person he went to visit did not want anything to do with the police. He considered a telephone call with a victim to be a successful visit (Tr. 112-13, 116).

FINDINGS AND ANALYSIS

Domestic Violence Unit Training Bulletin No. 8 of 2004 reads, "Only actual face-to-face contact with victims at their residence or other appropriate location qualify as 'successful' home visits. Visiting the home may reveal evidence of on-going violence (i.e. visible injuries, broken

furniture, holes in wall, etc.). **A home visit is not a telephone call, walk-in interview, contact with a family member or neighbor, 911 response, etc.**" (see Department's Exhibit 1, ¶2 [emphasis in original]). This regulation applied to Respondents during the period in question (Tr. 16).

Hunter-Clark testified that it was essential for an officer to interview complainants at home. While in-residence interviews were preferable, procedure did allow for visits to take place at other locations. Thus, the Court does not take issue with the fact that Respondents interviewed some complainants outside their buildings or at their workplaces. As Respondents credibly explained, there were times when the presence of a police officer inside the home would have only exacerbated domestic tension.

What the Court does find troubling are the times that Respondents considered telephone contact to count as a successful home visit. While domestic violence officers should maintain telephone contact with complainants, there are important reasons why only face-to-face meetings can be classified as a successful home visit. On a telephone call an officer cannot tell if he is speaking to the right person or whether the perpetrator is present in the apartment influencing the victim's answers. Moreover, only with face-to-face contact can an officer examine a possible victim of domestic violence for injury.

Respondents admitted to categorizing phone calls as successful home visits and to indicating on the radio and on Department documents that actual home visits occurred. Respondent Augeri provided no explanation for the missing February 27, 2013, checklist card. The fact that he was RMP operator did not relieve him of his responsibility to make Activity Log entries. Accordingly, Respondents are found Guilty as charged.

PENALTY

In order to determine an appropriate penalty, Respondents' service records were examined. See Matter of Pell v. Board of Educ., 34 N.Y. 2d 222 (1974). Respondent Augeri was appointed to the Department on April 30, 1991. Respondent Mendez was appointed on July 1, 1998. Respondent Sanchez was appointed on January 9, 2006. Information from their personnel folders that was considered in making these penalty recommendations is contained in the attached confidential memoranda.

The Advocate recommended a penalty of 15 vacation days for each Respondent. This recommendation is consistent with recent cases, themselves related to DVIU audits for various precincts. See Case Nos. 2013-9446, -9448 & -9449 (Aug. 8, 2014) (15 vacation days for officers with various tenures and records for, inter alia, failing to make home visits, failing to conduct face-to-face interviews, false Activity Log indications, signing names of other officers on checklist cards, and directing another officer to give a final disposition indicating a successful home visit). Thus it is recommended that Respondents forfeit 15 vacation days each.

Respectfully submitted,



David S. Weisel
Assistant Deputy Commissioner – Trials

APPROVED

FEB 17 2016

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER LISSETTE SANCHEZ
TAX REGISTRY NO. 940700
DISCIPLINARY CASE NO. 2013-9478

In 2014, Respondent Sanchez received an overall rating of 3.5 “Highly Competent/Competent” on her annual performance evaluation. She was rated 4.5 “Extremely Competent/Highly Competent” in 2012 and 4.0 “Highly Competent” in 2013. [REDACTED]

[REDACTED] . She has been on Level II Discipline Monitoring since October 2013.

Respondent Sanchez has been the subject of one prior adjudication. In 2012, she pled guilty to fixing three summonses. For this misconduct she forfeited five suspension days, 25 vacation days, and was placed on one year dismissal probation.

For your consideration.

David S. Weisel
Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JOHN AUGERI
TAX REGISTRY NO. 898915
DISCIPLINARY CASE NO. 2013-9479

In 2013 and 2014, Respondent Augeri received an overall rating of 3.5 “Highly Competent/Competent” on his annual performance evaluation. He was rated 4.5 “Extremely Competent/Highly Competent” in 2012. [REDACTED]

[REDACTED] He has no prior formal disciplinary record.

For your consideration.

David S. Weisel
Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ALFREDO MENDEZ
TAX REGISTRY NO. 921583
DISCIPLINARY CASE NO. 2013-9481

Respondent Mendez received an overall rating of 4.5 “Extremely Competent/Highly Competent” on his last three annual performance evaluations. He has been awarded three medals for Excellent Police Duty. [REDACTED]
[REDACTED]. He has no prior formal disciplinary record.

For your consideration.

David S. Weisel
Assistant Deputy Commissioner – Trials