



POLICE DEPARTMENT

August 5, 2022

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2021-24452
Police Officer Hyppolite Paul	:	
Tax Registry No. 959879	:	
25 th Precinct	:	

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

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

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

For the Respondent: Craig Hayes, Esq.
Worth, Longworth, and 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

CHARGES AND SPECIFICATIONS

1. Said Police Officer Hyppolite Paul, while on-duty and assigned to the 25th Precinct, on or about November 1, 2021, during an integrity test regarding found property, failed to make required Activity Log (P.D. 112-145) entries regarding the circumstances and description of the found property as required.

P.G. 212-08, Pages 1-3

INVOICING PROPERTY-
GENERAL PROCEDURE

P.G 218-01, Page 1, Paragraph 1

ACTIVITY LOGS

P.G 218-26, Page 1, Paragraph 3

2. Said Police Officer Hyppolite Paul, while on-duty and assigned to the 25th Precinct, on or about November 1, 2021, during an integrity test regarding found property, after being given found property, failed to prepare a Property Clerk Invoice Worksheet.

P.G. 218-01, Page 1, Paragraph 3

INVOICING PROPERTY-
GENERAL PROCEDURE

P.G. 218-26, Page 2, Paragraph 5

3. Said Police Officer Hyppolite Paul, while on-duty and assigned to the 25th Precinct, on or about November 1, 2021, during an integrity test regarding found property, failed to deliver a completed worksheet to the desk officer of the command on record.

P.G. 218-01, Page 1, Paragraph 8

INVOICING PROPERTY-
GENERAL PROCEDURE

P.G. 218-26, Page 2, Paragraph 6

4. Said Police Officer Hyppolite Paul, while on-duty and assigned to the 25th Precinct, on or about November 1, 2021, during an integrity test regarding found property, failed to provide the person delivering the property to said Police Officer with an Acknowledgment of Found Property form.

P.G. 218-26, Page 1, Paragraph 1, Sub. B

PROCESSING FOUND
PROPERTY

5. Said Police Officer Hyppolite Paul, while on-duty and assigned to the 25th Precinct, on or about November 1, 2021, during an integrity test regarding found property, failed to notify a supervisor and expeditiously invoice the found property at the command.

P.G. 218-26, Page 1, Paragraph 4

PROCESSING FOUND
PROPERTY

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 14, 2022. Respondent, through his counsel, entered pleas of Guilty to the subject charges and testified in mitigation of the penalty. 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 find Respondent Guilty, in accordance with his pleas, and recommend the forfeiture of 15 vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

It is not in dispute that Respondent and his partner were the subjects of an integrity test conducted by the Internal Affairs Bureau (IAB). A vehicle occupied by undercover investigators pulled in front of Respondent and his partner after they completed a car stop. The integrity test concerned invoicing found property left in the vehicle. The found property, which was left behind, contained cigars, a debit card with a woman's name printed on it, an American Express gift card, and a white metal watch (T. 3-4, 56).

Respondent testified that on November 1, 2021, he was working a 1600-0000 tour of duty in the 25th Precinct with his regular partner. Respondent was the recorder for the evening, and his partner was the operator. The two were assigned to Sector David, which covers the area eastbound from Park Avenue to the FDR and northbound from 125th Street to 132nd Street. During the early evening hours, Respondent and his partner were conducting a routine traffic stop at the corner of East 125th Street and 2nd Avenue. The stop did not result in a summons, and they permitted the motorist to proceed without further action (T. 14-16).

Respondent then noticed a vehicle pull up in front of where they were standing, at the corner of East 125th Street and 2nd Avenue. He testified that the motorist exited the car, asking

for assistance: he asserted that an individual had entered the back of his car, apparently believing he was a livery cab. Respondent approached the vehicle's backseat and asked the individual to step out. The passenger did so without being combative toward the officers. Respondent surmised that the individual was not dangerous and had likely entered the car by mistake. Respondent and his partner allowed the passenger to leave, and he departed from the scene (T. 16-17, 30-31).

Respondent testified that the driver of the vehicle then indicated to them that the man had left a bag on the back seat of the car. According to Respondent, his partner searched through the bag and handed it to him; he asserted that he never examined the contents of the bag. As Respondent and the driver had this exchange, an individual standing on the sidewalk nearby, who was previously unknown to Respondent, approached them. The individual insisted that he knew the man who had been in the back of the car and offered to return the bag to him (T. 17, 19, 33).

Respondent indicated that while the interaction was ongoing, the commercial establishments in the area were still open, people were waiting for buses, and the volume of vehicular traffic was high. He testified that he genuinely believed the individual from the sidewalk did know the passenger and was under the impression that this would be the quickest way to return the property to its rightful owner (T. 31-33).

The individual from the sidewalk, who claimed to know the undercover IAB investigators and took the property, was, in fact, a third-party civilian and had no role in the integrity test. Respondent admitted that he failed to request identification from the individual and conceded that he should not have trusted him so quickly, if at all. Respondent testified that,

in hindsight, he should have vouchered the property, filled out the requisite paperwork, and informed the individual where he could pick up the property (T. 18-19, 36-37).

PENALTY

In order to determine an appropriate penalty, 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. Respondent's employment history was also examined (*see* 38 RCNY § 15-07). Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

While Respondent does have a formal disciplinary history, the nature of his previous misconduct does not trigger the application of progressive discipline to the penalty in the instant case.

Respondent, who was appointed to the Department on October 7, 2015, has pled guilty to five specifications involving his failing an integrity test regarding the proper procedures for found property. The Department has requested an aggravated penalty of 25 vacation days; I find that recommendation excessive for several reasons.

First, the failure of an integrity test presents two scenarios in which a Member of Service may be disciplined: either the subject fails procedurally, leading to administrative action, or the subject commits a criminal act. In this case, there is no evidence of predication, venality or other misconduct occurring during the test. Therefore, in the absence of such aggravating factors, an aggravated penalty is not appropriate.

Second, the five specifications in this case arose from a single act of unprofessional behavior— turning over the bag and its contents to a bystander rather than following the proper

procedures regarding found property. I find that, under the circumstances presented, the imposition of separate penalties for each instance of misconduct to which Respondent has pled Guilty would overstate his culpability.

I credit Respondent's testimony and believe he is sincere, in that he was trying to take what he intended to be the best course of action at that moment to return the property to the owner and return to work quickly. I find that his professional lapse was more likely the result of naiveté and not a conscious desire to violate proper procedure.

According to the Disciplinary Matrix, the presumptive penalty for failing to invoice property is ten penalty days. The failure to make the proper notifications and failure to make activity log entries each carry a presumptive penalty of up to five penalty days.

In *Disciplinary Case No. 2019-20214* (Sept. 3, 2020), an eight-year police officer with no disciplinary history forfeited 15 vacation days for failing an integrity test when an undercover vehicle approached, stating an individual jumped in the car believing the vehicle was a cab. There was property left behind in the vehicle, which respondents left at a bus stop instead of vouchering.

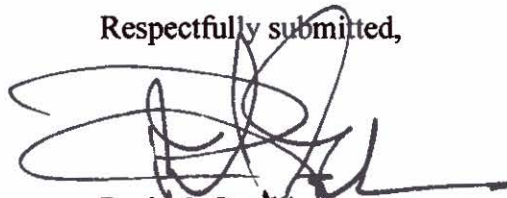
Accordingly, while discipline is warranted as an incentive for Respondent to be more diligent in following Patrol Guide procedures, I believe he is contrite, as evidenced by his pleas of Guilty. I, therefore, find evidence of mitigation and recommend that the Respondent forfeit fifteen (15) vacation days.

APPROVED

JAN 12 2023

KEECHANT L. SEWELL
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: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER HYPPOLITE PAUL
TAX REGISTRY NO. 959879
DISCIPLINARY CASE NO. 2021-24452

Respondent was appointed to the Department on October 7, 2015. On his three most recent annual performance evaluations, he was twice rated “Exceeds Expectations” in 2017 and 2019, and was rated “Exceptional” in 2018. Respondent has been awarded one medal for Excellent Police Duty.

In 2019, Respondent forfeited ten (10) vacation days for failing to notify the radio dispatcher of a vehicle pursuit and failing to terminate that pursuit when the risk of injury outweighed the need to stop the vehicle.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials