



POLICE DEPARTMENT CITY OF NEW YORK

March 15, 2016

MEMORANDUM FOR: Police Commissioner

Re: Sergeant Michelle Irons  
Tax Registry No. 933865  
107 Precinct  
Disciplinary Case No. 2014-12558  
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**Charges and Specifications:**

1. Said Sergeant Michelle Irons, while assigned to the 107<sup>th</sup> Precinct, on or about May 5, 2014, while on-duty, was discourteous to on-duty New York City Police Department Lieutenant Michael Almonte in that said Sergeant made an inappropriate remark to said Lieutenant.  
P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT - GENERAL  
GENERAL REGULATIONS
2. Said Sergeant Michelle Irons, while assigned as the 107<sup>th</sup> Precinct Desk Officer, on or about May 5, 2014, wrongfully failed to scan in summonses and approve Complaint Reports and wrongfully failed to comply with a direction by New York City Police Department Lieutenant Michael Almonte to scan in summonses and approve Complaint Reports.  
P.G. 203-05, Page 1, Paragraph 1 – PERFORMANCE ON DUTY  
GENERAL REGULATIONS  
P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDER  
GENERAL REGULATIONS  
P.G. 202-14, Page 2, Paragraph 20 – DESK OFFICER  
DUTIES AND RESPONSIBILITIES  
P.G. 207-07, Page 4, Paragraph 20 – PRELIMINARY INVESTIGATION  
OF COMPLAINTS  
P.G. 209-36, Page 3, Paragraph 21 – ELECTRONIC SUMMONS  
TRACKING SYSTEM (ESTS) SUMMONSES
3. Said Sergeant Michelle Irons, while assigned to the 107<sup>th</sup> Precinct, on or about May 5, 2014, while on-duty, wrongfully absented herself from police duties for approximately four (4) hours.  
P.G. 203-05, Page 1, Paragraph 1 and 2 – PERFORMANCE ON DUTY  
GENERAL REGULATIONS

**Appearances:**

For the Department: Samuel Yee, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent: Emeka Nwokoro, Esq.  
Nwokoro and Associates, LLP  
48 Wall Street, 11<sup>th</sup> floor  
New York, New York 10005

**Hearing Date:**

January 15, 2016

**Decision:** Respondent is Guilty of Specifications 1 and 3. Respondent is Not Guilty of Specification 2.

**Trial Commissioner:**

ADCT Nancy R. Ryan

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on January 15, 2016. Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. The Department called Lieutenant Michael Almonte, Police Officer Michael Faria and Lieutenant Robert Pace as witnesses. Respondent called Deputy Inspector Frederick Grover, Police Officer John Burnell, Sergeant John Dorst and Police Officer Rayana Hall as witnesses. Respondent testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

## DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Guilty of Specifications 1 and 3 and Not Guilty of Specification 2 of the charged misconduct.

## FINDINGS AND ANALYSIS

It is undisputed that on May 5, 2014, Lieutenant Almonte was working as the platoon commander for the day tour at the 107 Precinct. (Tr. 13) His tour started at 6:55 am and he assumed the duties of the desk officer. (Tr. 14) Respondent was a Sergeant, also assigned to the 107 Precinct. Her regular platoon was first platoon. While Lieutenant Almonte knew Respondent from seeing her at tour changes, he had never supervised her before. (Tr. 13-14, 122)

On May 5, 2014, Respondent was scheduled to start work at 6:55 am in order to attend an Internal Affairs interview in Queens. She arrived at the 107 at approximately 7:20 am in civilian clothes. (Tr. 13, 16, 104, Dep't. Ex 2) Respondent and Lieutenant Almonte had a brief conversation at the desk when she arrived concerning the fact that she was doing the day tour because she had to go to the interview. (Tr. 15, 104-05) Respondent and Lieutenant Almonte testified differently regarding their subsequent interactions.

Lieutenant Almonte testified that after he spoke to Respondent when she arrived that day, he had no further contact with her until approximately 11:00 am when she returned to the desk and stated she needed a car to go to her interview. (Tr. 18). He stated that neither she, nor anyone else, had informed him of her whereabouts during this intervening time period. (Tr. 18) Lieutenant Almonte further testified that when he asked Respondent where she had been since 7:20 am, she told him she had been having trouble with her locker because someone else had put their lock on it. (Tr. 19) Lieutenant Almonte described the 107 Precinct facilities as consisting of the first and second floor in the building with the desk he was located at being on the first floor and the female supervisor's locker room being located on the second floor. The Administrative Lieutenant, who was in charge of locker room issues had an office next door to the female supervisor's locker room. (Tr. 19-21)

During the conversation which took place at approximately 11:00 am, Lieutenant Almonte told Respondent that it wouldn't take four hours to rectify a locker situation, but he decided to wait until she got back from the interview to address the situation any further. He then provided her with a car and driver to take her to the interview. (Tr. 21-22)

The next interaction between Lieutenant Almonte and Respondent took place in the area of the front desk at approximately 1:45 pm. According to Lieutenant Almonte, Respondent came through the front entrance to the command with a "28" leave of absence request in her hand, and said, "Lieu, do you need me to relieve you for a few, because I'm leaving." (Tr. 22-23) He testified that she said she was leaving, "almost as a matter of fact" and did not mention anything about her family. She just said she needed to leave because she was coming in for a midnight that night. Lieutenant Almonte admitted on cross-examination that he accused Respondent of "scamming" time. He told Respondent he did need her to relieve him and she was not authorized to take lost time. (Tr. 22-23)

After Lieutenant Almonte denied Respondent the lost time, he instructed her to take the desk and told her she needed to sign off on complaint reports and scan summons that were at the desk. (Tr. 24) At this point, Lieutenant Almonte testified that Respondent got irate, her voice became louder and she became "combative" and said that she was not coming in that night if he refused to give her the lost time. (Tr. 24) In his words, Respondent "caused a scene behind the desk which was quite frankly embarrassing," and that he had, "never been put in a situation like that with someone on the job." (Tr. 24)

Lieutenant Almonte told Respondent if she didn't come in for her midnight tour she would be considered AWOL. (Tr. 25) According to Lieutenant Almonte, Respondent took over the desk at 1:45 pm and stayed there until 2:40 pm. (Dep't. Ex 2) During this time, Lieutenant Almonte received a call from his commanding officer who told him that Respondent stated she had [REDACTED] at home and she had to leave. Lieutenant Almonte told his commanding officer, Captain Grover, that this was the first time he heard anything about [REDACTED]. Captain Grover instructed Lieutenant Almonte to grant

Respondent the lost time and he did so. (Tr. 25-26) During the time she was at the desk, Respondent did not scan any summonses or approve any complaints. (Tr. 27)

According to Lieutenant Almonte, he issued Respondent a command discipline for discourtesy and he gave her instructions concerning the four hours she was missing and the failure to scan the summonses (Tr. 47)

Respondent's account of events differs in that she testified on direct examination that resolving her locker problem took only about an hour to an hour and a half. (Tr. 108) She acknowledged that she never told Lieutenant Almonte she had a locker problem or told him what she was doing during this time. (Tr. 128, 129-31) She said she reported back to the desk after the hour to an hour and a half, not at 11:00 am. On cross-examination, however, she testified that her interview was scheduled for noon and that she reported back to the desk "near 11:00." (Tr. 126)

When Respondent returned to the desk after opening her locker and getting dressed, she asked Lieutenant Almonte for a car and he said she should wait until Officer Hall is finished doing something and then she would take her. Initially, Respondent testified that she had no other discussion with Lieutenant Almonte at this time. (Tr. 108) Respondent later testified that Lieutenant Almonte "berated" her at the time she asked for the car. (Tr. 141-42, 147)

Respondent testified that she waited about 45 minutes to an hour for her ride and then Officer Hall took her to the interview. Respondent did not mention this waiting period in her narrative of events during her GO-15 interview, but it is noted that she was not directly asked if she had to wait. (Tr. 133-34) Respondent next testified that she came back, "a little after between 11 and 11:30." (Tr. 109) On cross-examination, Respondent testified that she returned from the interview at approximately 1:30 pm. (Tr. 126)

According to Respondent, when she returned to the precinct she said to Lieutenant Almonte, "Lieut, do you want me to cover for you?" and he said yes. She further testified that when Lieutenant Almonte came back from meal she asked him if it was OK for her to leave because she had [REDACTED] at home that she needed to take [REDACTED]. Lieutenant Almonte then asked her where she was for four hours. Respondent went to the drawer and took a 28 form out to fill out for the 15 minutes she

was late that morning. Respondent testified that at this point, Lieutenant Almonte was angry and yelled at her that she was a "scammer," and said she wasn't going anywhere. (Tr. 110-11) He told her to take [REDACTED] when she got home, so she told him she had to do a midnight that night. He then told her she was going to take the desk for the rest of the day. (Tr. 110) Respondent stated that she tried to hand the 28 to Lieutenant Almonte but he never took it and never responded to it. Respondent further testified that Lieutenant Almonte just walked away and never told her to scan any summonses or review any complaints. As soon as he walked away, Respondent called Captain Grover and told him she had [REDACTED] and requested lost time. Lieutenant Pace then came to the desk and took over the desk so she could leave. According to Respondent she was only at the desk a few seconds before she was relieved and she never signed in to take the desk and never sat at the desk. (Tr. 112-13) She testified that it was Lieutenant Almonte who signed her into the desk in the command log. (Tr. 113)

Respondent testified that she saw Lieutenant Almonte the next morning at her tour change. He took her and a female officer into the supervisor's room and told her he was giving her a Command Discipline for being discourteous. According to Respondent, Lieutenant Almonte did not discuss anything about "scamming" time or failing to enter summonses or reviewing complaints. (Tr. 115-16)

Respondent also testified that a couple of days before this incident, she had a sergeant approach her and tell her that Lieutenant Almonte asked that she leave a line open in the sign in book for him because he was running late and that she refused to do this. A couple of days after that, Lieutenant Almonte asked her what religion she was and what church she went to. (Tr. 119). Lieutenant Almonte denies that any of this ever happened. (Tr. 155)

One other witness in the case presented relevant testimony as to any discussions which took place between Lieutenant Almonte and Respondent on that day in the area of the desk. Police Officer Faria was the assistant desk officer on the second platoon on May 5, 2014. He testified that in the "earlier afternoon" he heard Lieutenant Almonte asking Respondent where she had been all day. He doesn't know if Respondent answered that. He next heard Lieutenant Almonte tell Respondent she had been scamming all day and she was not taking lost time and she was going to cover the desk.

He heard Respondent say, "Okay, but I'm not coming in tonight then." (Tr. 59) Officer Faria does not believe he heard all of the conversation between the two individuals because he was taken away by another task. (Tr. 60) He described both Lieutenant Almonte and Respondents voices as being elevated and lowered and as "people getting angry." (Tr. 61-62).

Specification 1 in this case charges Respondent with being discourteous by making an inappropriate remark to Lieutenant Almonte. I find that the Department has met its burden of proof with regard to this charge and therefore I find Respondent Guilty. Lieutenant Almonte testified in a credible manner, based on his demeanor and the consistency of his answers to questions on both direct and cross-examination, that Respondent essentially told him she was not coming in that night if he didn't give her lost time to leave. In addition, while Officer Faria did not hear the entire conversation, his testimony does support Lieutenant Almonte's account of this statement made by Respondent. For a subordinate to set out an ultimatum such as Respondent did to a superior officer does constitute discourtesy and is an inappropriate remark.

With regard to 'Specification 2, I find that Respondent is Not Guilty. While I find that Respondent was in fact assigned to the desk while she relieved Lieutenant Almonte, it has not been proven by a preponderance of the evidence that during the short time she was at the desk that there were summonses and complaints that were ready to be scanned or approved. With regard to the summons, Department Exhibit 4 is a list of summonses issued in the 107 on May 5, 2014. It does not list any time for when these summonses were issued and therefore do not provide evidence that these were available for scanning during the time Respondent was at the desk. With regard to complaints, while Department Exhibit 3 indicates that three complaints had been entered in the system prior to the time that Respondent took the desk, the Department did not prove by a preponderance of the evidence that these complaints were actually ready to be signed off on. As is apparent from complaint numbers 2148 and 2150, complaints are sometimes updated prior to being signed off on and there was no evidence presented that the three complaints in question were actually ready for sign-off as opposed to awaiting updates. Without sufficient proof that complaints and summonses were available to be either scanned or approved, the Department has not proven Specification 2.

With regard to Specification 3, I find Respondent Guilty. Again I find that Lieutenant Almonte testified in a credible manner concerning this charge. In contrast, Respondent's testimony concerning this charge was not consistent. She first said she was gone from the desk for only an hour to an hour and a half. As she signed in at 7:20, this would have had her back at the desk at approximately 8:20- to 8:50. However, she later testified that she was at the desk at "near 11". Her testimony was also less than credible as to the timing of events because at one point she talked about returning from the interview at 11:00 or 11:30 and then stated it was around 1:30. She also gave different accounts of the timing of when she was "berated" by Lieutenant Almonte. At one point she testified that nothing was said at the time she asked for the car and later she said this was the time when he "berated" her.

Under Lieutenant Almonte's account, and as even Respondent at one point testified, if she was scheduled to start her tour at 6:55 am and didn't appear at the desk dressed in her uniform until around 11:00 am, she was wrongfully absent from her duties for approximately four hours and therefore is Guilty of Specification 3.

### PENALTY RECOMMENDATIONS

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on January 20, 2004. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

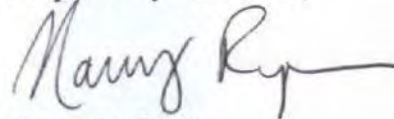
The Department advocate requested a penalty of the loss of twenty-five vacation. This is reasonable in light of Respondent's disciplinary history in that she previously has been found guilty of failing to comply with an order and being discourteous, for which she received a penalty of the loss of twenty-five vacation days. In a case where a thirteen-year police officer had no prior disciplinary history and was found guilty of



being absent from his post, confrontational and discourteous to a sergeant, and failing to make complete activity log entries, the penalty imposed was the forfeiture of 20 vacation days. Disciplinary Case No. 2013-9304, signed November 20, 2015 (Ryan)

Accordingly, I recommend that Respondent's total penalty be the forfeiture of a total of twenty-five vacation days.

Respectfully submitted,



Nancy R. Ryan  
Assistant Deputy Commissioner Trials

**APPROVED**

MAY 27 2016  
  
WILLIAM J. BRATTON  
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
SERGEANT MICHELLE IRONS  
TAX REGISTRY NO. 933865  
DISCIPLINARY CASE NO. 2014-12558

Respondent was appointed to the Department on January 20, 2004. In her last three performance evaluations, she received a 4.0 "Highly Competent," another 4.0 "Highly Competent," and a 3.0 "Competent." [REDACTED]

In 2010, she forfeited 25 vacation days for disobeying a lawful order and for being discourteous to a supervisor.

For your consideration.

Nancy R. Ryan  
Assistant Deputy Commissioner Trials