



POLICE DEPARTMENT CITY OF NEW YORK

March 15, 2016

MEMORANDUM FOR: Police Commissioner

Re: Detective Craig Rosenberg
Tax Registry No. 907213
Narcotics Borough Queens
Disciplinary Case No. 2014-12405

Detective Demetrios Kekatos
Tax Registry No. 940331
Narcotics Borough Queens
Disciplinary Case No. 2014-12406

Detective Matthew Borden
Tax Registry No. 936227
Narcotics Borough Queens
Disciplinary Case No. 2014-12407

Charges and Specifications:

Disciplinary Case No. 2014-12405

1. Said Detective Craig Rosenberg, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he stopped Person A without sufficient legal authority.
P.G. 212-11, Page 1, Paragraph 1 – STOP AND FRISK
2. Said Detective Craig Rosenberg, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he searched Person A without sufficient legal authority.
P.G. 212-11, Page 1, Paragraph 3 – STOP AND FRISK
3. Said Detective Craig Rosenberg, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he stopped [REDACTED] without sufficient legal authority.
P.G. 212-11, Page 1, Paragraph 1 – STOP AND FRISK

4. Said Detective Craig Rosenberg, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, was discourteous in that he spoke rudely to Person A and stated, in sum and substance: SHUT THE FUCK UP.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

5. Said Detective Craig Rosenberg, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he failed to provide his shield number when requested to do so by Person A.

P.G. 203-09 – PUBLIC CONTACT – GENERAL

Disciplinary Case No. 2014-12406

1. Said Detective Demetrios Kekatos, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he stopped Person A without sufficient legal authority.

P.G. 212-11, Page 1, Paragraph 1 STOP AND FRISK

2. Said Detective Demetrios Kekatos, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he stopped [REDACTED] without sufficient legal authority.

P.G. 212-11, Page 1, Paragraph 1 – STOP AND FRISK

3. Said Detective Demetrios Kekatos, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he failed to provide his shield number when requested to do so by Person A.

P.G. 203-09 – PUBLIC CONTACT – GENERAL

Disciplinary Case No. 2014-12407

1. Said Detective Matthew Borden, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he stopped Person A without sufficient legal authority.

P.G. 212-11, Page 1, Paragraph 1 – STOP AND FRISK

2. Said Detective Matthew Borden, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he stopped [REDACTED] without sufficient legal authority.
P.G. 212-11, Page 1, Paragraph 1 – STOP AND FRISK
3. Said Detective Matthew Borden, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he frisked [REDACTED] without sufficient legal authority.
P.G. 212-11, Page 1, Paragraph 1 – STOP AND FRISK
4. Said Detective Matthew Borden, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, was discourteous in that he removed a cigarette out of Christian Pinto's mouth.
P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT
5. Said Detective Matthew Borden, on or about August 8, 2013, at approximately 1700 hours, while assigned to Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, abused his authority as a member of the New York City Police Department in that he failed to provide his shield number when requested to do so by Person A.
P.G. 203-09 – PUBLIC CONTACT GENERAL
6. Said Detective Matthew Borden, on or about August 8, 2013, at approximately 1700 hours, while assigned to the Narcotics Borough Queens and on duty, in the vicinity of 40th Avenue and 23rd Street, Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department in that he threatened to arrest [REDACTED] without sufficient legal authority.
P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

Appearances:

For CCRB-APU: Andre D. Applewhite, Esq.
Civilian Complaint Review Board
100 Church Street, 10th floor
New York, New York 10007

DETECTIVE CRAIG ROSENBERG
DETECTIVE DEMETRIOS KEKATOS
DETECTIVE MATTHEW BORDEN

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For the Respondents: Michael LaCondi, Esq.
Karasyk & Moschella, LLP
233 Broadway-Suite 2340
New York, New York 10279

Hearing Date:
November 12, 2015

Decision:

Respondent Rosenberg is found Guilty of Specification Nos. 1, 2, 4 and 5 and Not Guilty of Specification No. 3.

Respondent Kekatos is found Guilty of Specification No. 3 and Not Guilty of Specification Nos. 1 and 2.

Respondent Borden is found Guilty of Specification Nos. 2, 3, 4 and 5 and Not Guilty of Specification Nos. 1 and 6.

Trial Commissioner:
ADCT Robert W. Vinal

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on November 12, 2015. Respondents, through their counsel, entered pleas of Not Guilty to the subject charges. The CCRB Administrative Prosecutor called [REDACTED] as a witness and offered the out-of-court statement of Person A. Each Respondent testified on his 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 Rosenberg Guilty of Specification Nos. 1, 2, 4 and 5 and Not Guilty of Specification No. 3; Respondent Kekatos Guilty of Specification No. 3 and Not Guilty of Specification Nos. 1 and 2; and Respondent

Borden Guilty of Specification Nos. 2, 3, 4 and 5 and Not Guilty of Specification Nos. 1 and 6, of the charged misconduct.

FINDINGS AND ANALYSIS

██████████ testified that on August 8, 2013, at about 1700 hours, he and Person A were standing together talking near the intersection of 40th Avenue and 23rd Street in Queens when they saw three male members of the Department in plainclothes who had just exited an unmarked car. ██████████ testified that an African-American officer approached him and that a Caucasian officer approached Person A. The third officer stayed in the background behind the other two, nearer to the car, and "didn't do anything." ██████████ described the African-American officer as wearing glasses, weighing about 170 pounds, and about 32-years-old. ██████████ described the Caucasian officer who approached Person A as "Irish decent, white, chubby, blondish" or "grayish" hair, in his "late 40's" or "early" or "mid 50's," standing about 5' 10" or 5' 11" tall.

When the African-American officer walked up to ██████████, who was smoking a cigarette, he stood directly in front of him, with his face close to ██████████ face, and began searching ██████████ clothing by "digging his fingers into my pockets" but he did not retrieve anything from ██████████ pockets. When ██████████ told the officer that he had not given him permission to search him, the officer replied, "I'm not searching you," and then patted ██████████ clothing down. The officer put ██████████ up against a wall and told ██████████ that he was blowing cigarette smoke in his face. The officer then grabbed the cigarette, pulled it out of ██████████ mouth, threw it on the ground, and told ██████████, "I should arrest you or give you a ticket for blowing smoke in my face." When ██████████ asked the African-

American officer why he was searching him, he stated that he was "looking for weapons."

████ explained that because the African-American officer was standing directly in front of him, he could not see what was occurring between the Caucasian officer and Person A. He did hear Person A ask why he was being stopped. █████ and Person A asked the officers to provide their badge numbers. All three officers flashed their badges and then quickly got back into their car and drove off. The entire encounter had lasted no more than five minutes. █████ described the officers' car as a silver four door sedan.

During his testimony at this trial, when █████ was asked to look around the Trial Room to see if the African-American officer was present, he answered, "Could be that gentleman," pointing to Respondent Borden. When █████ was asked to look around the trial room to see if the Caucasian officer who had approached Person A was present, he answered, "Yes," and pointed to Respondent Rosenberg, who was seated next to Respondent Borden at Respondents' table in the front of the Trial Room

████ stated that after the officers refused their request to provide their badge numbers, he told Person A to "take down" the license plate number on their vehicle and Person A "typed it in his cell phone." █████ did not personally file a complaint with CCRB, but Person A did.

Person A lodged his complaint with CCRB by sending an e-mail to CCRB (RX C). In his e-mail, Person A described the officer who had searched him as "white" in his "mid to late 40s," 5' 6" tall, "receding hairline, grey hair color, slightly fat." He described the African-American officer as wearing a "polo shirt, cap, jeans," in his "late 20s" to

"early 30s," 5'7" to 5'8" tall, and "slim." Person A also wrote that the license plate number on the officers' "unmarked car" [REDACTED]

[REDACTED] Person A did not appear to testify at this trial, the CCRB Administrative Prosecutor offered the transcript of Person A's CCRB interview as hearsay evidence at this trial (CCRBX 1). At this interview, Person A stated that while he and [REDACTED] were conversing outside of the building where [REDACTED] resided, three male plainclothes officers got out of an unmarked car. A Caucasian officer approached Person A, an African-American officer approached [REDACTED], and the third officer, who Person A described as being either an Asian officer or a Latino officer, remained to the rear of the other two officers.

Person A described the Caucasian officer's age as in his 50's or late 40's; that he had "white" or "silverish hair," a receding hairline, was about 5'7" tall, weighed about 200 pounds, and had a mustache. He was wearing a white T-shirt and beige shorts. Person A described the African-American officer as "young looking," in his 30's, dressed in "jeans or button down or ... a sweater" and wearing a cap. He was about 5'8" or 5'9" tall. Person A was not able to describe the officer he described as Asian or Latino.

Person A stated that the Caucasian officer put his hands inside Person A's pockets and pulled out the cash and store receipts that Person A had in his pockets. When Person A asked the Caucasian officer, "Why are you doing this? This is illegal," the officer told him, "Shut the fuck up." Person A heard [REDACTED] asking the African-American officer, "What are you doing? You aren't supposed to touch me," but Person A could not see what the African-American officer was doing to [REDACTED]

When Person A asked the officers to provide their badge numbers, the officers “flipped them over” and displayed the back of their shields so that Person A could not see their badge numbers. The Caucasian officer told Person A, “Good luck with that.” As the officers were getting back into their car, which Person A stated was a grey Honda or Toyota, Person A looked at the license plate on the vehicle. [REDACTED]

[REDACTED] The interaction with the officers lasted no more than seven minutes.

The CCRB Investigator assigned to investigate Person A’s complaint obtained the “Movement Sheet” for Narcotics Borough Queens North for August 8, 2013 (CCRBX 2) which shows that starting at 1620 hours that day, Respondent Rosenberg, Respondent Borden and Respondent Kekatos were on duty within the “114” Precinct performing enforcement duties in their assigned Department vehicle which was Vehicle Number

[REDACTED] At 2145 hours that day, Respondents logged in “RTC” (returned to command).

The CCRB Investigator obtained photos of Respondent Rosenberg, Respondent Borden and Respondent Kekatos and used these photos to prepare three six-photo arrays (RX A). Each array contained a photo of one of the Respondents and five filler photos of similar looking police officers. [REDACTED] viewed these three photo arrays at CCRB on April 28, 2014.

After [REDACTED] viewed the array which contained Respondent Borden’s photo, underneath Respondent Borden’s photo [REDACTED] wrote “maybe.” He also wrote “maybe” under the filler photo in position five. At the bottom of the array, [REDACTED] wrote “thick black glasses.” When [REDACTED] viewed the array which contained Respondent Rosenberg’s photo, he did not select any of the six photos in the array. At the bottom of the array, he

wrote "older Irish, blue eyes, with graying blond hair." When [REDACTED] viewed the array which contained Respondent Kekatos' photo, he did not select any photo out of the six photos in the array and he did not make any notations.

All three Respondents testified at this trial that they were on duty, dressed in plainclothes, in an unmarked car, performing enforcement duties together within the 114 Precinct, assigned to Narcotics Borough Queens, on August 8, 2013, at about 1700 hours. All three Respondents also testified that they had no recollection of having any encounter with two civilians in the vicinity of 40th Avenue and 23rd Street, Queens, and that they did not stop anyone during their tour of duty that day.

Respondent Borden, who is African-American, testified that his activity log entry for August 8, 2013 indicates that they were in vehicle 9861 and that at about 1700 hours they were conducting a "recon" at Main Street and 30th Avenue, Queens. He recalled that he was wearing glasses during his tour, that he weighed about 180 pounds, that he was 6'1" tall, and that he was 30 years old.

Respondent Rosenberg testified that his activity log entry for August 8, 2013, indicates that at about 1700 hours, he was conducting a surveillance at Main Street and 30th Avenue, Queens, in vehicle [REDACTED]. He confirmed that he made the entries on the Movement Sheet (CCRBX 2) which documents that he and Respondent Borden and Respondent Kekatos were assigned together in vehicle [REDACTED]. Since he was not shown this Movement Sheet at his CCRB interview, he relied on his activity log entry which is why he told the CCRB interviewer that he was in vehicle [REDACTED].

Respondent Kekatos testified that his activity log entry for August 8, 2013, indicates that he was partnered with Respondent Rosenberg and Respondent Borden and that they were in vehicle number [REDACTED]. He conceded that they could possibly have been in the vicinity of 40th Avenue and 23rd Street at some point during their tour that day since this intersection is within the confines of the 114 precinct and “we may or may not have passed it.”

The believability of [REDACTED] testimony and Person A’s hearsay statements

I credit [REDACTED] testimony as to what the African-American officer said and did to him and his testimony that all three officers refused to provide their badge numbers as requested, because his testimony was devoid of suspect embellishment. [REDACTED] did not claim that the African-American officer had cursed at him or slapped him. If [REDACTED] was inventing a false claim, it is likely that he would have alleged that the African-American officer had done these things.

Moreover, [REDACTED] truthfulness is demonstrated by his testimony that because the African-American officer was standing directly in front of him, he was unable to see the interaction between Person A and the Caucasian officer and, thus, he testified that did not know whether the Caucasian officer had retrieved anything from Person A’s pockets. Finally, [REDACTED] credibility is enhanced by the fact that he candidly acknowledged that “the third officer didn’t do anything.”

The statements Person A made at his CCRB interview, which were offered as hearsay evidence at this trial (CCRBX 1), also have the ring of truth because he did not assert that he had seen [REDACTED] being searched. When Person A was asked if he had seen the African-

American officer's hands in [REDACTED] pockets, he candidly stated that because the African-American officer was standing between him and [REDACTED], he was unable to see "what he did to him." Also, although Person A was offered the opportunity to assert that he had been stopped at gunpoint, when Person A was asked if the Caucasian officer had removed his gun from its holster, he truthfully answered, "No, he did not."

Most significantly, both [REDACTED] and Person A stated that the third officer had stayed back, that he had not assisted the African-American officer and the Caucasian officer in stopping them, and that he never put his hands on either of them. [REDACTED] and Person A only asserted that the third officer had also ignored their demands that the officers provide their badge numbers to them.

Based on the above analysis, I credit [REDACTED] testimony and Person A's statements as to what the African-American officer and the Caucasian officer said and did.

CCRB's proof that Respondents were the members who engaged in this encounter

Since Respondents asserted that they did not engage in any interaction with [REDACTED] and Person A on August 8, 2013, the CCRB prosecutor was required to present credible evidence to prove not only that [REDACTED] and Person A were stopped that day by members of this Department, but also that Respondents were the members who stopped them.

It is not disputed that Respondents were on duty within the confines of 114 Precinct, dressed in plainclothes, assigned to an unmarked car during the time period when [REDACTED] and Person A assert they were stopped by three male plainclothes officers. Although [REDACTED] made no positive identifications when he viewed the photo arrays, during his testimony at this trial he identified Respondent Rosenberg as the Caucasian officer

who had approached Person A. The CCRB prosecutor's attempt to have [REDACTED] make a positive corporeal identification of Respondent Borden produced an equivocal "could be that gentleman" result. Nonetheless, I find that the record sufficiently establishes that Respondents must have been the three officers who approached [REDACTED] and Person A on August 8, 2013.

In the e-mail that Person A sent to CCRB (RX C) he wrote that the license plate number on the officers' vehicle was [REDACTED]" and at his CCRB interview Person A confirmed that the license plate number he saw was [REDACTED]. Hearsay is admissible at Department disciplinary trials and may form the sole basis for making a finding of fact.¹ The believability of a hearsay claim is enhanced where a significant aspect of the claim is corroborated by non-hearsay evidence.² Here, Person A's hearsay claim that he took down the license plate number of the vehicle as the officers were leaving was corroborated by [REDACTED] trial testimony that after the officers refused to provide their badge numbers he told Person A to "take down" the license plate number on their vehicle and that Person A had "typed it in his cell phone."

Respondent Rosenberg confirmed that he made the entries on the Narcotics Borough Queens Movement Sheet for August 8, 2013 (CCRBX 2) which establishes that Respondents were in vehicle number 7846. Moreover, this Movement Sheet establishes that all of the other Narcotics Borough Queens plainclothes officers were assigned to two-officer pairings that day. Respondents were the only three-officer team that went out that day. Respondent Kekatos corroborated the accuracy of the entry on the Movement

¹ RCNY Title 38, 15-04(e) (1).

² See *Grossman v. Kralik*, 217 AD2d 625, 629 NYS2d 467 (2nd Dept 1995).

Sheet that Respondents were assigned vehicle number [REDACTED] when he testified that his activity log entry for that day shows that Respondents were in vehicle number [REDACTED]. Respondent Kekatos also candidly conceded that since the intersection of 40th Avenue and 23rd Street is within the confines of the 114 precinct, he and Respondent Rosenberg and Respondent Borden might have driven by that intersection that day.

Finally, the physical description of the African-American officer that [REDACTED] provided closely matches Respondent Borden's description of his own physical appearance on August 8, 2013. [REDACTED] described the African-American officer who put him up against a wall, patted down his clothing, and pulled a cigarette out of his mouth, as wearing glasses, weighing about 170 pounds, and about 32-years-old. Respondent Borden, who is African-American, confirmed that on August 8, 2013 he was wearing glasses during his tour, that he weighed about 180 pounds, and that he was 30 years old.

I find it highly significant that [REDACTED] claim that the African-American officer was wearing glasses directly coincides with Respondent Borden's admission that he was wearing glasses while he was on duty on August 8, 2013. This direct facial appearance correlation overcomes the minor discrepancies cited by Respondents' attorney regarding [REDACTED] various descriptions of what the African-American officer was wearing (e.g. [REDACTED] trial testimony that the African-American officer was wearing a blue Derek Jeter shirt when he had stated at his CCRB interview that he was wearing a gray Derek Jeter shirt) and do not serve to discredit his consistent descriptions of the African-American officer's facial and physical appearance.

Lastly, the description of the Caucasian officer who had stopped and searched Person A that Person A provided in his email to CCRB regarding (“mid to late 40s... receding hairline, grey hair color, slightly fat”) is consistent with Respondent Rosenberg’s appearance as depicted in the photo of Respondent Rosenberg that is contained in the photo array that was prepared by the CCRB investigator (RX A).

In conclusion, I find that the Movement Sheet (CCRBX 2), combined with Respondent Kekatos’ memo book entries, combined with the descriptions that [REDACTED] and Person A provided to CCRB, sufficiently establish that Respondents were the three officers who, on August 8, 2013 at about 1700 hours, parked and got out of their unmarked car near the intersection of 40th Avenue and 23rd Street in Queens; and that Respondent Borden was the African-American officer who approached and stopped [REDACTED], and that Respondent Rosenberg was the Caucasian officer who approached and stopped Person A.

The disposition of the specific charges

Respondent Rosenberg is charged with stopping and searching Person A without sufficient legal authority and being discourteous to him. I find him guilty because I credit Person A’s claim that he put his hands inside his pockets and pulled out items that Person A had in his pockets and that when Person A protested he was told, “Shut the fuck up.” Since Respondent Rosenberg was in control of Person A, this profane remark was purely gratuitous in nature and served no legitimate purpose. Consistent with Person A’s and [REDACTED] accounts that it was the African-American officer, not the Caucasian officer, who approached and stopped [REDACTED], I find Respondent Rosenberg not guilty of having stopped [REDACTED]

Respondent Borden is charged with stopping and frisking [REDACTED] without sufficient legal authority and being discourteous to him. I find him guilty because I credit [REDACTED] testimony that he put him up against a wall, patted down his clothing, and pulled a cigarette out of [REDACTED] mouth and threw it on the ground. As to the charge that Respondent Borden stopped Person A without sufficient legal authority, I find him not guilty because it is clear that Respondent Rosenberg was the officer who approached and stopped Perez.

Finally, it is charged that Respondent Borden's comment to [REDACTED], "I should arrest you or give you a ticket for blowing smoke in my face," constituted a threat to arrest [REDACTED] without sufficient legal authority. I find Respondent Borden not guilty because I find that this flippant remark did not constitute an actual threat to arrest [REDACTED] for the non-existent offense of blowing smoke in the face of a police officer.

Respondent Kekatos is charged with stopping Person A and [REDACTED] without sufficient legal authority. I find him not guilty because both Person A and [REDACTED] stated that the third officer, who is clearly Respondent Kekatos, did not stop either of them. Rather, he remained in the background to the rear of Respondent Rosenberg and Respondent Borden and, as [REDACTED] described it, "didn't do anything."

Lastly, all three Respondents are charged with having failed to provide their shield numbers to Person A after being request to do so. I find all three Respondents guilty because [REDACTED] corroborated Person A's claim that the officers ignored his request that they provide him with their badge numbers. That is why [REDACTED] told Person A to get the license plate number of the car as Respondents were about to drive away.

PENALTY RECOMMENDATIONS

In order to determine appropriate penalties, Respondents' service records were examined. See *Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974).

Respondent Rosenberg was appointed to the Department on February 28, 1994; Respondent Kekatos was appointed to the Department on January 9, 2006; and Respondent Borden was appointed to the Department on January 10, 2005. Information from their personnel records that was considered in making these penalty recommendations is contained in attached confidential memoranda.

The CCRB Administrative Prosecutor recommended that Respondent Rosenberg and Respondent Borden each forfeit seven vacation days as a penalty and that Respondent Kekatos forfeit five vacation days as a penalty.

In determining penalty recommendations for Respondents, I have taken into consideration that although Respondent Rosenberg is a 22-year Department veteran, Respondent Borden is an eleven-year member, and Respondent Kekatos is a ten-year member, none of them has a prior formal disciplinary record.

Respondent Kekatos has been found guilty only of having failed to provide his shield number to Person A. In *Case No. 2013-10315* (Feb. 13, 2015), a five-year officer who had no prior formal disciplinary record forfeited two vacation days as a penalty for refusing to provide his shield number to a civilian and being discourteous by telling the civilian to "shut the fuck up." Since Respondent Kekatos was not discourteous to Person A, it is recommended that Respondent Kekatos forfeit one vacation day as a penalty.

Respondent Rosenberg has been found guilty of stopping and searching Person A without sufficient legal authority, directing a profane remark at him, and failing to provide his shield number to Person A. Respondent Borden has been found guilty of stopping and frisking [REDACTED] without sufficient legal authority, discourteously pulling a cigarette out of his mouth, and failing to provide his shield number to Person A.

In *Case No. 2014-11685* (Oct. 14, 2015), a lieutenant who had no prior formal disciplinary record and who was found guilty of directing that two civilians be stopped without sufficient legal authority forfeited three vacation days as a penalty. In *Case No. 2014-12398* (June 22, 2015), an officer who had no prior formal disciplinary record and who was found guilty of frisking a civilian without sufficient legal authority forfeited three vacation days as a penalty. Similarly, in *Case No. 2014-12473* (Sept. 21, 2015), a ten-year officer who had no prior formal disciplinary record and who was found guilty of frisking a civilian without sufficient legal authority forfeited three vacation days.

I have also taken into consideration that all three Respondents have received consistently good performance evaluations; that they have impressive Department Recognition Summaries; and that none of them has ever been designated Chronic Sick.

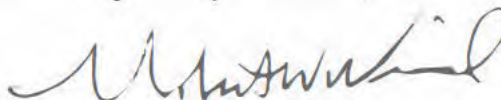
Therefore, it is recommended that Respondent Rosenberg and Respondent Borden each forfeit seven vacation days as a penalty and that Respondent Kekatos forfeit one vacation day as a penalty.

Respectfully submitted,

APPROVED

MAY 27 2016

WILLIAM J. BRATTON
POLICE COMMISSIONER



Robert W. Vinal
Assistant Deputy Commissioner Trial

From: Assistant Deputy Commissioner - Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE CRAIG ROSENBERG
TAX REGISTRY NO. 907213
DISCIPLINARY CASE NOS. 2014-12405

The Respondent received an overall rating of 4.5 on his 2014-2015 annual performance evaluation, 4.0 on his 2013-2014 evaluation, and 3.5 on his 2011-2012 evaluation. He has been awarded one Commendation and one Meritorious Police Duty - Integrity medal. [REDACTED]. He has no prior formal disciplinary record. He was placed on Level 1 Force Monitoring on Feb. 11, 2008 for receiving three or more civilian complaints within a one year period. This monitoring ended on March 21, 2012.

For your consideration.

Robert W. Vinal
Assistant Deputy Commissioner – Trials

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE DEMETRIOS KEKATOS
TAX REGISTRY NO. 940331
DISCIPLINARY CASE NOS. 2014-12406

The Respondent received an overall rating of 4.0 on his 2014-2015 annual performance evaluation, 3.5 on his 2013-2014 15-month evaluation, and 4.5 on his 2012 annual evaluation. He has been awarded one Meritorious Police Duty medal and ten Excellent Police Duty medals. [REDACTED]
[REDACTED]. He has no prior formal disciplinary record. He has no Monitoring records.

For your consideration.

Robert W. Vinal
Assistant Deputy Commissioner – Trials

From: Assistant Deputy Commissioner - Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE MATTHEW BORDEN
TAX REGISTRY NO. 936227
DISCIPLINARY CASE NOS. 2014-12407

The Respondent received an overall rating of 4.5 on his 2014-2015 annual performance evaluation, 4.0 on his 2013-2014 annual evaluation, and 3.5 on his 2012-2013 15 month evaluation. He has been awarded five Excellent Police Duty medals. [REDACTED]

[REDACTED]. He has no prior formal disciplinary record. He has no Monitoring records.

For your consideration.

Robert W. Vinal
Assistant Deputy Commissioner – Trials