



OFFICE OF THE POLICE COMMISSIONER
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February 4, 2015

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Travis Brinson**
Tax Registry No. 939940
79 Precinct
Disciplinary Case No. 2013-10128

The above named member of the service appeared before Deputy Commissioner Rosemarie Maldonado on October 30, 2014, and was charged with the following:

DISCIPLINARY CASE NO. 2013-10128

1. Police Officer Travis Brinson, assigned to the 9th Precinct, on or about June 21, 2012, while on-duty, and in New York County, responded to the scene where a possible explosive device and threatening note were left and tore up and discarded or allowed to be torn up and discarded, said note.

P.G. 212-40, Page 5, Additional Data

**BOMB THREATS/UNATTENDED
ARTICLES-
SUSPECTED/REPORTED
EXPLOSIVE DEVICES AND
POST EXPLOSION BOMB
SCENES**

2. Police Officer Travis Brinson, assigned to the 9th Precinct, on or about June 21, 2012, while on-duty and in New York County, responded to the scene where a possible explosive device and threatening note were left and failed to invoice evidence connected to the possible explosive device, to wit: Police Officer Brinson discarded, or allowed to be discarded, a bottle and/or rag that was a part of the possible explosive device.

**P.G. 218-09, Page 1-3, Paragraphs 1-7,
Note, Additional Data**

**EVIDENCE OTHER THAN
CONTROLLED
SUBSTANCES/MARIJUANA AND
FIREARMS/BALLISTICS
EVIDENCE REQUIRING POLICE
LABORATORY ANALYSIS**

3. Police Officer Travis Brinson, assigned to the 9th Precinct, on or about June 21, 2012, while on-duty and in New York County responded to the scene where a possible explosive device and threatening note were left and failed to secure the crime scene, advise the detective squad/detective specialty squad personnel of witnesses and other information regarding the case, and record observations, identify of witnesses, and relevant statements in his Activity Log.

**INTERIM ORDER No. 70, Issued 11-13-09,
Page 2, Paragraphs 2, 5, 6
P.G. 212-04**

**REVISION TO PATROL GUIDE
212-04, "CRIME SCENE"
CRIME SCENE**

4. Police Officer Travis Brinson, assigned to the 9th Precinct, on or about June 21, 2012, while on-duty and in New York County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, in that Police Officer Brinson responded to the scene where a possible explosive device and threatening note were left and failed to prepare a Complaint Report.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT-
PROHIBITED CONDUCT**

In a Memorandum dated December 15, 2014, Deputy Commissioner Rosemarie Maldonado found the Respondent Guilty as charged, after he pleaded Guilty to Specification Nos. 1, 2, 3 and 4 in Disciplinary Case No. 2013-10128. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

In consideration of the totality of the issues and circumstances in this matter and the Respondent's poor performance history with the Department, I deem that a period of monitoring is warranted. Therefore, the Respondent is to forfeit thirty (30) vacation days and be placed on one (1) year dismissal probation, as a disciplinary penalty.


William J. Bratten
Police Commissioner



POLICE DEPARTMENT

December 15, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Travis Brinson
Tax Registry No. 939940
79 Precinct
Disciplinary Case No. 2013-10128

The above-named members of the Department appeared before me on October 30, 2014, charged with the following:

Disciplinary Case No. 2013-10128

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P.G. 212-40, Page 5 Additional Data BOMB THREATS/UNATTENDED
ARTICLES-SUSPECTED/ REPORTED
EXPLOSIVE DEVICES AND POST
EXPLOSION BOMB SCENES

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P.G. 218-09, Page 1-3, Paragraphs 1-7 Note, Additional Data
EVIDENCE OTHER THAN
CONTROLLED SUBSTANCES/
MARIJUANA AND FIREARMS/

BALLISTICS EVIDENCE
REQUIRING POLICE LABORATORY
ANALYSIS

3. Police Officer Travis Brinson, assigned to the 9th Precinct, on or about June 21, 2012, while on-duty and in New York County responded to the scene where a possible explosive device and threatening note were left and failed to secure the crime scene, advise the detective squad/ detective specialty squad personnel of witnesses and other information regarding the case, and record observations, identity of witnesses, and relevant statements in his Activity Log.

INTERIM ORDER 70, Issued 11-13-09, Page 2, Paragraph 2, 5, 6
REVISION TO PATROL GUIDE 212-04, "CRIME
SCENE"
P.G. 212-04 CRIME SCENE

4. Police Officer Travis Brinson, assigned to the 9th Precinct, on or about June 21, 2012, while on-duty and in New York County engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Brinson responded to the scene where a possible explosive device and threatening note were left and failed to prepare a Complaint Report.

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

The Department was represented by Scott Rosenberg, Esq., Department Advocate's Office, and Respondent was represented by Craig R. Hayes, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pled Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

At approximately 9:30 a.m. on June 21, 2012, Respondent and his partner, Police Officer Marilyn Estrada, responded to a radio run of a hazardous condition at a Wells Fargo bank. Upon arriving at the scene, a teller informed them that he found a possible explosive device in the bank vestibule. The device consisted of a bottle filled with an unknown liquid and a rag sticking out the top. There was a note next to the bottle. Respondent described the note as "rambling." The bank teller retrieved the bottle and note from the garbage can, and he showed the items to the officers. He had poured the liquid out of the bottle before the officers arrived. According to Respondent, the teller did not seem nervous or afraid. Instead, he seemed dismissive, as if the situation were a prank or unimportant. The bank was open, and customers were walking around as usual.

The officers requested the response of the patrol supervisor, Sergeant Kerry O'Connor. While the officers explained the situation to O'Connor, an assault in progress was transmitted over the radio. O'Connor left the scene to respond to that emergency radio run without giving any direction to Estrada and Respondent. Based on their observations, and the demeanor of the bank teller, the officers came to the determination that the situation was "an unnecessary complaint." Estrada tore up the note. Respondent observed her do this and did not stop her. Moreover, Respondent failed to secure the scene, prepare a Complaint Report, make notifications to the detective squad or specialty squad personnel, or make Activity Log entries regarding his observations or witness identities. Respondent testified that if he had it to do over again, he would have preserved the evidence. Since the incident, he has not received any retraining in incendiary devices or terrorist activity.

PENALTY

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 9, 2006. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Estrada and Respondent were served with virtually identical charges for their June 21, 2012 misconduct. While the Police Commissioner approved a penalty of 15 vacation days for Estrada's case, the Assistant Department Advocate (ADA) made a recommendation that Respondent forfeit 30 vacation days and be placed on one year dismissal probation. The ADA explained that Respondent's case calls for a more severe penalty because of his disciplinary record. Department's Exhibit 1 is the charge and specification that was the basis of a 2009 case involving a physical altercation between Respondent and [REDACTED]. What the ADA failed to note, however, was that Respondent was found not guilty of this domestic altercation.

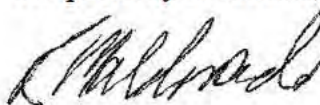
The only prior formal discipline of which Respondent has been found guilty stemmed from a 2008 Civilian Complaint Review Board (CCRB) complaint filed after Respondent and his partner entered a building in search of a witness. Respondent forfeited 20 vacation days after a 2011 trial for wrongfully seizing the building owner's house keys, entering the building without just cause, and neglecting to make Activity Log entries regarding the encounter.

Because the Department practices progressive discipline, I agree with the ADA's assertion that Respondent's disciplinary history must be a consideration in deciding what

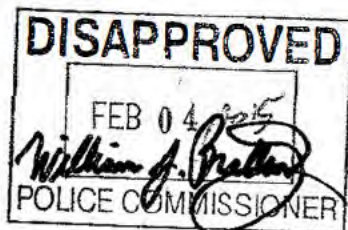
penalty he will receive. It is for this reason that a penalty of 30 vacation days – double what Estrada received for the exact same misconduct – seems appropriate in this case. A year on dismissal probation, however, seems excessive. The penalty of dismissal probation is generally reserved for those cases where immediate termination is not warranted but where a Respondent's prior formal disciplinary record indicates that the imposition of lesser penalties has not resulted in a change of behavior, or where it is adjudged likely that a Respondent will repeat his misconduct. While the manner in which Respondent handled a possible explosive device in our post-9/11 world is certainly a cause for concern, his misconduct – even when viewed in conjunction with the 2008 CCRB incident – does not justify the imposition of dismissal probation.

Accordingly, it is recommended that Respondent forfeit a penalty of 30 vacation days.

Respectfully submitted,



Rosemarie Maldonado
Deputy Commissioner Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER TRAVIS BRINSON
TAX REGISTRY NO. 939940
DISCIPLINARY CASE NO. 2013-10128

In 2012 and 2013, Respondent received an overall rating of 3.0 "Competent" on his annual performance evaluations. He was rated 3.5 "Highly Competent/Competent" in 2011. [REDACTED]

Respondent has been the subject of one prior adjudication. In 2012, he forfeited 20 vacation days after being found guilty at trial of wrongfully seizing a building owner's keys, entering the premises without just cause, and neglecting to make Activity Log entries regarding the encounter.



Rosemarie Maldonado
Deputy Commissioner Trials