



POLICE DEPARTMENT

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| In the Matter of the Disciplinary Proceedings | : | |
| - against - | : | FINAL |
| Police Officer Raul Olmeda | : | ORDER |
| Tax Registry No. 956139 | : | OF |
| Military & Extended Leave Desk | : | DISMISSAL |

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Police Officer Raul Olmeda, Tax Registry No. 956139, Shield No. 11187, Social Security No. ending in [REDACTED] having been served with written notice, has been tried on written Charges and Specifications numbered 2016-15921, as set forth on form P.D. 468-121, dated February 21, 2018, and after a review of the entire record, Respondent is found Guilty of Specifications 1-5, 9-10, and 12-17. Specifications 6-8 and 11 were held in abeyance.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Raul Olmeda from the Police Service of the City of New York.


JAMES P. O'NEILL
POLICE COMMISSIONER

EFFECTIVE: March 15, 2018



POLICE DEPARTMENT

March 13, 2018

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| In the Matter of the Charges and Specifications | : | Case No. |
| - against - | : | 2016-15921 |
| Police Officer Raul Olmeda | : | |
| Tax Registry No. 956139 | : | |
| Military & Extended Leave Desk | : | |

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

Before: Honorable Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Anna Krutaya, Esq.
Department Advocate's Office
One Police Plaza, 4th Floor
New York, NY 10038

For the Respondent: Stuart London, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

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Website: <http://nyc.gov/nypd>

Charges and Specifications:

1. Said Police Officer Raul Olmeda, in or about and between January 2017 and April 2017, while assigned to the 42nd Precinct or the Fleet Services Division, in Bronx County, knowing the content and character thereof, employed, authorized, or induced an individual less than seventeen (17) years of age, identity known to the Department, to engage in a sexual performance.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS
N.Y.S Penal Law Section 263.05 "Use of a child in a sexual performance"
2. Said Police Officer Raul Olmeda, in or about and between January 2017 and April 2017, while assigned to the 42nd Precinct or the Fleet Services Division, in Bronx County, did commit a specified offense, that being the crime of "Use of a child in a sexual performance," in that, knowing the character and content thereof, employed, authorized, or induced an individual less than seventeen (17) years of age, identity known to the Department, to engage in a sexual performance, in whole or substantial part, of his own direct sexual gratification.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS
N.Y.S. Penal Law Section 130.91 (1) "Sexually motivated felony"
3. Said Police Officer Raul Olmeda, in or about and between January 2017 and April 2017, while assigned to the 42nd Precinct or the Fleet Services Division, in Bronx County, did commit a specified offense, that being the crime of "Use of a child in a sexual performance," in that, knowing the character and content thereof, did produce, direct, or promote an obscene performance which included sexual conduct by an individual less than seventeen (17) years of age, identity known to the Department.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS
N.Y.S. Penal Law Section 130.9(1) "Promoting an obscene sexual performance by a child"
N.Y.S. Penal Law Section 263.15 "Promoting a sexual performance by a child"
4. Said Police Officer Raul Olmeda, in or about and between January 2017 and April 2017, while assigned to the 42nd Precinct or the Fleet Services Division, in Bronx County, did commit specified offenses, those being the crimes of "Promoting an obscene sexual performance by a child" and "Promoting a sexual performance by a child," in that, knowing the character and content thereof, employed, authorized, or induced an individual less than seventeen (17) years of age, identity known to the Department, to engage in a sexual performance, in whole or substantial part, of his own direct sexual gratification.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS
N.Y.S. Penal Law Section 130.91 (1) "Sexually motivated felony"

5. Said Police Officer Raul Olmeda, on or about March 25, 2017, while assigned to the 42nd Precinct, in Bronx County, knowing the character and content thereof, did knowingly have in his possession or control one (1) or more obscene performances which included sexual conduct by an individual less than sixteen (16) years of age, identity known to the Department.

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

PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS

N.Y.S. Penal Law Section 263.16

"Possessing a sexual performance by a child"

6.

[REDACTED]

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[REDACTED]

■

[REDACTED]

9.

Said Police Officer Raul Olmeda, in or about and between January 2017 and April 2017, while assigned to the 42nd Precinct or the Fleet Services Division, in Bronx County, did knowingly act in a manner likely to be injurious to the physical, mental, or moral welfare of an individual less than seventeen (17) years of age, or direct or authorize such individual to engage in an occupation involving a substantial risk of danger to the individual's life or health.

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

PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS

N.Y.S Penal Law Section 260.10(1) "Endangering the welfare of a child"

10. Said Police Officer Raul Olmeda, on or about July 7, 2017, while assigned to the Fleet Services Division, in Bronx County, knowing that a witness to a grand jury was, or about to be, called as a witness in an action or proceeding, did wrongfully induce or attempt to induce such person to be absent from or otherwise to avoid or seek to avoid appearing or testifying at such action or proceeding.

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

PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS

N.Y.S. Penal Law Section 215.10(a) "Tampering with a witness in the fourth degree"

11.

[REDACTED]

12. Said Police Officer Raul Olmeda, on or about July 8, 2017, while assigned to the 42nd Precinct, or to the Fleet Services Division, in Bronx County, did knowingly use, cause to be used, or accessed a computer, computer service, or computer network owned by the New York City Police Department without authorization.

P.G. 219-14, Page 1, Paragraph 2

DEPARTMENT COMPUTER SYSTEMS
DEPARTMENT PROPERTY

N.Y.S. Penal Law Section 156.05 "Unauthorized use of a computer"

13. Said Police Officer Raul Olmeda, on or about and between April 1, 2017 and August 20, 2017, while assigned to the Fleet Services Division, in Bronx County, being a New York City Police Officer, with intent to obtain a benefit or to injure or deprive another person of a benefit, did commit an act relating to his official function, knowing that such act was unauthorized, to wit: said Police Officer did use, cause to be used, or accessed a computer, computer service or computer network owned by the New York City Police Department without authorization on multiple occasions. (As amended)

P.G. 219-14, Page 1, Paragraph 2

DEPARTMENT COMPUTER SYSTEMS
DEPARTMENT PROPERTY

N.Y.S. Penal Law Section 195.00(1) "Official misconduct"

14. Said Police Officer Raul Olmeda, on or about December 14, 2017, while assigned to the Military and Extended Leave Desk did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer made misleading statements during his official Department Interview by stating that the voice in two audio recordings retrieved from his drop box was not his, when that was not in fact true. (As amended)

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

PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS

15. Said Police Officer Raul Olmeda, on or about December 14, 2017, while assigned to the

Military and Extended Leave Desk did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer made misleading statements during his official Department Interview by stating that he did not recognize photographs taken in his apartment when that was not in fact true. (*As amended*)

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

**PUBLIC CONTACT - PROHIBITED CONDUCT
GENERAL REGULATIONS**

16. Said Police Officer Raul Olmeda, on or about December 14, 2017, while assigned to the Military and Extended Leave Desk did intentionally make false statements, to wit; said Police Officer when shown photos taken in his apartment and asked whether this was his apartment, stated that he did not live there, when that was not in fact true. (*As amended*)

P.G. 203-08, Page 1, Paragraph 1

**MAKING FALSE STATEMENTS
GENERAL REGULATIONS**

17. Said Police Officer Raul Olmeda, on or about March 25, 2017, while assigned to 42nd Precinct, did use, cause to be used, or accessed a computer, computer service or computer network owned by the New York City Police Department without authorization for reasons unrelated to Department business. (*As amended*)

P.G. 219-14, Page 1, Paragraph 2

DEPARTMENT COMPUTER SYSTEMS

REPORT AND RECOMMENDATION

The above named member of the Department appeared before the Court on February 21 and 22, 2018. At the opening of trial on February 21, 2018, the Department Advocate's Office elected to hold in abeyance, Specifications 6, 7, 8 and 11, which charge Respondent with

[REDACTED]

[REDACTED] Accordingly, the findings and recommendations that follow reflect the tribunal's consideration of Specifications 1-5, 9-10 and 12-17.

Respondent, through his counsel, entered a plea of 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. The Department called Sergeant Jorge Gomez, Sergeant Manuel Chang, Lieutenant Euclides Lopez, Mr. [REDACTED] and Sergeant Michael Garcia as witnesses.

Respondent was not called to testify by his counsel. As such, the Department opted to call him as a witness. Lieutenant Swanson, the ICO for the Department Advocate's Office, ordered Respondent to testify and warned that he would be subject to suspension if he refused to do so. Respondent indicated that he was "declining to testify" at the advice of his counsel.

DECISION

After reviewing the evidence presented at the hearing and assessing the credibility of the witnesses, the Court finds Respondent Guilty of Specifications 1-5, 9-10, and 12-17. The recommended penalty is dismissal.

FINDINGS AND ANALYSIS

The instant case and [REDACTED] against Respondent arose contemporaneously. In March, 2017, a fifteen year-old runaway (hereinafter the "minor complainant") reported to NYPD officers that a police officer had paid her in exchange for sex acts that were recorded at his apartment on multiple occasions. She provided a phone number, which was linked to Respondent, and an investigation immediately commenced. She spoke with Internal Affairs on March 23, 2017, and reiterated these allegations, after which she ceased cooperating. Her father also spoke with IAB at this time, indicating that he knew Respondent, who had previously worked at a local bank and had dated another one of his daughters.

A search warrant was conducted at Respondent's self-reported residence on [REDACTED] [REDACTED] on March 25, 2017. Respondent was also placed on modified duty on that date. On that morning, Respondent allowed the officers access to the apartment, opening the door with his key, and surrendered his cell phone, which he had on his person. Multiple electronic devices were recovered from the apartment, including a desktop computer, external hard drives, multiple cameras and SD cards. Forensic analysis was conducted on all devices,

which will be discussed in much greater detail below. In sum, with respect to the minor complainant, IAB's forensic analysis discovered:

- 16 screenshot images of the minor complainant on Respondent's desktop computer, including images where she was nude with her breasts and genitalia exposed and images where she appeared to be engaging in oral sexual conduct and sexual intercourse (Dep't Exs. 4, 15, 19)
- 16 unique (60 total with duplicates) images of minor complainant on Respondent's cell phone (Dep't Ex. 9), including:
 - Five nude photos with her face, breasts and genitalia exposed that appeared to be taken in Respondent's bed
 - Five photos showing her nude from the chest down with a tattoo visible
 - Two photos of her face and exposed breasts

In August 2017, IAB obtained a separate warrant for content contained in Respondent's encrypted and password-protected Dropbox storage cloud application on his cell phone. The Dropbox (Dep't Ex. 12 & 13) contained:

- Two fully nude photos of minor complainant
- Folder entitled "My Investigation" containing an audio recording titled with the minor complainant's first name that was determined to be a discussion between Respondent and the minor complainant. Another recording entitled "Person A convo" was determined to be a discussion between Respondent and Person A, a former girlfriend of Respondent, who IAB had interviewed.

Respondent was suspended from duty, [REDACTED]

[REDACTED] and Department charges were filed immediately thereafter. Respondent submitted to an official Department interview on December 14, 2017, at which time he denied recognizing the images of the minor complainant, denied that he lived in the apartment pictured in the photos and denied that it was his voice on the Dropbox recordings. Based on these statements, three charges alleging misleading or false statements at the interview were added on January 10, 2018.

Lieutenant Euclides Lopez, a team leader in IAB Group 21, became the lead investigator on this case after an allegation that Respondent had engaged in sex with a 15 year-old prostitute was referred to IAB from the Vice unit on March 22, 2017. Lieutenant Sharp, told Lopez that

after encountering police, who were searching for her as a runaway, the teen stated that one of her clients was a police officer, who had previously worked at [REDACTED] and dated her older sister. She provided his phone number. Sharp ran the phone number and it came back linked to Respondent. Lopez then verified that the location the female described in [REDACTED] matched the address that Respondent had listed with the Department since the commencement of his employment. Lopez also checked phone records, confirming that Respondent had communicated with both the minor complainant and her older sister, [REDACTED]. Finally, Lopez ran a check on Respondent's vehicle, confirming that he owned a dark gray [REDACTED] [REDACTED], matching the description of the dark-colored vehicle that the complainant said she was transported in by her police officer client. (Tr. 78-83)

Lopez was present along with an officer from Vice and an ADA from the [REDACTED] DA's Office when the complainant was interviewed on March 23, 2017 at an IAB office in Manhattan. The interview was not recorded at the request of the ADA, who did the majority of the questioning. Lopez recounted that the minor complainant alleged that she had had sex with a police officer named Raul between eight and ten times in recent months, being paid between \$140 and \$200 each time, and that all their encounters had been recorded with a camera that he would place on the dresser or another nearby location.¹ She detailed that Respondent would pick her up from a train station [REDACTED] and drive her to his apartment. She also noted that she had told Respondent her age because she did not want to lie as she believed he had looked her up "in the system." The complainant indicated she had seen the recordings Respondent had made of her and of other females having sex with him. (Tr. 83-87)

¹ On cross, Lopez indicated that he believed that the minor complainant initially was untruthful during this interview as to how she met Respondent. She stated that her pimp/boyfriend had connected them through a general ad on Back Page, an online forum, which Lopez found suspect given Respondent's prior involvement with the complainant's sister. (Tr. 136-42)

Lopez testified that the complainant was asked to select her police officer client from an array of color photos. He was present when she selected Respondent, circling and initialing the number next to his photo. (Dep't Ex. 10) This interview was the only time IAB spoke with the minor complainant as she ceased cooperating thereafter. The complainant's father was interviewed the same day and detailed that he was familiar with Respondent, who had worked at [REDACTED] in their neighborhood and dated his older daughter, [REDACTED] (Tr. 87-90, 143-46)

Following the interviews, Group 21 conferred with the DA's Office to secure a search warrant for Respondent's residence on [REDACTED] after verifying that Respondent had bills going to this address, in addition to self-reporting it to the Department.² The warrant encompassed all Respondent's electronic devices, including his phone. Lopez was not present for the warrant execution but reviewed all pertinent documentation. He was aware that Respondent was located at the precinct where he worked and brought to the residence where he was shown the warrant and used his key to allow the officers entry. In addition to the electronics that were recovered inside, Respondent provided his cell phone, which was on his person, to Lieutenant Healy. As an extra cautionary measure, a second search warrant was subsequently obtained for the phone, as it had not been recovered from inside the residence. (Tr. 90-95)

After Group 7 conducted forensic analysis on the electronic devices, they provided their findings to Lopez. At trial, he described two images of the minor complainant found on the desktop computer, explaining that he was able to identify her in images from both the computer and the phone, based on his having personally observed her during the March 23 interview and his awareness that she had a unique tattoo above her left breast with a [REDACTED] and the name

² At his Department interview, Respondent acknowledged that he resided on [REDACTED] February 2014 to February 2017 when he moved back in with his mother. He did not recall whether his apartment was a basement unit or street level. (Dep't Ex. 18B at 19-23)

██████████ which was visible in many of the images. According to Lopez, in one image (Dep't Ex. 15A), she was shown engaged in intercourse, with a male whose face was not visible behind her, on a black couch with a Christmas tree in the background. In the second image (marked as Dep't Ex. 15K), the minor complainant was depicted on a bed receiving oral sex from a male whose face was not visible. Lopez believed Respondent was the male in both photos based on the fact that they were recovered from Respondent's computer in his residence and his observations of various other videos where Respondent's face was visible, that depicted the "same bed sheets, same headboard, pretty much the same position." (Tr. 95-97, 118-25)

Specifically, Lopez confirmed that in Dep't Ex. 5, a video of Respondent having sex with an unknown female, the same black leather couch, Christmas tree and pink stocking, bearing the name ██████████, were depicted, just as they were in image 15A of the minor complainant. In Dep't. Ex. 6, disc 1, video 0002 and disc 2, videos 0009, 0010 and 0015, Respondent's face was visible, as were an identical headboard and "distinctive looking" sheets shown in the photo where the minor complainant was depicted engaged in oral sex. (Tr. 97-98, 125-29)

Lopez further testified that Respondent's desktop computer also contained four folders titled with the minor complainant's first name and four separate dates in 2017, which he noted was within the timeframe that the minor complainant claimed to have had sex with Respondent. Those files were not able to be opened or viewed. (Tr. 131-32)

Lopez also reviewed the 16 images retrieved from the cell phone (Dep't Ex. 9) and again explained that "very unique bed sheets" helped verify that the photos were taken in the apartment where the warrant had been executed. (Tr. 96-97) He conducted his own review of the phone

³ Lopez testified that he observed another (non-pornographic) photo recovered from Respondent's cell phone of Respondent's girlfriend and her young daughter, ██████████ with the same Christmas tree in the background. Forensic analysis for that photo had the latitude and longitude attached to the image, which matched with Respondent's reported residence on ██████████ r. 129-33; Dep't Ex. 16)

and retrieved two additional images which had not been discovered by Group 21, where the complainant's breasts were exposed and her distinctive tattoo was visible. (Tr. 99-102; Dep't Ex. 11)

Lopez accessed the Dropbox app, which is a digital storage cloud application, on the cell phone and was immediately able to view images of Respondent engaged in sex acts with other women. He then obtained another search warrant for the Dropbox on August 10, 2017 before reviewing additional content. Thereafter, he located three additional photos of the minor complainant, including two nude photos with her unique tattoo visible. (Dep't Ex. 12) Also in the Dropbox was a folder titled "My Investigation," wherein Lopez found two audio files, one titled under the minor complainant's first name and another titled "Person A convo." (Tr. 102-06, 118) Those audio recordings and transcripts were entered into evidence as Dep't Exs. 13A & 13B. The same male voice can be heard on both recordings, which Lopez believed belonged to Respondent, explaining that "based on viewing a lot of different videos [of Respondent], I became familiar with his voice." (Tr. 115)

In the audio file with the minor complainant's name, that male voice can be heard telling the complainant, "The only reason . . . that they're looking for you is because without you they're going to lose their case...It's like a statute of limitations. There's a certain amount of time that they have to ...keep it open. That's what I'm saying, lay low..." (Dep't Ex. 13A at 10) The male went on to say, "I'm not telling you to do this because I'm worried about me...I'm not worried for what we did, we made a conscious choice...that's why when you and I hooked up...I said, I don't want you to think I'm taking advantage of you." Finally, he reminds the minor complainant that they have a "connection" through [complainant's sister] and that "it would be a whole big mess, they would arrest me, they would arrest [sister] ... technically by law you're a minor so ... under the stupid law, I'm endangering the welfare of a child ... so was [sister] They will charge

her because she was part of a threesome. If they charge me with rape, they gotta charge her with rape." The complainant can be heard responding that, "it's even worse because [sister] has a daughter." Finally, the male voice advises that if she encounters officers, who he explains are often paired in Impala vehicles, that she should act cool and not stare. (*Id.* at 15-23; Tr. 111-14)

The second audio file, entitled "[Person A] convo" was a conversation between the same male voice and a woman identified to be Person A who had already been observed on videos on one of Respondent's SD cards and interviewed by IAB. In that interview, she indicated she met Respondent online and established a "sugar daddy type" relationship. On the recording, the male voice indicated he was aware that Person A had been visited by police. She relayed to him that officers had shown her photos of both "chicks" and "cops," including the male speaker. The male then asked if "the girls" looked young or had tattoos and if the photos were nudes. He then indicated that he was showing her several photos, asking if particular women had been shown to her. He asserted, "I'm going to do my own little investigation," before asking again if she was sure none of the girls were young. When Person A asked why the male didn't just "go to the precinct" and find out what was going on, the male voice stated "No, no, no, no. I don't want to let them know that I know." He asked yet again if any of the girls in the pictures "looked young" and then showed her a photo of "[the minor complainant's sister]" asking if that was one of the women. He showed her another photo of the complainant's sister and subsequently stated "this one and this one are sisters." He asked whether the sister looked familiar, explaining that the one sister ran away from home and "they've been looking for her." Finally, he asked how long the exchange was and whether officers said they were investigating him. She indicated it was brief and the officers had not said that he was under investigation. During the conversation, Person A twice referred to the male as Raul. (Tr. 97- 98, 114-18; Dep't Ex.13B at 5-21, 30-38).

Lopez's investigation also revealed that Respondent had used the Department's DAS and Omni computer systems to search for "Individual 1" and "Person A," in addition to his own name on multiple occasions between March and July 2017. (Tr. 133-35)

Sergeant Jorge Gomez of IAB's Group 7, Computer Crimes Unit, testified that he is trained in forensic investigations and extraction of data from electronic devices. Preliminarily, he explained that data could be deleted from a device but remain on the hard drive and that during a forensic investigation, his first step was to "write protect" all data on a device, which would render him unable to edit or manipulate the extracted data. (Tr. 11-15)

Gomez was directed to be present at the execution of the search warrant on Respondent's residence and recover electronic devices from the premises.⁴ He reported that a desktop computer, various external hard drives, a camera, a second shoot and point camera, a video camera, a cell phone, 17 videocassette tapes, 12 mini DVD recordings and numerous SD cards were recovered and vouchered. At the location, Respondent provided Gomez with the passcode to his cell phone. Photos of the residence were entered into evidence as Department's Ex. 1. (Tr. 16-22, 51-56; Dep't Exs. 1 & 2)

Gomez, aware of the minor complainant's allegation that Respondent recorded their sexual encounters, conducted forensic analysis on all devices with the exception of the phone. He discovered 16 screenshot images of the minor complainant on the desktop computer, recovered from the password-protected account "Raul Olmeda Torres" under the thumb cache.⁵ Based on their location on the device, Gomez agreed that these 16 images had been downloaded via hard drive or USB, allowing them to be viewed by the "Raul Olmeda Torres" account on at

⁴ Gomez believed this was Respondent's residence based on the information provided to him by IAB Group 21. He did not see a lease or any surveillance confirming this was Respondent's residence.

⁵ Gomez explained that he had been provided with a photo of the victim to aid in his investigation.

least one occasion. He explained that the setting of these images appeared to be the residence he had personally observed while executing the warrant. (Tr. 24-31, 56; Dep't Exs. 3A-B & 4)

Gomez testified that the photo marked record 3 on page 1 of Dep't Ex. 4 depicted Respondent's living room with a Christmas tree and "a black couch just the same as it was on the day of the search warrant." In the photo, a male was visible "in the background and then there is the female appears to be the victim having sexual intercourse." The photo marked as record 10 on page 6 depicted the bedroom with "the same headboard as his bed the same one that [was there] when I was there to do the search warrant...it appears that the female is the victim and the male lying on the bed is [Respondent]...providing or giving oral sex to the female." (Tr. 31 33)

From the Sony Handycam's SD card, Gomez recovered four videos of what appeared to be Respondent, with his face visible, engaging in sexual intercourse with unidentified women on the same black couch with a Christmas tree in the background. On another SD card, Gomez discovered 19 videos depicting Respondent engaging in intercourse with unidentified females in his bedroom. This was, he testified, the same bed with the same sheets that he had personally observed during the search warrant and also the same bed where the minor complainant was depicted in images retrieved from the desktop computer. (Dep't Ex. 5 & 6; Tr. 34 42)

Gomez's partner, Sergeant Manuel Chang, also testified. Like Gomez, he was trained in extracting deleted data that has been deleted and restoring the data using forensic tools. These tools did not allow him to add or alter that data once it has been write protected. (Tr. 59-61)

Chang was present with Gomez at the execution of the search warrant. He recognized the photos in Dep't Ex. 1 to be an accurate depiction of the searched residence. Following the recovery of multiple electronic items from the home, Chang was tasked with conducting analysis on Respondent's Samsung cell phone, and was specifically directed to look for evidence of sexual encounters between Respondent and an underage complainant. The case investigator

provided him with complainant's physical description and her Facebook profile photo. After the first forensic tool he used, Cellebrite, recovered nothing "of value," Chang utilized another program, "Axiom," with which, he was able to extract 60 images (16 of which were unique) of the complainant from the cache section of the phone's SD card. The images being recovered from this location meant that they had been physically stored on the phone rather than simply viewed via the Internet. In some images, the complainant victim was in a state of undress and, in others, she was fully nude with her breasts and genitalia exposed. The nude photos were taken in a bed, which Chang testified was the same bed he personally observed in Respondent's bedroom while executing the search warrant. (Tr. 62-74; Dep't Exs. 7, 8A & 8B; 9A 9HHH)

The minor complainant's father, [REDACTED] also testified for the Department. He confirmed that the complainant was born on [REDACTED] making her sixteen years-old presently. He identified Respondent as an individual who he met when Respondent worked at [REDACTED] where the minor complainant's father banked at least weekly. He estimated approximately seven years ago, he became aware Respondent was involved with his older daughter, [REDACTED] who was 16 or 17 years-old at the time, when he saw a text message from Respondent in her phone. He explained that he regularly monitored his daughters' cell phones as a means of checking on them. The older daughter told him that she was babysitting for Respondent. On another date thereafter, he again accessed her unattended phone and saw another text from Respondent asking her to send him a nude photo. The complainant's father went to the bank, told Respondent that he had seen the text message and directed him to stay away from his older daughter. He stated that his efforts to stop their relationship were unsuccessful. He was not, at that time, aware of any relationship between Respondent and his younger daughter, the minor complainant. (Tr. 164 71, 181-86; Dep't Ex. 17) At trial, the complainant's father examined all photos marked as part of Dep't Exs. 9, 11, 12 and 15 (recovered from Respondent's desktop computer, cell phone and Dropbox app) and affirmed that

they were all of his younger daughter, the complainant, who he noted has a tattoo above her left breast of a [REDACTED] and the name "[REDACTED]". He further confirmed that the female voice on the audio recording, Dep't Ex. 13A, was that of his minor daughter and that he recognized the male voice on Dep't Exs. 13A&B as belonging to Respondent. (Tr. 171-75) With respect to his younger daughter who appeared in these images, the complainant's father testified that she had run away from home numerous times beginning around age fourteen, "rebellious over my rules." On one occasion, after she encountered police, Lt. Sharp of Vice called the father and advised him of the alleged relationship between Respondent and his minor daughter. (Tr. 175-79, 186)

The complainant's father confirmed that prior to this hearing, he had messaged Respondent, who he admitted to disliking, "I'll see you soon in the court," explaining he had done so out of anger and not as a physical threat. (Tr. 179-80) He also agreed that in June 2017, he met with Lt. Lopez about his daughter, who had not returned home for three months. He told Lopez, in sum and substance, that he had spoken to friends and family who had advised him he could file a lawsuit because a police officer had abused his minor daughter. However, he testified that to date, he had not filed a lawsuit against the City. He stated that he was not aware of the timeframe for doing so and did not know the difference between state and federal lawsuits. (Tr. 190-95)

Sergeant Michael Garcia of IAB was assigned to partake in Respondent's Department interview on December 14, 2017. (Dep't Ex. 18) During that interview, Respondent denied ever recording a conversation with the minor complainant after initially stating he did not recall doing so. He was played the recordings that are in evidence as Dep't Ex. 13. He stated that the male voice was not his and that he did not recognize the female voice on the recording saved under the minor complainant's name. He was asked again, after being warned about the consequences of making false statements, but offered the same denial. He did agree that he understood it would be inappropriate for the subject of an investigation to contact a complainant and/or try to convince

the complainant not to move forward. Similarly, Respondent denied that it was his voice on the recording discovered in his Dropbox entitled "Person A convo." He had no idea how these recordings got in his Dropbox account, as it was encrypted and he was private with passwords. Garcia testified, however, that he believed, based on hearing Respondent at the interview and watching videos where Respondent was visible and speaking, that the male voice on these two recordings belonged to Respondent. (Tr. 202-06, 215-16; Dep't Ex. 13B at 61-62, 69-73, 82-83)

Garcia further detailed that Respondent was also shown three photos, labeled A, B, and C (Dep't Ex. 19), of the minor complainant during the interview. He testified that in photo A, she is depicted laying on a bed, nude with her genitalia visible, with a headboard, sheets and pillows visible. When Respondent was asked whether the female in the photo was the [REDACTED] complainant, he responded that he was not sure. (Tr. 208, Dep't Ex. 18B at 15)

In photo B, the same bedroom setting is pictured and the minor complainant is depicted in the bed nude with a male laying with his back to the camera. His face and head, Garcia noted, are "in close enough proximity to the female's genitalia to be performing a sex act." Respondent was asked if he was the pictured male. He replied, "That's not me." He was then asked if it was his bed or his apartment pictured and he stated it was not. He was reminded about the consequences of making false statements and asked again, "is this your house?" Respondent replied, "I don't live there." He subsequently stated he never previously lived in this space or used it as a residence. He denied recognizing anything in the photo- the bed, the sheets, the furniture or the individuals pictured. Later in the interview, he acknowledged that the male had a military haircut, like he did, but contended it was not him (Tr. 208-09, Dep't Ex 18B at 15-18, 24, 117-18)

Garcia testified that in photo C, the minor complainant was pictured nude, this time with a different nail polish color and in a different setting with her head and arms visible along the top

back of a black couch. A male, who appears to be nude, is "positioned directly behind [her] in close enough in proximity to be performing a sexual act," but is only visible from his shoulders to his waist. A Christmas tree and blackout shades are pictured in the background. Presented with this photo, Respondent stated that the female was not the complainant and that he could not tell who the male was. He stated he did not recognize the Christmas tree, but could not recall what his own Christmas tree had looked like. He was asked whether this was his house and said he did not recall. He indicated that he had never owned a couch that looked like the one in the photo. (Tr. 209-11, Dep't Ex. 18B at 18 19)

At the end of his two hour interview, Respondent was shown the same photos and given an opportunity to amend his statements. He stated that the female in photo A was not the minor complainant before adding "not that I recall." He indicated he did not recognize the pictured female's tattoo. He again stated the setting was not his residence and indicated he did not recognize the bed. As to photo B, he reiterated that he did not recognize the individuals pictured. Similarly, as to photo C, he denied that he was the male in the photo and did not recognize the female, the couch, the Christmas tree or the curtains. (Tr. 211-12; Dep't Ex. 18B at 115-22)

During the interview, Respondent acknowledged using Department computers and systems on three separate dates to query himself. Person A and Individual 1, who had been questioned regarding the criminal investigation. He queried Individual 1 on June 11 and August 20, 2017 and [REDACTED] on June 24, 2017, stating he wanted to check on these women who were involved in domestic abuse situations. He also admitted to querying his own name after being modified, claiming he was seeking a receipt for his property. Respondent characterized these queries as errors in judgment. He also admitted to querying multiple family members and his ex-wife after he was modified "because I was bored." (Tr. 213-18; Dep't Ex. 18B 85-109)

For reasons that will be set forth below, the tribunal finds Respondent Guilty of the thirteen charges on which the Department proceeded. I will first address the specifications related to the GO-15 and the audio recordings, as those findings inform the question of whether Respondent acted "knowingly" with respect to the child pornography and endangerment charges.

Specifications 14, 15, 16- Misleading Statements During Official Interview

Respondent is charged with three specifications of making misleading statements during his official interview. Specifically, he is alleged to have made false or misleading statements about (i) whether he recognized photographs taken in his apartment; (ii) whether he lived or had resided in the apartment shown in the photos and (iii) whether it was his voice on the two audio recordings retrieved from his Dropbox.

When shown three photos of the complainant nude and/or appearing to be engaged in sex acts- two depicting a bedroom scene and one showing a living room with a black couch, Christmas tree and pink stocking in the background, Respondent indicated he did not recall whether this was "his house" before stating, "I don't live there." He denied recognizing anything in the photos including all the furniture, the bedding and the male and female pictured.

The record overwhelmingly indicates that Respondent was untruthful in claiming he had not resided in the apartment and did not recognize the photos. On employment paperwork with the Department, Respondent self-reported the address on [REDACTED] where the warrant was executed and where the devices containing these images were retrieved. He acknowledged living at the address for three years at his interview. Though the lease was not checked, Lieutenant Lopez credibly testified that he verified Respondent had bills going to the address. Respondent also granted officers access to this location with his key on the day the warrant was executed. Inside the apartment, photos were taken, including a photo of an open kitchen drawer.

The contents of the drawer included a shield bearing the number "11187," which is, as confirmed by Department personnel records, Respondent's shield number. See Dep't Ex. 1S, 1T.

Sergeant Gomez, who was present inside the apartment at the execution of the warrant, testified that images of the complainant that he retrieved from the desktop computer, which were the same images Respondent was shown at the interview, depicted the same black couch and the same bed that he observed at the residence "just as it was on the day of the search warrant." (See Dep't Exs. 4 & 19) Perhaps most significantly, there are also images and videos in evidence where it is unequivocally Respondent who is pictured, with his face showing, engaged in sex acts with multiple other women (i) on the same black leather couch in a living room with a window which is covered by blackout curtains and where a Christmas tree with multicolored lights, large silver snowflake and silver ball ornaments, a silver star on top and a small pink stocking is prominently displayed in the background, and (ii) on the same bed with the same dark wooden headboard with slatted rectangular cutouts and identical distinctive sheets with patches of vertical and horizontal stripes, of different sizes, in beige and blue-gray tones. The settings of these images match exactly the settings in which the minor complainant was depicted in the images Respondent was asked about at his interview. (Compare Dep't Ex. 5 & 6 with Dep't Ex. 19) Given the breadth of the evidence presented at trial, the only logical and reasonable conclusion is that Respondent was misleading and/or lying to the investigators when he stated he did not recognize the photographs and that he did not ever live or reside in the apartment depicted in the photos. As such, he is Guilty of Specifications 15 and 16.

The record also supports that Respondent was dishonest in stating that it was not his voice on the audio recordings found in his Dropbox app. On both recordings, the male voice references being a police officer and on the recording entitled "Person A convo" the female speaker twice uses Respondent's first name, Raul, in reference to the male with whom she is

speaking. Two IAB officers testified in a professional manner without any hint of bias that they believed the voice on the recordings belonged to Respondent. Lieutenant Lopez explained that he recognized Respondent's voice because, based on his viewing of other videos of Respondent, "I became familiar with his voice." Sergeant Garcia, who had listened to Respondent answer questions during a two hour interview, also recognized the voice on the recordings as belonging to Respondent. Additionally, the complainant's father, who had known Respondent for years from dealings at his local bank, also testified that this was Respondent's voice.

The tribunal is satisfied that these credible identifications of the male voice as belonging to Respondent, and the use of his first name on one of the recordings, coupled with the fact that they were retrieved from Respondent's encrypted Dropbox app on his phone from a folder titled "My Investigation," establish by a preponderance of the credible evidence that it is Respondent's voice on these recordings. Respondent's intentional misrepresentation of this material fact constitutes misconduct. As such, he is found Guilty of Specification 14.

Specification 10- Attempting to Induce Witness to Avoid Cooperating and Testifying

Having established that it is Respondent's voice on the recording in question, I turn now to the substance of his comments. Respondent is charged with attempting to induce the minor complainant not to appear or testify at proceedings related to his criminal case. Based on his statements on the recording, I find the Department has proved he engaged in this misconduct.

Preliminarily, I note that the female voice on this recording has been determined to be that of the minor complainant based on credible testimony from her father and a member of service identifying her as the female speaker on Dep't Ex. 13A. In making this determination, the tribunal rejects the arguments made by Respondent's counsel that these allegations are financially motivated or nothing more than a "simple money grab" by the complainant's father. (Tr. 9, 223-24) Though the complainant's father admitted that he indicated to Lt. Lopez that

family members had advised him he could file a lawsuit alleging that a police officer had sexually abused his minor daughter, he has not, to date, filed a lawsuit or expressed specific intent to do so. There is also nothing in the record indicating his daughter has done so. He appeared sincere in his statements that he was unaware of the statute of limitations or the difference between state and federal claims. Moreover, even if he had filed a lawsuit, it would not be automatically fatal to his credibility, particularly under the circumstances of this case.

Turning to the sum and substance of the exchange, Respondent tells the minor complainant that the police are looking for her because they will lose their case without her and the statute of limitations is running. He implores her to "lay low," though he self-servingly states he is not telling her what to do, that they made a conscious choice when they "hooked up," and he did not want her to think he had taken advantage of her. He goes on to remind her of her sister's involvement and says that if he is arrested and charged with rape, her sister will be as well because she was [REDACTED]. He explains that "technically" complainant is a minor and he and her sister were endangering the welfare of a child. The complainant laments that it will be "even worse" because her sister has a daughter and already had issues with ACS. Finally, Respondent tells the complainant that officers often drive in Impalas and that if she sees two adults in the front seats parked outside, they are likely cops. He encourages her to play it cool, not stare and to not "fall for" it if officers tell her she is a victim.

Based on these comments, it is painstakingly apparent that Respondent was trying to induce the minor complainant not to speak with police or make any statements against him that could be used in criminal proceedings. In particular, he made multiple comments essentially trying to coerce the minor complainant into remaining silent with warnings that if he were arrested for rape or child endangerment, her sister, [REDACTED] who had a young child, would be arrested as well. Accordingly, he is found Guilty of Specification 10.

Specifications 1 and 2 Use of a child in sexual performance

Respondent is charged with knowingly "inducing a child less than seventeen years of age to engage in a sexual performance" ("use of a child") and "use of a child in a sexual performance in whole or substantial part of his own direct sexual gratification." Penal Law §§ 130.91, 263.05. A performance is "any play, motion picture, photograph or dance." Penal Law § 263.00 [4]. Sexual conduct includes "the lewd exhibition of the genitals." Penal Law § 263.00 [3].

New York courts have deemed the photographing of minor children in sexually explicit poses as inducing a child to engage in a sexual performance. See *People v. Barnard*, 743 N.Y.S.2d 363 (4th Dep't 2002), *habeas corpus den.*, *Barnard v. Burbary*, 452 F. Supp. 2d 178 (W.D.N.Y. 2006) (upholding conviction where defendant had photographed a nude 14 year-old in his living room. The photos were characterized as having "a sexually explicit manner."); *People v. Gaito*, 199 A.D.2d 615 (3d Dep't 1993) (upholding use of a child conviction where defendant took pornographic photos of twelve and thirteen year-old victims for his private use). As such, the question of whether the minor complainant was actually engaged with Respondent in a sex act or merely in close enough proximity to do so in the images has no bearing on this specification. A finding that Respondent photographed or recorded her in sexually explicit poses is sufficient.

The credible evidence indicates Respondent induced the minor complainant to engage in a sexual performance knowing that she was underage. Lieutenant Lopez testified that he was present for an interview where the minor complainant revealed that Respondent had put a camera on the bedroom dresser while she was naked and they were engaged in sex acts and that he had shown her recordings that he made of her. She also stated to him that she had told Respondent her true age because she was aware he could look her up in the "system." While her purported statement is hearsay and the minor complainant is, as characterized by both Respondent's

counsel and the Advocate, a profoundly troubled young woman, her statements are given credence given that several recorded images of her nude with her breasts and genitalia fully exposed and engaged in sex acts were, in fact, retrieved from Respondent's desktop computer, cell phone, and Dropbox.

Though Respondent self-servingly stated in his GO-15 that he did not recognize the female pictured in the images in question, the minor complainant's father credibly identified that it was his daughter pictured in the images retrieved from the phone, desktop and Dropbox, including images where her genitalia was fully exposed, where she appeared to be receiving oral sex and where she appeared to be engaged in intercourse with a male whose head was blocked off. He provided her birth certificate, confirming she was born in 2001. He also confirmed that it was that daughter's voice on an audio recording where a male voice, determined above to be Respondent's, could be heard stating "we made a conscious choice...when you and I hooked up" and noting that she was "technically underage," thereby indicating he was aware that she was a minor child. Additionally, Lieutenant Lopez, who had personally observed the minor complainant, also testified that it was her in these images retrieved from Respondent's devices.

The content and volume of these images discovered on Respondent's devices would likely be more than sufficient to prove that he used a child under sixteen in a sexual performance. The finding is bolstered by the fact that most of these images appear to have been taken in Respondent's apartment. As outlined above, some images of the minor complainant are set in what appears to be a living room with a black leather couch, a window covered by a blackout curtain and a prominently displayed Christmas tree with colored lights, silver ball and Snowflake ornaments, a silver star on top and a pink stocking with the name "██████". Many other images were taken on a bed with a dark wooden headboard with slatted rectangular cutouts and very distinctive patterned sheets with patches of mismatched, alternating horizontal and vertical

stripes of different sizes in what appear to be beige and blue-gray tones. Though Respondent claimed to not recognize the bed, the headboard, the sheets, the Christmas tree or the people in the photos, these bedroom and living room settings are identical to those in photos and videos where Respondent's face is pictured and his voice is heard engaging in sex acts with other women. (Dep't Exs 5, 6) Two officers who were present at the warrant execution stated the settings were consistent with the rooms, layout and furniture they observed when they visited the address that Respondent had self-reported to the Department as his residence, from which the devices were confiscated.

In sum, the credible evidence has established that Respondent knowingly induced a fifteen-year old to engage in sexual performances, which he photographed and recorded at his residence for his personal use and gratification. He is therefore Guilty of Specifications 1 and 2.

Specifications 3, 4, 5- Promoting and possessing sexual performance by a child

Respondent is charged with "producing, directing or promoting an obscene⁶ performance which included sexual conduct by an individual less than seventeen years of age;" "promoting an obscene sexual performance by a child in whole or substantial part of his own direct sexual gratification;" and possessing one or more obscene performances which included sexual conduct by an individual less than sixteen years of age. Penal Law §§ 130.91, 263.10, 263.15, 263.16.

Penal Law § 263.15 provides that "[a] person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a child less than seventeen years of age." To "promote" means, among other things, "to procure" (Penal Law § 263.00 [5]), defined as "to

⁶ Any material or performance is "obscene" if (a) the average person, applying contemporary community standards, would find that considered as a whole, its predominant appeal is to the prurient interest in sex, and (b) it depicts or describes in a patently offensive manner, actual or simulated: sexual intercourse, criminal sexual act, sexual bestiality, masturbation, sadism, masochism, excretion or lewd exhibition of the genitals, and (c) considered as a whole, it lacks serious literary, artistic, political, and scientific value. Penal Law § 235

obtain, acquire . . . to get possession of by particular care or effort" *People v. Keyes*, 75 NY2d 323. Thus, "the term 'procure' . . . defines 'promote' for the purposes of Penal Law § 263.15 as simply the acquisition of child pornography, whether for personal consumption or for distribution . . ." (*Id.*). Section 263.16 provides that "[a] person is guilty of possessing a sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control any performance which includes sexual conduct by a child less than 16 years of age." The mere existence of cached images of child pornography on a computer, without more, is insufficient to prove that the defendant procured or possessed them. There must be additional evidence that the images were downloaded, saved, printed, or manipulated, thereby committed to allocated space on a device. *People v. Kent*, 19 N.Y.3d 290 (2012).

Here, the credible evidence overwhelmingly indicates that Respondent did not just view or access but downloaded and saved obscene images of the female complainant, who he knew was underage, in multiple places with the purpose of storing them for his use and gratification. Sergeant Gomez, who is trained in electronic forensic investigation, credibly testified that the images of the minor complainant in Dep't Exs. 4 and 15, images of the minor complainant engaged in sex acts and images of her nude with her breasts and genitalia fully exposed, were not only viewed on Respondent's computer, but found in the password-protected user account "Raul Olmeda Torres" under the thumb cache. He explained that for the images to be viewed by the user account, they would have had to be downloaded on the hard drive or via a USB, not simply accessed via Internet as that would have "show[n] up in a different folder." (Tr. 29-33) Sergeant Chang also credibly testified that he had recovered nude images of the minor complainant with her breasts and genitalia fully exposed, from Respondent's cell phone. He explained that the images were located in the cache section of the phone's SD card, meaning that they were physically downloaded to the phone, which had been recovered from Respondent's person.

Finally, Lieutenant Lopez of IAB accessed Respondent's Dropbox, a "remote storage device" for digital images, and found two additional nude images of the complainant. (Tr. 103-04)

In sum, the record established that Respondent saved and downloaded obscene images of the minor complainant to his phone, computer and Dropbox. As outlined above, Respondent was aware of the minor complainant's age based on her statement to Lieutenant Lopez that she told him and because Respondent's voice was heard on an audio recording readily acknowledging that she was "technically" a minor. The tribunal therefore finds that, consistent with New York law, Respondent both promoted and possessed obscene sexual performances of a person under age 16. He is therefore Guilty of the related specifications, 3, 4 and 5.

Specification 9- Endangering the welfare of a child

Respondent is charged here with "knowingly acting in a manner likely to be injurious to the physical, mental or moral welfare" of an individual under the age of 17. Penal Law § 260.10. There is no bright line for what constitutes action that is likely to be injurious to the physical or mental welfare of a child, but case law supports that Respondent's actions in photographing the minor complainant nude and engaged in sex acts is child endangerment. In *Figueroa v. Mazza*, 825 F.3d 89 (2d Cir. 2016), the Second Circuit reasoned that "the determination that a . . . person had produced child pornography would easily have supported a reasonable conclusion that that person had committed a separate offense, that of endangering the welfare of a child, by knowingly acting in a manner likely to be injurious to the physical, mental or welfare of "the [child] in the photographs." See also *People v. Kalen*, 68 A.D.3d 1666 (4th Dep't 2009) (upholding child endangerment conviction where defendant had discussed his genitalia and his views on the pornography industry with 15 and 16 year-old complainants).

Moreover, Respondent admitted to child endangerment when on the recording retrieved from his phone, he told the complainant, "technically by law you're a minor so... under the

stupid law, I'm endangering the welfare of a child..." Based on this comment, Respondent was aware that he was, by law, acting in a manner likely to be injurious to the physical, mental or moral welfare" of the minor complainant. *See People v. Pinkoski*, 752 N.Y.S.2d 421 (3d Dep't 2002) (defendant's admissions conceding the inappropriate nature of her conduct supported the conclusion that she was aware that her conduct-- photographing her nude daughter—was harmful to the child's physical and moral welfare). Accordingly, Respondent is Guilty of Specification 9.

Specifications 12, 13 and 17- Department computer misuse

As to the specifications alleging Respondent's misuse of Department computers, he admitted in his GO-15 interview to querying two women with whom he had prior sexual relationships on three specific dates in the summer of 2017, the relevant time period outlined in Specification 13. Though he suggested that he did so to check on these women who were in abusive relationships, the tribunal finds it far more likely that, knowing he was under investigation in the summer of 2017, Respondent queried these two women, both of whom had been identified as potential witnesses, in order to obtain potentially useful information about their dealings with police and the ongoing investigation. He also admitted to querying himself, family members and querying his ex-wife while he was on modified duty, also within the relevant time period, stating that he was bored and made "an error in judgment." Respondent's counsel raised no defense regarding the computer queries, simply confirming on cross that there was no allegation that he queried the minor complainant. Based on his own admissions, he is Guilty of Specifications 12, 13 and 17.

PENALTY RECOMMENDATION

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 8, 2014.

Respondent has been found guilty of grave and abhorrent misconduct in knowingly inducing a fifteen-year old minor to engage in a sexual performance, procuring and possessing images and videos of her nude and engaged in sex acts. *See No.* [REDACTED] (Sixteen-year police officer with no prior disciplinary record is dismissed from the Department for accessing and downloading pornographic images to his personal computer(s) and hard drives, depicting sexual acts involving children less than sixteen years of age). Respondent's actions are in direct contravention of the Police Department's mission "to serve and protect" the public and are a horrific abuse of the high trust the public places in its police officers.

Respondent compounded this misconduct by, in his own words, conducting his own investigation, making multiple unauthorized computer queries and imploring the minor complainant to "lay low," and avoid interacting with police, warning her that her sister could be arrested along with him. He then lied brazenly and prolifically at an official Department interview, indicating that he did not recognize his own voice or his own apartment and continued to lie when reminded of the consequences and given a final opportunity to correct his statements. His actions have brought discredit to the Department and undermined its ability to effectively carry out its mission. Accordingly, I recommend that Respondent be DISMISSED immediately from the New York City Police Department.

APPROVED

MAR 15 2018


JAMES P. O'NEILL
POLICE COMMISSIONER

Respectfully submitted,


Nancy R. Ryan

Assistant Deputy Commissioner Trials



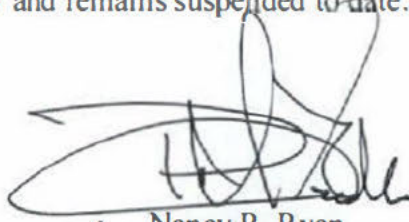
POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER RAUL OLMEDA
TAX REGISTRY NO. 956139
DISCIPLINARY CASE NO. 2016-15921

Respondent was appointed to the Department on January 8, 2014. On his last three performance evaluations, Respondent received 3.0 overall ratings of "Competent" in 2015 and 2017, and a 4.0 overall rating of "Highly Competent" in 2016. [REDACTED]

Respondent has no prior disciplinary record. In connection with the instant matter, he was suspended from duty on October 10, 2017 and remains suspended to date.

For your consideration.



Nancy R. Ryan
Assistant Deputy Commissioner Trials