



City of Miami Police Department

DISCIPLINARY ACTION

Employee: Javier Ortiz P.I.N. 5418

Classification: Police Captain Assignment: FOD/SOS/Motors Unit

TYPE OF DISCIPLINE:

RECORD OF FORMAL COUNSELING REPRIMAND

NARRATIVE:

(If more space is needed, use additional pages)

On August 10, 2021, the Office of Internal Affairs received a formal complaint alleging **Improper Procedure** against Police Captain Javier Ortiz #5418, in which he initiated a vehicle pursuit while driving a marked City of Miami Motorcycle at speeds of 100 miles per hour (MPH). Furthermore, Captain Ortiz failed to notify the Communications Unit and approached the offending vehicle by himself. Captain Ortiz placed himself and the driver of the offending vehicle in danger by confronting the driver on a dangerous highway and ultimately resulting in a physical confrontation with the driver. As a result of the Internal Affairs investigation (Case C21-162), the allegation was **Not Sustained**.

Distribution:		SIGN	P.I.N.	DATE
		Disciplinary Detail	Authorized by: <i>[Signature]</i>	27918
Employee	Sergeant / Supervisor:			
Police Personnel File	Lieutenant: <i>[Signature]</i>	0938	5/25/22	
Internal Affairs	Captain:			
Employee Relations (Original)	Commander: <i>[Signature]</i>	2733	5/25/22	
Civil Service (if applicable)	Major: <i>[Signature]</i>	144	6/22/2022	
	Assistant Chief: <i>[Signature]</i>	282	7/5/22	
	Chief of Police:			

Employee **MUST** initial his/her choice for each statement below. The employee is also forewarned that any future similar violation will result in progressive disciplinary action.

- 1) I AGREE _____ or I DISAGREE WITH THE FACTS AS STATED
 2) I AGREE _____ or I DISAGREE WITH THE RECOMMENDED PENALTY
 3) REBUTTAL SUBMITTED: YES or NO

↳ NHTSA MANUAL SUBMITTED TO Cmdr. JOSEPH

DDRB HEARING REQUEST (SWORN ONLY)- To request a Departmental Disciplinary Review Board (DDRB) hearing, you must submit a written request to the Labor Relations Unit Commander within 10 working days from the date this document is received and signed. Failure to do so will constitute a waiver of this entitlement.

Employee Signature: *[Signature]* P.I.N.: 5418 DATE: 7/11/22

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Employee:

Javier Ortiz

P.I.N.:

5418

During the course of the investigation, additional policy violations by Captain Ortiz were discovered by the Internal Affairs Section for the Improper Operation of a Police Vehicle and Duties of a Motorcycle officer.

A review of the Body Worn Camera (BWC) assigned to Captain Ortiz from July 27, 2021, captures him riding his assigned City of Miami motorcycle southbound on I-95. Captain Ortiz continues to travel southbound on I-95 and arrives at the beginning of the off ramp of N.E. 2 Avenue and Biscayne Boulevard, dismounting the motorcycle while directly behind a dark grey BMW that is stationary. The BMW was occupied at the time by a driver. Both the BMW and motorcycle cause an obstruction in which vehicles are observed driving closely behind Captain Ortiz and the BMW in order to utilize the off ramp off of N.E. 2nd Avenue. BWC footage shows there are no barriers between Captain Ortiz, the BMW and the vehicles driving on the off ramp of N.E. 2nd Avenue.

(According to Captain Ortiz's Garrity statement, the BMW was observed by Captain Ortiz being driven recklessly prior to the stop and the driver was subsequently arrested for Reckless driving reference case number 210727-0050183.)

Captain Ortiz approached the vehicle on the driver side and asks the driver, Mr. Emanuel Joseph, for his license, registration and proof of insurance and advises him that he can be arrested for reckless driving. Captain Ortiz then contacts the dispatcher via police radio and advises of his location and requests a routine back-up unit to respond. Mr. Joseph never provides documentation requested by Captain Ortiz. After communicating with the dispatcher, Captain Ortiz opens the front driver side door and directs Mr. Joseph to exit the vehicle. Mr. Joseph does not comply and tells Captain Ortiz that he has no right to have him exit his own vehicle. Captain Ortiz then contacts dispatch and requests for his back-up unit to respond in emergency mode. Captain Ortiz, with his hand, removes the seatbelt that was upon Mr. Joseph and grabs his left wrist to get him out of the vehicle.

Captain Ortiz then unholsters his taser and warns Mr. Joseph that he will be tasered. Mr. Joseph complies and steps out of the vehicle while yelling at other motorists to record the incident. Captain Ortiz then holsters his taser and produces his handcuffs to place Mr. Joseph under arrest. Captain Ortiz places one handcuff upon Mr. Joseph's right wrist. Mr. Joseph then begins to struggle with Captain Ortiz and refuses to put his other hand behind his back. Captain Ortiz redirects Mr. Joseph to the ground and asks him multiple times to put his hands behind his back. Captain Ortiz then unholsters his taser and warns Mr. Joseph that he will be tasered if he continues to not comply. Shortly thereafter, other units arrive and assist Captain Ortiz with placing Mr. Joseph in custody. Captain Ortiz did not advise Mr. Joseph to move his vehicle to a safer location prior to the physical confrontation and arrest.

Therefore, Captain Ortiz is found to be in violation of the following Miami Police Departmental Orders:

Departmental Order 1, Chapter 11, Rules and Regulations:

11.1 POLICY: The policy of the Miami Police Department is to make these Rules and Regulations, which contain information and guidance, available to all employees, including members and civilian employees of the Miami, Florida, Police Department.

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Each police officer's value to the City of Miami will be measured by his/her ability to exercise discretion, sound judgment, and by his/her zeal and activity in properly performing his/her duty on all occasions. (CALEA 12.2.1 f, g, h; 33.7.1 b)

As a representative of the law, police officers must fully realize that they are not THE AUTHORITY, but, instead are the VOICE OF AUTHORITY. They are given the power and responsibility by the people to protect individual rights, to preserve the public peace, to enforce the law, to protect life and property, to prevent and detect crime, and to arrest violators of the law.

11.6.1.2 Members and Civilian Employees to Know Rules and Regulations: It shall be the duty of all members and civilian employees of the Police Department to thoroughly familiarize themselves with such provisions of the Rules and Regulations that deal specifically and generally with the duties of their rank, grade, or position. This should occur within **ten days** from the date of issuance. Within thirty days of issuance, every member and every civilian employee shall familiarize himself or herself with all the provisions of the Rules and Regulations. Failure on the part of any member or civilian employee to acquaint himself/herself with the provisions of the Rules and Regulations, as hereby directed, shall be considered negligence of duty and subject to disciplinary action.

Captain Ortiz is also found to be in violation of the following Miami Police Standard Operating Procedures:

Traffic Enforcement Unit Duties and Responsibilities of Members

II. DUTY OF MOTORCYCLE OFFICER

F. When conducting a traffic stop, officers must be cognizant of roadway, traffic, and lighting conditions. If the violator stops in an unsafe location, the officer shall direct the violator to move to a more suitable location by use of signals and/or public address system. Officers will position motorcycles far enough back to allow for a safety zone between the police motorcycles and the violators' vehicles.

Additionally, Captain Ortiz is found to be in violation of the following City of Miami Civil Service Rules and Regulations:

Rule 14, Sec. 14.2. Grounds for Dismissal, Suspension and Demotion: The following are declared to constitute a breach of duty and to be grounds for dismissal or suspension from the classified service or grounds for demotion, though charges may be based upon causes other than those enumerated; viz, that any employee who has been guilty of conduct unbecoming any employee of the City of Miami, who:

(d) Has willfully violated any of the provisions of the Civil Service law or rules of the Board; or

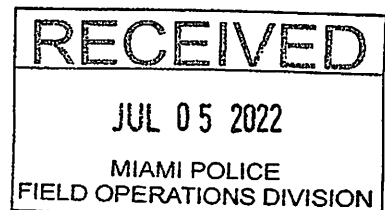
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(e) Has violated any lawful and reasonable official regulation or order, or failed to obey any lawful or reasonable direction made and given by his/her superior, where such violation or failure to obey amounts
(2) a serious breach of proper discipline.



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DISCIPLINARY REVIEW PANEL:

The Disciplinary Review panel convened and recommended the following penalty:

	STAFF MEMBER:	RECOMMENDATION:
QA	Major Chiquita Thomas #7015	Demotion
Du. 2.	Major Daniel Garrido #2219	Demotion
W3	Cmdr. Winsor Lozano #4182	Demotion

FINAL RECOMMENDATION:

- ___ hours of suspension
- ___ hours forfeiture of earned overtime
- Demotion
- Termination
- Other _____