



18 2021 21-160

City of Miami Police Department

REPRIMAND

Employee: Nerly D. Papier P.I.N. 1473Classification: Net Commander Assignment: FOD / SDS

NARRATIVE:

(If more space is needed, use additional pages)

On April 7, 2021, the Miami Police Internal Affairs Section received a formal complaint via email against Commander Nerly Papier #1473 alleging Improper Procedure and Misconduct. As a result of the Investigation attached hereto and incorporated herein, the allegation of Improper Procedure and Misconduct against Commander Papier are Sustained.

Upon completion of this investigation, the following facts were revealed:

On April 2, 2021, at approximately 0905 hours Commander Papier was involved in a vehicle accident with her city issued vehicle at NW 2 Avenue and Flagler Street while enroute to work. After the accident, Commander Papier left the scene, ran through two red lights, and did not report the accident to an immediate supervisor. Commander Papier then proceeded to the Central Station, where she parked the damaged vehicle and socialized with staff members for 10 minutes.

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<u>Distribution:</u>		SIGN	P.I.N.	DATE
Disciplinary Detail	Authorized by:		#21526	5-17-21
Employee	Sergeant / Supervisor:			
Police Personnel File	Lieutenant:	LT. B. C.	#28889	5-18-21
Internal Affairs	Captain:			
Employee Relations (Original)	Commander:			
Civil Service (if applicable)	Major:		1441	5/18/2021
	Assistant Chief:			
	Deputy Chief of Police:			
	Chief of Police:		45579	6/22/2021

Employee **MUST** initial his/her choice for each statement below.

- 1) I AGREE _____ or I DISAGREE ☒ WITH THE FACTS AS STATED.
 2) I AGREE _____ or I DISAGREE ☒ WITH THE RECOMMENDED PENALTY.

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: P.I.N.: 1473 DATE: 5-18-21

Employee: Nerly D. Papier P.I.N. 1473

During this time, she requested a tow truck for her damaged tires from communications, never mentioning anything about an accident. Four hours later, Major Simmons advised Commander Papier that an accident report would be requested for the vehicle damages at which time a report was generated.

On Thursday April 29, 2021, I obtained a sworn principal statement from Commander Papier. During her Garrity statement, the following facts were revealed:

On Friday April 2, 2021, while enroute to the Central station Commander Papier stated she was driving north N.W. 2 Avenue parallel to a vehicle at which point she observed that vehicle moving into her lane. Commander Papier stated she swerved to avoid the vehicle while having both hands on the steering wheel and as a result, struck the curb of the adjacent sidewalk with the vehicles right side tires, drove onto the sidewalk, and steered back onto the road continuing her commute to the central station. Note: On April 9, 2021, Internal Affairs Anti- Corruption Section obtained video footage from cameras located at [REDACTED]

[REDACTED] After reviewing video footage of the crash, Commander Papier acknowledged she was involved in a vehicular crash and failed to obey a traffic control device two (2) solid red traffic lights.

Commander Papier stated she arrived at Central Police Station, parked her vehicle, and intended to deal with the crash report and all the paperwork later in the day. At that point she observed that she had two (2) flat tires, not one (1) flat tire as she initially believed. Commander Papier stated she then contacted Major Keandra Simmons #6515 via text and asked if she was in the office at which time Major Simmons replied "No". Commander Papier stated she then contacted her husband Deputy Chief Ronald Papier via phone and began handling non-pressing matters with Commander Daniel Kerr and Assistant Chief Manuel Morales.

Commander Papier stated she was in a staff meeting from 1130 hours to approximately 1330 hours. Once the staff meeting concluded Commander Papier went to visit Commander Daniel Kerr #3627 at his office and then went to Assistant Chief Morales's office. At approximately 1330 hours Major Simmons called her and informed her that a crash report would need to be completed and she needed to meet her downstairs.

- During her Garrity statement, Commander Papier stated she hit a curb to avoid a dark colored vehicle and after hitting the curb, continued driving the vehicle maneuvering back onto the street. During this statement she never acknowledged the presence of pedestrians in her vehicles path as she hit the curb. Video footage does not corroborate any vehicle coming into her traveling path forcing her off the roadway causing an accident as stated. **Commander Papier violated Departmental Order Policy 11.6.53.1 Members and Civilian Employees to be Truthful.**
- Commander Papier acknowledged it was immediately obvious that there was going to be some damage to the vehicle due to her striking the curb and maneuvering back onto the street. Command Papier stated, "Maybe I could make it before my tire goes flat". Commander Papier continued driving for several blocks causing additional vehicle damage. Commander Papier stated she also heard a "Pop" when she hit the sidewalk. **Commander Papier violated Departmental Order Policy 11.6.38.1 Vehicle Damage.**

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- As she continued driving her damaged vehicle, Commander Papier stated she observed a solid red traffic light at the intersection of N.W. 2 Avenue and 1 Street however, she did not see any vehicles around so continued travel though that solid red traffic light and additionally a second solid red traffic light at N.W. 2 Avenue and 3 Street. (Note commander Papier disregarding the solid red traffic light while a pedestrian was on the crosswalk with a right of way at 0906 hours). Additionally, the camera located at [REDACTED] shows Commander Papier driving with reckless disregard for oncoming traffic and pedestrian crossing at 0906 hours. Video shows Commander Papier's vehicle leaning towards the passenger side due to damage caused by the crash. After reviewing the video footage Commander Papier acknowledged she failed to obey a traffic control device (Sec. 316.075, 316.074 F.S.) two solid red traffic lights at two (2) separate intersections. **Commander Papier violated Departmental Order Policy 11.6.1.2 Members and Civilian Employees to Know Rules and Regulations, 11.6.56.4 Operation of Vehicle, 11.6.56.6 Operator Accountable and Florida State Statue 316.074(1) / 316.075(1)(c)1.**
- While providing her Garrity statement, her statement does not corroborate with the statement obtained from Deputy Chief Ronald Papier. Commander Papier stated that she told her husband "I have two flat tires" and that was the extent of her conversation with him. Deputy Chief Papier stated his wife told him that "she struck a curb resulting in two (2) flat tires." Furthermore, during the course of the investigation, no other information was obtained from either employee about their discussion of the accident between April 2nd thru April 4th, and information disclosed and/or not reported about the accident to Chief Acevedo does not reconcile and is deemed to be untruthful by both individuals. **Commander Papier violated Departmental Order Policy 11.6.53.1 Members and Civilian Employees to be Truthful and Florida State Statue 316.1925 Careless Driving.**
- Commander Papier stated she then contacted Miami Police Communications to request a wrecker to be dispatched for two (2) flat tires on her vehicle. Commander Papier failed to accurately advise dispatch that she involved in a vehicular crash involving her assigned vehicle. **Commander Papier violated Departmental Order Policy 11.6.1.2 Members and Civilian Employees to Know Rules and Regulations, 9.4.1 Crash Within the City of Miami and 11.6.53.1 Members and Civilian Employees to be Truthful.**
- Commander Papier stated that prior to the staff meeting, she met with Assistant Chief Manuel Morales #4886 in his office. She received a phone call from Officer Sheldon Williams #7683 assigned to the Auto Pound Unit, advising that the tow truck was arrival at Central Station parking lot. Commander Papier went to the damaged vehicle, retrieved some personal items, and returned to Assistant Chief Morales's office before attending the staff meeting. At no time did Commander Papier advise her Superior officer, Major Keandra Simmons, of the vehicular crash. **Commander Papier violated Departmental Order Policy 11.6.1.2 Members and Civilian Employees to Know Rules and Regulations and 11.6.56.11 Accidents or Damage to be Reported.**

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- Commander Papier stated Officer Turner responded to complete the crash report. Officer Turner inquired about the crash location and Commander Papier stated, "I want to say it was at N.W. 2 Avenue and 1 Street by the fuel pumps". After reviewing video footage, it was revealed and confirmed by Commander Papier that the crash in fact occurred at N.W. 2 Avenue and Flagler Street and not at the location she provided the reporting officer on the official reporting document. **Commander Papier violated Departmental Order Policy 11.6.1.2 Members and Civilian Employees to Know Rules and Regulations and 11.6.53.1 Members and Civilian Employees to be Truthful.**
- On April 14, 2021, Assistant Chief Morales stated he was not made aware of the crash until sometime later in the afternoon when he observed Sergeant Brown meet Commander Papier at his office and hand her a report for signature. Assistant Chief Morales had to inquire on the reasoning of Sergeant Brown's visit before Commander Papier informed him of the vehicular crash, she was involved in. **Commander Papier violated Departmental Order Policy 11.6.1.2 Members and Civilian Employees to Know Rules and Regulations and 11.6.56.11 Accidents or Damage to be Reported.**

During the course of the investigation, the following facts were discovered to support the violations:

- Video footage shows the location of the accident (NW 2 Avenue & Flagler Street) not corroborating with the location of the accident on the accident report (NW 2 Avenue & 1 Street).
- Video footage shows pedestrians walking down the sidewalk in the vehicles path at the time of impact when the vehicle hit the curb and drove on the sidewalk towards the pedestrians. Pedestrians had to jump out of the way to prevent from being struck by the vehicle.
- Video footage shows Commander Papier engaged in careless driving as she left the scene of an accident, ran two solid red lights, and caused severe additional damage to the vehicle. The same footage also shows a pedestrian in the crosswalk as she ran the first red light at NW 2 Avenue & 1 Street.
- The vehicle sustained severe damage to both passenger tires and rims as a result of the accident and Commanders careless driving pattern and failure to stop.
- Audio obtained from Communications and text messages obtained from Major Simmons show Commander Papier talking about two flat tires, neglecting to mention anything regarding an accident.
- Video footage shows Commander Papier immediately leaving the accident scene and failing to immediate notify dispatch that she was involved in a vehicular accident involving her assigned vehicle. This is a violation of Departmental Policy.
- Commander failed to report the accident to any supervisor during her communications about the vehicle.

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- On April 2, 2021 at approximately 1340 hours a crash report was initiated and completed by Officer Keljahi Turner #29240. Sergeant Darren Brown #27063 was dispatched to complete the supervisor portion of the crash report. That initial report states that Papier informed the officer that she had to swerve onto the curb to avoid hitting another vehicle. The video footage does not corroborate Papiers version of events.

Therefore, Commander Papier has been found to be in violation of the following Miami Police Departmental Orders:

Departmental Order 1, Chapter 11, Rules and Regulations:

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.

11.6.2.1 Accidents Reports Required: Members and civilian employees shall promptly notify their commanding officer of any injury or crash with any departmental vehicle or equipment operated by them or in their possession. The supervisor will investigate, or cause to be investigated, all personnel, vehicle, and equipment accidents and will write, or have written, the necessary injury and crash reports concerning such crash, promptly and in detail, by the end of the member's or civilian employee's tour of duty. It will be the responsibility of the commanding officer to notify the office of Risk Management of any such accidents or injuries.

11.6.17.7 Conduct unbecoming a police officer that shall include any act or conduct not specifically mentioned in these Rules and Regulations that tends to bring the Department into disrepute or reflects discredit upon the individual member as a police officer.

11.6.17.39 Any other act or omission contrary to good order and discipline which constitutes a violation of any of the Rules and Regulations, procedures, and other directives of the Department.

11.6.28.3 Members and Civilian Employees to Conform: Members and civilian employees shall be required to conform to and abide by the Rules and Regulations, Departmental Orders and other directives of the Police Department, the Ordinances of the City of Miami and the County of Dade, and the laws of the State of Florida and the United States of America.

11.6.38 Property and Equipment:

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P.I.N.

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11.6.38.1 Vehicle Damage: Members and civilian employees shall be held responsible for damages resulting from accidents when the evidence shows carelessness, negligence, or a violation of a traffic ordinance. Members and civilian employees shall be held strictly accountable for damage caused by abuse or careless handling of police vehicles. Evidence of abuse or careless handling shall be submitted promptly to the division commanding officer, through channels. Each member and civilian employee shall examine his/her vehicle at the start of his/her tour of duty for dents, broken glass, or other readily visible damage and shall submit a report of such damage to his/her commanding officer at that time. Failure of an officer to report existing damage shall be considered prima facie evidence that the damage occurred while the vehicle was in his possession, and he/she shall be held responsible for the damage.

11.6.41.2 False Statement or Report to a Superior Officer: Members and civilian employees of the Department shall not make a false statement or falsify any written or verbal report made to a superior officer, nor shall they intentionally withhold material matter from the report or statement.

11.6.53 Truthfulness:

11.6.53.1 Members and Civilian Employees to be Truthful: Any member or civilian employee who departs from the truth, either in giving testimony or in connection with any official order received by him or in his official duties, shall be considered in violation of this rule and subject to charges being filed. Members and civilian employees are required to speak the truth at all times and under all circumstances, whether under oath or otherwise, except in cases where they are not allowed by Rules and Regulations to divulge the facts within their knowledge. In those cases, they will say nothing (See Section 11.6.40.1).

11.6.56.4 Operation of: Members and civilian employees, when driving vehicles of any description (private or of the Police Department), shall not violate the traffic laws; nor shall they permit persons with whom they are riding to violate traffic laws, except and only in cases of absolute emergency, and then only in conformity with the law and procedures regulating the same. They shall set an example for other persons in the operation of their motor vehicle, private or police. Members and civilian employees of the Department, when operating any vehicles, are required to utilize seat belts pursuant to Florida State Statute. (CALEA 41.3.3)

11.6.56.6 Operator Accountable: Members and civilian employees shall operate police vehicles in a safe manner at all times and will be held accountable for their own carelessness or negligence. If, in the event of an accident, carelessness or negligence on the part of the operating member or civilian employee is determined to be a contributing factor, it shall be made the subject of appropriate disciplinary action. Unless responding to an in progress call for or other authorized emergency, departmental employees shall abide by all vehicular regulations applicable to the general public. Additionally, employees shall be responsible for the resolution of the following, either by payment or through the courts:

11.6.56.11 Accidents or Damage To Be Reported: Members and civilian employees shall promptly report to their commanding officer, any crash or damage to any police vehicle operated or assigned to them. Commanding officers shall require that the crash be thoroughly and impartially investigated by officers assigned by them (other than the members or civilian employees involved) and shall require that this be accomplished promptly on the standard accident report form. They shall also require a detailed, written report of the accident from the member(s) or civilian employee(s) involved.

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Departmental Order 9, Chapter 9, Police Vehicle Crash Investigation:

9.4.1 Crash Within the City of Miami: When a member is involved in a City vehicle crash within the City's jurisdiction (on or off duty), the driver will notify Communications. Communications will dispatch a patrol officer from another NET area to investigate the crash along with a patrol supervisor. If the crash involves serious bodily injury, and/or a fatality, a Traffic Homicide investigator will respond and investigate the crash. The supervisor and the officer generating the Florida Traffic Crash Report will not confer but will arrive at their findings individually. City vehicle crashes within the City of Miami jurisdiction to include all interstate highways, expressway systems, and all roadways will be handled by the City of Miami Police department as set forth in this chapter.

Additionally, Commander Papier is also found 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 are 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.
- (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 to:
 - (2) a serious breach of proper discipline; or
- (k) Is incompetent, negligent, or inefficient in the performance of the duties of the position held.
- (l) Is careless or negligent of the property of the City of Miami; or Supp. #5, 12-96

Lastly, Commander Papier is also found in violation of the following **Florida State Statute:**

316.1925 Careless Driving.

316.074(1) Obedience to and required Traffic Control Devices.

316.075 Traffic control signal devices:

(1) Except for automatic warning signal lights installed or to be installed at railroad crossings, whenever traffic, including municipal traffic, is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

- c) Steady red indication.

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1. Vehicular traffic facing a steady red signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown.

On April 23, 2021 Commander Papier was relieved of duty pending the deposition of a City of Miami Internal Affairs investigation.

Commander Papier's poor sound judgement and disingenuous representation of the incident limits her ability to function as an effective Commander of Police for the City of Miami Police Department. The lack of concern for the citizens she vowed to protect and her lack of concern for upholding the integrity of the City of Miami Police Departmental Orders inhibits her ability to be an effective leader, her leadership and poor sound judgement, is behavior that cannot be tolerated by a professional police agency. It is worth noting that on April 2, 2021, Chief Acevedo scheduled a mandatory Staff meeting to introduce himself to the Command Staff members to announce his strategies for improving the Miami Police Department, and expectations from the department's leadership. Amongst the various themes discussed, Chief Acevedo was clear about the most significant professional policy he seeks to solidify: "If you lie, you die." It was a clear warning to all staff members and subordinate officers that dishonesty and poor judgment in policing will not be tolerated under his administration. Chief Acevedo further notified all person's present, including Commander Papier, that if he discovers any of his officer violate a sacred trust, a community standard, or betrays the MPD badge, their careers are at stake. For the actions of Commander Papier, as described above, and for violations of the Miami Police Departmental Orders and City of Miami Civil Service Rules and Regulations, I recommend this written reprimand become a permanent part of personnel file. In addition, I recommend that Commander Papier be Terminated.

CONCUR WITH TERMINATION AND
ALL POLICY VIOLATIONS
MM

City of Miami



ARTHUR NORIEGA, V
City Manager

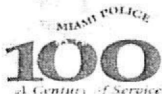
Nerly Papier
Commander of Police
400 Northwest 2nd Avenue
Miami, Florida 33128

Commander Papier:

You are hereby notified that you are **terminated** as a Commander of Police effective June 22, 2021, for having failed to fulfill your obligation as an employee of the Department of Police, City of Miami, Florida, based on the following:

You were the subject of disciplinary action (*refer to the attached Reprimand #21-160 for the of the incidents and the details of the below listed charges*) that resulted in a determination that you were in violation of:

- Departmental Order 1, Chapter 11.6.1.2 - Members and Civilian Employees
- Departmental Order 1, Chapter 11.6.2.1 - Accidents Reports Required
- Departmental Order 1, Chapter 11.6.17.7 - Conduct unbecoming a police officer
- Departmental Order 1, Chapter 11.6.17.39 - Any other act or omission
- Departmental Order 1, Chapter 11.6.28.3 - Members and Civilian Employees
- Departmental Order 1, Chapter 11.6.38 - Property and Equipment
- Departmental Order 1, Chapter 11.6.38.1 - Vehicle damage
- Departmental Order 1, Chapter 11.6.41.2 - False Statement or Report to a
- Departmental Order 1, Chapter 11.6.53 - Truthfulness
- Departmental Order 1, Chapter 11.6.53.1 - Members and Civilian Employees
- Departmental Order 1, Chapter 11.6.56.4 - Operation of



MIAMI POLICE DEPARTMENT/P.O. BOX 016777 / Miami, Florida 33101 / (305) 603-6100
E-Mail Address: chief@police@miami-police.org



- Departmental Order 1, Chapter 11.6.56.6 - Operator Accountable
- Departmental Order 1, Chapter 11.6.56.11 - Accidents or Damage To Be
- Departmental Order 9, Chapter 9.4.1 - Crash within the City of Miami
- Civil Service Rule 14, Section 14.2(d) - Has willfully violated any of the
- Civil Service Rule 14, Section 14.2(e)(2) - A serious breach of proper discipline
- Civil Service Rule 14, Section 14.2(k) - Is incompetent, negligent, or
- Civil Service Rule 14, Section 14.2(l) - Is careless or negligent of the property
- Florida State Statute 316.1925 - Careless Driving
- Florida State Statute 316.074 (1) - Obedience to and required Traffic
- Florida State Statute 316.075 (1) - Traffic control signal devices-Except
- Florida State Statute 316.075 (1) (c) - Steady red indication
- Florida State Statute 316.075 (1) (c) (1) - Vehicular traffic facing a steady

Sincerely,



Arthur V. Noriega
City Manager

AVN:yv

RECEIPT OF THE FOREGOING LETTER OF DISCIPLINE AND CORRESPONDING
ATTACHMENT(S) IS HEREBY ACKNOWLEDGED THIS 22 DAY
OF June 2021.

MASOK 6/14/21
(WITNESS)

Nerly Papier
Nerly Papier

Distribution: Stephanie Panoff, Law Department
Kevin Jones, Law Department
Civil Service Board
Labor Relations
A.F.S.C.M.E. (Civilian Only)
A.R.B. (Traffic Accidents)
Internal Affairs
Department of Employee Relations
Payroll (Involving Time Loss, Suspension or Termination)
FOP Insurance Trust Office (Suspension or Termination)
Police Personnel Unit
Employees Division
File (2)