

BEFORE THE HEARING OFFICER, CIIL SERVICE COMMISSION

CITY AND COUNTY OF DENVER

Case No. 25 CSC 01

In the Matter of:

MICHELLE KNIGHT (P-21024), Officer in the Classified Service of the Denver Police Department

Petitioner

DECISION AND ORDER

Hearing was held in the above-captioned matter on April 8, 2025, via Teams video conference. Petitioner was represented by Douglas Jewell, Attorney. Respondent was represented by Margaret Tharp, Assistant City Attorney, and Paige M. Lienau, Attorney Fellow. Mary Dulacki, Chief Compliance Officer and Deputy Manager of Safety, testified on behalf of Respondent, and Petitioner Michelle Knight testified on her own behalf. Respective Counsel presented oral arguments at the conclusion of witness testimony.

The testimony of Ms. Dulacki revealed that Petitioner responded to a call regarding a hit and run accident on Yosemite Street near Colfax Avenue, on December 25, 2023, which occurred sometime after 1:00 a.m. Officer Leon also responded to the incident. Initially, it was unclear whether the accident was in the jurisdiction of Denver or Aurora Police. Petitioner was the lead vehicle for Denver Police, and therefore was responsible for a duffel bag recovered at the scene. The duffel bag is initially seen in Ex. 1. b., the BWC (body worn camera) of Officer Leon. The BWC Exhibits contain a running time and date stamp. At 1:35 a.m. the duffel bag was placed in the back of Petitioner's police vehicle by Officer Leon, as shown by the BWC of Officer Leon. The video also shows the rifle case of Petitioner Knight in the back of her patrol vehicle, as well as an equipment box. The strap from the duffel bag can be seen hanging down over the back of the vehicle, below the hatch. As the lead person at the scene, Petitioner was responsible for the victim, as well as for the duffel bag found at the scene of the accident, and she therefore followed the ambulance with the victim to University Hospital. The record does not reflect what actions Petitioner took at University Hospital.

After leaving the hospital, Petitioner returned to patrol. Petitioner responded to two other calls, later in her shift. One incident, a car fire, occurred at approximately 4:18 a.m. The BWC worn by Petitioner from that incident, (Ex.1.o), shows the strap from the duffel bag, previously seen in Ex. 1.b., still visible. The time stamp on this exhibit shows the strap visible at 4:20:14 a.m., and shows Petitioner entering her vehicle at 4:27:58 a.m. The final call which Petitioner was involved in occurred at 6 a.m., and involved a disturbance at an apartment located at 8000 E. 12th Avenue, Denver, CO. Officer Stevenson also responded to this disturbance. Petitioner's BWC, Ex. 1.q, shows Officer Stevenson assisting in placing a male into Petitioner's patrol vehicle at 6:02:49 a.m. This individual was later transported by Denver Fire Dept. ambulance. Ms. Dulacki also identified page 6 of Ex. 2, a print copy from the BWC of Officer Stevenson, which shows a view of the rear hatch on Petitioner's patrol vehicle showing the black strap of the duffel, also at 6:02:49 a.m. Petitioner returned to Precinct 2 at the conclusion of her shift which ended at 7:00 a.m. Ms. Dulacki identified Ex. 1, p. 350, as a Google Map of the area of Denver, CO., from the location of Petitioner's last call, at 8000 East 12th Avenue, to the Precinct 2 parking lot. According to Google Map, the driving time is estimated to be 12 to 18 minutes. Ex. 1ff is the video from the Halo camera in the parking lot at Precinct 2. The strap from the duffel bag is no longer visible on the back of the patrol car as it enters the lot. The Ex. 1ff is time stamped 6:34 a.m. Ms. Dulacki also identified Ex. 2-7, as a screen shot from the Halo camera at Precinct 2, showing Petitioner's patrol vehicle entering the parking lot. She noted that the strap from the duffel bag could not be seen in this still shot. The video in Ex. 1ff also shows Petitioner moving from her patrol vehicle to her personal vehicle. Ex. 2-8 was identified as a still shot from the Halo video Ex.1ff, again noting that the strap was not visible on the back of the patrol vehicle. Further, the duffel bag was not found in the back of Petitioner's patrol car. Ex. 2-2 is a still shot from the BWC of Officer Leon showing the duffel in the back of Petitioner's patrol vehicle, with the strap from the duffel visible hanging down on the outside of the back of the patrol vehicle. During the investigation of this incident, an attempt was made to establish the movement of Petitioner's patrol vehicle using the tracking sensors in the vehicle. However, the investigation was unsuccessful. Petitioner stated that she had logged off at 6:20 a.m.

Ms. Dulacki testified that the following day, December 26, 2023, it was determined that Aurora P.D. was responsible for the investigation of the hit-and-run incident, and Aurora Det. Crowfoot, who was investigating the incident, inquired about the duffel bag of the victim of the hit-and-run accident from the previous evening. Thereafter, an investigation was opened regarding the existence and location of the duffel bag.

The Deputy Director of Safety testified regarding the process of opening an investigation into the disappearance of, and the attempts to locate, the duffel bag. She also testified regarding the interviews conducted as part of the investigation.

The conclusion of the investigation was that Petitioner committed a materially deceptive act regarding her responses during the investigation of the disappearance of the duffel bag.

The evidence shows that the duffel bag was picked up at the scene of the hit-and-run accident and placed in Petitioner's police vehicle, that the duffel bag strap could be seen in BWC pictures at various times, including at 6:02 a.m., but that at 6:34 a.m., when Petitioner returned to the District 2 parking lot, the strap is no longer visible, and Petitioner had no explanation for its disappearance.

As noted by the Deputy Director of Safety, the Google Map shows the distance from Petitioner's last call at 8000 E. 12th Ave., to Dist. 2, and the average time to drive from Petitioner's last call to the Precinct parking lot. Respondent presented evidence of the time of Petitioner's last known location, on East 8th Avenue at 6:20 a.m. Thirty-two minutes elapsed from that location to Petitioner's arrival at the Precinct parking lot. If, as indicated by the Google Map exhibit, it should have been a 10-to-16-minute drive, there are about 15 minutes that are not accounted for. As part of the investigation, an attempt was made to track the location of Petitioner's patrol vehicle at the end of her shift on December 25, 2023, but this was unsuccessful. In her statement during the initial investigation into the disappearance of the duffel bag, Petitioner stated that she had signed out at 6:17 a.m. prior to returning to the Precinct.

Petitioner testified in her own behalf. She stated that she has no knowledge of the disappearance of the duffel bag. She further stated that she has testified truthfully at all times during the IA investigation of the disappearance of the duffel bag. She points to the result of a private polygraph test given to her, in which she was questioned regarding her knowledge of the duffel bag, and the conclusion of the polygrapher that she testified truthfully in that polygraph examination. She also objects to the refusal of Respondent to perform its own polygraph examination of her claims, as provided for in the Respondent's Manual of the rights of officer's in the department. However, the record shows that Petitioner is not entitled to a polygraph examination, rather it is at the discretion of the Chief of Police to administer such an examination, which he declined to do in this case.

CONCLUSIONS

Petitioner is alleged to have violated RR-112.2, Commission of a Deceptive Act, in that, during the investigation of the disappearance of the duffel bag, and the resulting administrative proceedings, she knowingly committed a materially deceptive act, by her denial of any knowledge of the disappearance of the duffel bag.

Civil Service Commission Rule 12, Sec. 9(B)(1)(a) states that the Hearing Officer "...may reverse or modify the Manager's decision concerning policy considerations, ... and may only modify the disciplinary penalty imposed when it is shown to be clearly erroneous."

The Exhibits introduced into evidence show the attempts to locate the duffel bag, as well as the actions of Petitioner during her work shift, especially at her final call at 8000 E. 12th Avenue, in Denver.

While Petitioner initially stated she had not opened the back of her police vehicle during her shift, she later recalled providing hand warmers to the man causing the disturbance at 8000 E. 12th Avenue. The record fails to fully clarify the providing of hand warmers, and I do not base my findings herein on that issue.

The investigation surrounding the "duffel bag" reveals that Petitioner was aware of the bag being found at the scene of the accident, at which time it was placed in the back of her vehicle. It was shown by evidence that the strap from the bag remained visible for the remainder of Petitioner's shift, including being visible at 6:20 a.m., until she arrived at the District 2 parking lot, at which point the strap was no longer visible on the back of her patrol car.

Given the evidence that the duffel bag was shown to be in the rear of Petitioner's patrol vehicle from the time it was picked up at the scene of the traffic accident until 6:20 a.m., and that the duffel bag was no longer apparent at 6:34 a.m. when Petitioner returned to the Precinct, it must be assumed that Petitioner was responsible for the loss of the duffel bag.

It is the conclusion of the Deputy Director of Safety that Petitioner committed a deceptive act in her answers to questions regarding the disappearance of the duffel

bag, when Petitioner stated that she had no knowledge of the disappearance of that duffel bag.

I find that Petitioner has provided insufficient evidence to support a reversal of the decision of the Deputy Director of Safety in this matter. I do not find that the Deputy Director was clearly erroneous in her conclusions based on the evidence before her from the investigation, and in this hearing. Respondent having shown that the duffel bag was at all times in the possession and control of Petitioner, the conclusion of the Deputy Director of Safety that Petitioner knowingly committed a materially deceptive act in violation of RR-112.2, in her oral and written responses to questions related to the disappearance of the duffel bag, is not clearly erroneous.

The DPD Disciplinary Handbook states that a first-time offender of RR-112.2 should expect to be terminated, but that by an admission of untruthfulness an officer might avoid termination. Here, Petitioner has at all times maintained her position that she had no knowledge of the disappearance of the duffel bag. Thus, the presumptive penalty of termination is appropriate.

DECISION

The findings of a violation of RR-112.2, Commission of a Deceptive Act, by Petitioner's untruthfulness during an Internal Affairs investigation regarding the disappearance of a duffel bag from an accident scene, for which duffel bag Petitioner was responsible, are Affirmed.

ORDER

The Departmental Order of Discipline is AFFIRMED, as is the termination of Petitioner.

Dated this 13th day of May, 2025
At Littleton, Colorado

A handwritten signature in black ink, appearing to read "Daniel C. Ferguson". The signature is stylized with a large, looped 'D' and a cursive 'F'.

Daniel C. Ferguson
Hearing Officer

NOTICE OF APPEAL

Pursuant to Charter Section 9.4.15(E) and Rule 12 Section 11(1) and (2), the decision of the Hearing Officer may be appealed either to the Civil Service Commission or directly to the District Court. Any appeal to the Commission shall be initiated by filing a notice of Appeal with the Commission within fifteen (15) calendar days of the date noted on the Commission's certificate of service/ mailing of the Hearing Officer's decision. Any appeal to the District Court shall be initiated in accordance with the Colorado Rules of Civil Procedure currently in effect.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing FINDINGS, CONCLUSIONS, DECISION AND ORDER was served electronically on the following:

Dlefilng.litigation@denvergov.org;

cschearing@denvergov.org.

Dated this 13th day of May, 2025,
At Littleton, Colorado

A handwritten signature in black ink that reads "Daniel C. Ferguson". The signature is fluid and cursive, with the first name "Daniel" and last name "Ferguson" clearly legible.

Daniel C. Ferguson
Hearing Officer