

## ***Dep't of Correction v. Polidor***

OATH Index No. 219/26 (Feb. 13, 2026), *adopted*, Comm'r Dec. (Mar 18, 2026), **appended**

Petitioner established that respondent engaged in undue familiarity by giving contraband to a person in custody on two occasions. ALJ recommends that respondent's employment be terminated.

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### **NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**

*In the Matter of*  
**DEPARTMENT OF CORRECTION**  
*Petitioner*  
*- against -*  
**MACKSON POLIDOR**  
*Respondent*

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### **REPORT AND RECOMMENDATION**

**MICHAEL D. TURILLI**, *Administrative Law Judge*

Petitioner, the Department of Correction, brought this employee disciplinary proceeding against respondent, Correction Officer Mackson Polidor, under section 75 of the Civil Service Law. Petitioner alleged that respondent engaged in undue familiarity when he gave contraband to a person in custody on two occasions.

A trial was held before me on January 7, 2026. The proceeding was held remotely by videoconference. Petitioner relied upon documentary, video, and audio evidence, and the testimony of two witnesses. Respondent testified on his own behalf and offered audio and documentary evidence. For the reasons set forth below, I find that petitioner proved the charges and recommend that respondent's employment be terminated.

### **ANALYSIS**

Petitioner charged respondent with engaging in undue familiarity by giving contraband to person in custody Barnes on March 7 and 9, 2023, while inside of the George R. Vierno Center ("GRVC") (Pet. Ex. 1). Respondent denied the charges. Petitioner has the burden of proving the charges by a preponderance of the credible evidence. *See Dep't of Correction v. Hall*, OATH Index No. 400/08 at 2 (Oct. 18, 2007), *adopted*, Comm'r Dec. (Nov. 5, 2007), *aff'd*, NYC Civ.

Serv. Comm'n Item No. CD08-33-SA (May 30, 2008). Preponderance has been defined as “the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.” *Prince, Richardson on Evidence* § 3-206 (Lexis 2008). “If the evidence is equally balanced, or if it leaves the [trier of fact] in such doubt as to be unable to decide the controversy either way, judgment must be given against the party upon whom the burden of proof rests.” *Id.*; *see also Rinaldi & Sons, Inc. v. Wells Fargo Alarm Service, Inc.*, 39 N.Y.2d 191, 196 (1976).

Petitioner principally relied upon Genetec surveillance video of the incidents (Pet. Ex. 5).<sup>1</sup> The relevant video from March 7, 2023 begins by showing a correction officer, identified at trial as respondent, walking through an open gate, passing through the vestibule of the 1A housing area of GRVC, and entering a control room (Pet. Ex. 5, 10.92 at 20:52:46-20:52:56; 10.96 at 20:52:56-20:52:59; Tr. 33-34). Approximately two minutes later, another correction officer, identified at trial as Officer Sanchez, walks down a corridor to the last cell on the lower tier of the 1A housing area (Pet. Ex. 5, 10.97 at 20:55:10-20:55:14; Tr. 36). The cell door is closed but the food slot is open (Pet. Ex. 5, 10.97 at 20:55:10-20:55:14). As Officer Sanchez approaches the cell, the detainee inside, identified at trial as Ricky Torres, passes an object through the food slot and Officer Sanchez takes the object with his right hand (*Id.* at 20:55:15-20:55:17; Tr. 36). Officer Sanchez steps back from the cell and looks down at the object, which appears to be a multi-colored box about the size and shape of a deck of playing cards, and opens and closes the top of the box as he walks out of the corridor (Pet. Ex. 5, 10.97 at 20:55:18-20:55:24). Officer Sanchez enters the vestibule of the 1A housing area, and then the control room, holding the box in his hand (Pet. Ex. 5, 10.92 at 20:55:37-20:55:42; 10.96 at 20:55:42-20:55:48). Approximately two minutes later, respondent exits the control room with the box in his hand (Pet. Ex. 5, 10.94 at 20:57:43-20:57:53; 10.96 at 20:57:43-20:57:53). Over two minutes later, respondent walks through the main floor of the 11B housing area at GRVC and enters a chain-link enclosure labeled “2A,” still carrying the box in his hand (Pet. Ex. 5, 10.204 at 21:00:18-21:00:33). At the second door within the enclosure, a detainee, identified at trial as Omar Barnes, approaches respondent, respondent opens the door, and they both walk up a nearby staircase to the upper tier (*Id.* at 21:00:33-21:01:24; Tr. 40-41). On the upper tier of the 11B housing area, Barnes enters a cell through an open door, and respondent, while standing directly in front of the open cell, hands Barnes the box (Pet. Ex. 5, 77.37 at 21:01:43-21:01:54).

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<sup>1</sup> Genetec surveillance video is recorded from multiple camera angles and does not contain any audio recording.

The relevant video from March 9, 2023 begins by showing Officer Sanchez walking down a corridor on the upper tier of the 1A housing area (Pet. Ex. 5, 10.152 at 17:56:44-17:56:47; Tr. 48-49). The cell doors are closed but the food slot on the first cell is open (Pet. Ex. 5, 10.152 at 17:56:44-17:56:47). As Officer Sanchez approaches, the detainee inside the first cell passes a white envelope to Officer Sanchez (*Id.* at 17:56:48-17:56:49). Officer Sanchez takes the envelope from the detainee and turns around to exit the upper tier (*Id.* at 17:56:49-17:56:53). Officer Sanchez walks to the last cell on the lower tier of the 1A housing area and passes the envelope through an open food slot to Torres (Pet. Ex. 5, 10.97 at 17:57:14-17:57:22; Tr. 49-50). Officer Sanchez appears to converse with Torres, Torres starts to pass the envelope out of the food slot, Officer Sanchez and Torres both make writing motions with their hands, and Officer Sanchez gives his pen to Torres (Pet. Ex. 5, 10.97 at 17:57:22-17:57:35). Torres withdraws into the cell with the pen for several seconds and then passes the envelope to Officer Sanchez through the food slot (*Id.* at 17:57:35-17:57:45). Officer Sanchez unzips his uniform, places the envelope inside his shirt, and zips his uniform (*Id.* at 17:57:50-17:57:56).

Over 20 minutes later, respondent, along with a captain and another correction officer, walk through an open gate and into the vestibule of the 1A housing area (Pet. Ex. 5, 10.92 at 18:22:13-18:22:22; Tr. 50-51). The captain and other officer enter a door labeled “B1” while respondent enters another door, which takes him into the dayroom of the 1A housing area where a captain, identified at trial as Captain Dante Mack, is seated at a desk with a logbook near the door (Pet. Ex. 5, 10.92 at 18:22:23-18:23:00; 10.150 at 18:22:59-18:23:03; Tr. 52-53). Torres and Officer Sanchez are in the dayroom and appear to be conversing with each other, as respondent first walks toward Torres and greets him with a fist bump and then greets Officer Sanchez (Pet. Ex. 5, 10.99 at 18:23:08-18:23:32; Tr. 54). While standing under the staircase in the middle of the room, Officer Sanchez removes the white envelope from his shirt and passes it to respondent (Pet. Ex. 5, 10.99 at 18:23:34-18:23:45). Respondent exits the 1A housing area carrying the envelope (Pet. Ex. 5, 10.92 at 18:24:07-18:24:16). Respondent enters the 1B housing area carrying the envelope and enters a room along the corridor (Pet. Ex. 5, 10.16 at 18:24:26-18:24:45). Approximately three minutes later, respondent exits the room and while standing in the 1B housing area corridor, he places a small unidentifiable object in the upper left pocket of his uniform (*Id.* at 18:27:35-18:27:40). Several minutes later, respondent escorts a rear-cuffed detainee out of the 1B housing

area, followed by a captain and two other officers (Pet. Ex. 5, 10.94 at 18:31:29-18:31:41).<sup>2</sup> Respondent continues to escort the detainee into the 11B housing area (Pet. Ex. 5, 10.61 at 18:44:20-18:44:37). Approximately seven minutes later, Barnes is in the dayroom of the 11B housing area and approaches the wall of the enclosure, which appears to be made of chain-link fence covered by plexiglass (Pet. Ex. 5, 77.44 at 18:51:15-18:51:22; Tr. 63-64). A correction officer is seated next to him along the wall of the enclosure inside the dayroom (Pet. Ex. 5, 77.44 at 18:51:15-18:51:22). Barnes lowers his right hand and touches the wall of the enclosure (*Id.* at 18:51:21-18:51:24). Respondent is standing in the 11B housing area corridor on the other side of the enclosure wall (Pet. Ex. 5, 77.70 at 18:51:31). Two correction officers are seated at a desk at the far end of the corridor (*Id.*). Respondent reaches into the left upper left pocket of his uniform, removes a small white object, and passes it through the enclosure wall (*Id.* at 18:51:31-18:51:33). On the other side of the enclosure, inside the dayroom of the 11B housing area, Barnes receives a small white object through the enclosure wall (Pet. Ex. 5, 77.44 at 18:51:34).

Investigator Matthew Landow testified regarding petitioner's investigation of the incidents. Investigator Landow has worked in the Special Investigations Unit since its creation in March 2023 as "an integrity unit," and he previously worked as an investigator for six years in the Investigation Division and as a correction officer for four years at the Otis Bantum Correctional Center (Tr. 16-17, 20, 101). He was assigned to the investigation in March 2023, after an initial assessment by Investigator Samson (Tr. 24, 28, 103). Investigator Samson obtained the Genetec video and decided which recordings to preserve (Tr. 28-29, 103). The remaining video was deleted 90 days after the incident (Tr. 110). Investigator Landow testified that the 1A housing area in GRVC was a court-ordered lockdown area, in which detainees were confined to their cells for 23 hours a day, were not permitted visitors, and had restricted telephone access (Tr. 42). Torres was housed in the 1A housing area and Barnes was housed on the top tier of the 11B housing area (Tr. 42, 45). Both Torres and Barnes were known to be members of the same Bloods gang (Tr. 85). On March 7 and 9, 2023, respondent was assigned to the 11B housing area at GRVC (Tr. 29, 33-34, 62). Investigator Landow testified that officers are required to sign the facility logbooks when they enter or tour an area, conduct a security inspection, observe any unusual event, or conduct other departmental business (Tr. 87-88, 92). The logbooks for the 1A housing area and the

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<sup>2</sup> Investigator Landow identified the escorted detainee as Barnes, which respondent denied (Tr. 60, 204-05). Based upon the clothing, hairstyle, and skin tone depicted on the video, the escorted detainee does not appear to be Barnes.

Building 1 control room, which were obtained and reviewed by Investigator Landow, did not show any entry by respondent on March 7 or 9, 2023 (Pet. Ex. 4; Tr. 87-92). The logbook showed that two officers, including Officer Sanchez, were assigned to the 1A housing area, and that five detainees were counted in the 1A housing area, including Torres in cell number 7 (Pet. Ex. 4). Based on his own experience as a correction officer and an investigator, Investigator Landow testified that officers are never permitted to pass messages to detainees and that officers are required to use sealed yellow bags and signed receipts to deliver property, which “would always come from either the intake or the property room” (Tr. 21-23, 67-68). Respondent did not follow those procedures (Tr. 68). Investigator Landow did not know the contents of the box or envelope passed from Officer Sanchez to respondent but concluded that they constituted contraband since they were unauthorized items in the 11B housing area (Tr. 45-46, 66, 69). He acknowledged that the box passed by respondent to Barnes on March 7, 2023 looked similar to the box of juice packets available in the commissary (Tr. 116-17). He explained that commissary items are not considered to be contraband, provided “they are given to the intended receiver” (Tr. 120). He believed that the item passed by respondent to Barnes on March 9, 2023 was a note or message written on paper, but he could not say so definitively (Tr. 139). He did not search Barnes’s cell, interview Barnes or Torres, or interview respondent or Officer Sanchez during his investigation (Tr. 113, 123, 131).

As part of the investigation, Investigator Landow reviewed three audio recordings of telephone calls made by detainees, which had been obtained by Investigator Samson from the Securus system (Pet. Exs. 6A, 6B, 6C; Tr. 70-73). The Securus system records telephone calls made by detainees and logs the detainee’s book and case number and the telephone number called (Tr. 71). Investigator Landow did not obtain the Securus logs for the three telephone calls or any Genetec video of the individuals making the calls (Tr. 122, 127, 143-44). Investigator Landow testified that the first recording was a phone call by Barnes to an unincarcerated individual on March 6, 2023 (Tr. 75; Pet. Ex. 6A). On the recording, a man instructs the other individual to send a text to Ricky’s mom with the message: “I sent him some bread. Pass off to the sleaze as soon as you get a chance” (Pet. Ex. 6A at 00:05-00:37). Investigator Landow testified that the second recording was a phone call by Barnes to an unincarcerated individual, who then merged the call with Torres, on March 7, 2023, shortly before the Genetec video recordings (Tr. 79-80; Pet. Ex. 6B). According to the information recorded on the Securus system, he knew that it was Barnes on the phone that day (Tr. 122). On the recording, a female voice first says, “Rick, alright, call me

tomorrow, love you. He's on the phone, you can talk to him" (Pet. Ex. 6B at 00:01-00:07). Two men then speak to each other for over two minutes, with one of the men first saying, "The wok is about to approach right now, do not say nothing about no bully, just throw the bully in there," and "please, you know I need bully, I'm not trying to go back to where I came from," and later saying, "The wok is en route. The wok is en route" (*Id.* at 00:08-01:08). Much of their conversation is undecipherable. Investigator Landow assumed that the terms "sleaze" and "wok" in the first two recordings referred to an escort (Tr. 76, 81, 127-28). Investigator Landow testified that the third recording was a phone call by detainee Cano from the 1A housing area in GRVC on March 10, 2023 (Tr. 83; Pet. Ex. 6C). On the recording, a man instructs a woman to pass along the message to "Jiggy" that "Rich said to be by the gate at around six seven o'clock. That the Spanish guy is going to be over there waiting for him . . . and to have the finger ready for the Spanish guy" (Pet. Ex. 6C at 00:01-00:40). He clarified, "The Spanish guy's going to have the stuff ready for Jiggy," and tell Jiggy to have "the stuff he's got to give Rich to have it ready for the Spanish guy" (*Id.* at 1:00-1:16). Investigator Landow believed that the "Spanish guy" referred to Officer Sanchez (Tr. 84, 128-29). He testified that a "finger" is slang for drugs or tobacco in the finger of a glove, and he opined that the third recording confirmed the existence of "some type of criminal enterprise going on within the facility" (Tr. 84). He recalled that the Department of Investigation ("DOI") was notified of these allegations by e-mail but did not take the case (Tr. 98-99).<sup>3</sup>

Investigator Landow prepared his closing report regarding the investigation on April 18, 2023 (Pet. Ex. 3). The closing report summarized the Genetec video, the three audio recordings, and Investigator Landow's interview of Captain Mack pursuant to Mayoral Executive Order ("MEO") 16, and recommended disciplinary charges against respondent for undue familiarity (*Id.*). The closing memo did not state the date or time of any of the telephone calls or identify the caller on the call referencing the "sleaze" (*Id.*). The callers on the two other telephone calls were identified as Barnes and Cano (*Id.*). On a detailed investigative action report erroneously dated October 17, 2018, and entitled "3-1-1 Complaints," Investigator Landow stated that he reviewed

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<sup>3</sup> Respondent requested that an adverse inference be drawn from petitioner's failure to produce any documents related to the DOI referral (Tr. 181-82). However, as respondent did not previously request those documents in discovery (Tr. 182), the imposition of an adverse inference as a discovery sanction is not appropriate. *See* 48 RCNY § 1-33 (Lexis 2026) (providing that discovery "be requested and completed promptly," that "[a]ny unresolved discovery dispute must be presented to the assigned administrative law judge sufficiently in advance of the trial," and that non-compliance "with an order compelling discovery may result in imposition of appropriate sanctions . . . such as . . . drawing of adverse inferences").

the three telephone calls and listed information pertaining to those calls (Resp. Ex. B). He testified that he created that list after listening to the calls during his investigation (Tr. 123-26). With respect to the call referencing the “sleaze,” the caller was not identified and the fields for date, time, length, facility, and number were all left blank (Resp. Ex. B). With respect to the call referencing the “wok,” Investigator Landow identified the caller as “PIC Barnes” and noted the three-minute call was made at GRVC on March 7, 2023, at 8:34 p.m. (*Id.*). Investigator Landow identified the caller of the third call as “PIC Cano” from GRVC, the date as March 10, 2023, and the time as “N/A” (*Id.*). Investigator Landow testified that he had previously spoken to Torres and Barnes as part of other investigations (Tr. 122-23, 142).

Petitioner further relied upon the testimony of Assistant Deputy Warden (“ADW”) Daishawn Harris. ADW Harris was the tour commander assigned to the 11B housing area and the 1 Building at GRVC from 2020 to 2025 (Tr. 166-67, 169, 174). He confirmed that officers were not permitted to pass messages or other property, including commissary items, between detainees at GRVC (Tr. 170-71, 177). He explained that officers assigned to the commissary post, along with non-uniformed commissary staff, delivered commissary items to detainees in the housing area, and that other property could be delivered to detainees through an assigned property officer with the approval of a supervisor (Tr. 172, 177-78). Otherwise, officers were not allowed to pass items to detainees (Tr. 172-23). ADW Harris also testified that officers were not permitted to enter a housing area to which they were not assigned and interact with detainees without signing in (Tr. 178).

Respondent testified that he has been employed as a correction officer since June 2017 (Tr. 190). He was born in Haiti, moved to the United States in 2006, and attended high school and college in New York (Tr. 189-90). After completing his training at the academy, he was assigned to GRVC (Tr. 191). He met Officer Sanchez in the academy and previously worked with him in the 11B housing area (Tr. 213, 220). As a correction officer at GRVC, respondent always treated detainees with respect but never did them favors, such as bringing them something from outside the facility or making a phone call for them to someone outside the facility (Tr. 192-93). He was familiar with Barnes and Torres at GRVC but did not know them personally (Tr. 193). He testified that he did not have a transactional relationship with Barnes or Torres and did not know of any transactional relationship that Officer Sanchez had with them (*Id.*). On March 7, 2023, respondent left his post in the 11B housing area upon receiving a call from Officer Sanchez in the 1A housing

area (Tr. 194). Officer Sanchez asked respondent to pick up some juice packets and deliver them to Barnes in the 11B housing area, and respondent agreed (*Id.*). Respondent knew that the 1A housing area was a court-ordered lockdown area where contact between detainees was not permitted, that Barnes was involved in gang activity, and that gang members often obtain contraband by “covert means” (Tr. 216, 218-20). In the 1A control room, Officer Sanchez gave respondent an open box that was about half full of individual powdered juice packets (Tr. 195-96, 202-04). The box of juice packets was an item sold in the commissary (Tr. 194, 203). Respondent inspected the contents of the box in the control room and observed only packets of juice (Tr. 203, 215). The control room had no surveillance camera inside, and no commanding officer was present at the time (Tr. 215-16). He was aware that it was impermissible to pass items between detainees but did not know that Officer Sanchez had received the box from a detainee (Tr. 203, 217). In his experience, it was not uncommon to deliver an item to a detainee in another housing area and he had done so before at the request of a captain without getting into trouble (Tr. 194-95). He acknowledged that he did not ask Officer Sanchez any questions about the box and did not make any logbook entry regarding his delivery of the box to Barnes (Tr. 216-17).

On March 9, 2023, Officer Sanchez called respondent and asked him to deliver a letter to Barnes in the 11B housing area (Tr. 204-05). That same day, a captain had asked respondent to escort a detainee from the 1B housing area, and on his way over, respondent went inside the 1A housing area to retrieve the letter (*Id.*). He observed Captain Mack in the housing area and greeted Torres with a “friendly fist bump,” which he noted officers and captains do all the time with detainees (Tr. 205-07). Officer Sanchez passed respondent an envelope from inside his shirt that was stamped and had Barnes’s name and book and case number written on the outside (Tr. 207, 223). Respondent did not open the envelope, which was sealed, but believed it contained a letter since he trusted Officer Sanchez (*Id.*). He did not know that the envelope had been given to Officer Sanchez by a detainee and did not ask Officer Sanchez where the letter came from (Tr. 208, 224). He acknowledged that he gave an object from his pocket to Barnes after returning to the 11B housing area (Tr. 208-209). He did not recall what it was but insisted that it had not been removed from the envelope, which he never opened (*Id.*). He recalled placing the envelope in his cargo pants pocket and giving the envelope to Barnes in the housing area that day (Tr. 226, 228, 234). He acknowledged that he did not complete any report or request a signed receipt after delivering the items to Barnes (Tr. 221-22). Respondent testified that he never would have given contraband

to a detainee but realized, after watching the video, that he “made a mistake” by trusting Officer Sanchez (Tr. 209, 213). He insisted that he would not have passed anything to Barnes if he had known that the item had come from another detainee (Tr. 213-14). Respondent was suspended for 30 days and has been on modified duty since then (Tr. 211-12).

Respondent also relied on the audio recording of Investigator Landow’s MEO 16 interview of Captain Mack on April 11, 2023 (Resp. Ex. A). During the interview, Captain Mack initially stated that he did not recall any specific events that occurred when he was assigned to Building 1 on March 9, 2023 (*Id.*). He confirmed that the 1A housing area was a 23-hour lockdown area that typically held six detainees, including Torres, and had two officers posted there (*Id.*). Upon being shown the video recording, he stated that he did not know why respondent, who was assigned to the 11B housing area, was present in the 1A housing area with Torres and Officer Sanchez on March 9, 2023, and he did not ask respondent why he was there (*Id.*).

### ***Undue Familiarity***

Petitioner’s rules prohibit correction officers from “indulg[ing] in any undue familiarity with inmates” or “permit[ting] undue familiarity on the part of the inmates toward themselves.” Dep’t of Correction Employee Rules and Regulations § 3.25.040. “Undue familiarity shall include any behavior that is not directly related to one’s work duties including, but not limited to, accepting gifts or favors . . .” (*Id.*). Undue familiarity “occurs whenever an act ‘constitutes a personal favor that breaches the proper wall of separation between the jailers and the jailed.’” *Dep’t of Correction v. Paul*, OATH Index No. 1712/21 at 22 (Feb. 7, 2022) (citation omitted), *adopted*, Comm’r Dec. (Apr. 20, 2022), *aff’d sub nom. Matter of Paul v. City of New York*, 220 A.D.3d 423 (1st Dep’t 2023); *see Dep’t of Correction v. LeConte*, OATH Index No. 788/96 at 9 (Jan. 8, 1996) (“[D]oing even small personal favors for inmates, however well motivated, can lead to dissention and frictions among inmates, pressures on officers, and other problems.”).

Petitioner established that respondent engaged in undue familiarity with Barnes on March 7 and 9, 2023. It was undisputed that respondent facilitated the transfer of items from Torres in the 1A court-ordered lockdown housing area to Barnes in the 11B housing area on both dates. The video evidence established that Torres passed a small box from inside his cell to Officer Sanchez on March 7, 2023, and Officer Sanchez then carried the box to the control room, where respondent had entered three minutes earlier. Respondent then brought the box back to the 11B housing area,

where he delivered it to Barnes in his cell on the upper tier. Respondent admitted that he delivered the box to Barnes at the request of Officer Sanchez. The video evidence further established that Torres passed an envelope from inside his cell to Officer Sanchez on March 9, 2023, and Officer Sanchez then carried the envelope to the dayroom in the 1A court-ordered lockdown housing area and gave it to respondent. Although respondent denied that the small white object passed through the enclosure wall to Barnes had been inside the envelope, respondent nonetheless admitted that he delivered the envelope to Barnes at the request of Officer Sanchez.

The audio recording of a telephone conversation between Barnes and Torres less than 20 minutes before respondent entered the 1A control room further supports the finding that respondent facilitated the transfer of an item from Torres to Barnes on March 7, 2023. Although petitioner did not offer the telephone log from the Securus system, Investigator Landow's investigative action report was sufficiently corroborative of his testimony to establish that Barnes made the call from GRVC at 8:34 p.m. on March 7, 2023. Neither Investigator Landow's closing report nor investigative action report identified the second male voice on the phone call. The female voice on the recording, however, identified the other male as Rick, which is Torres's first name. Given the video evidence from shortly thereafter, which showed the transfer of the box from Torres to Barnes by way of Officer Sanchez and respondent, it is more likely than not that Barnes spoke to Torres on the phone on March 7, 2023, and referred to a correction officer and contraband when he told Torres that the "wok" was "en route" and to "throw the bully in there."

To the contrary, I afforded no weight to petitioner's other audio recordings. The absence of the Securus telephone log, coupled with the lack of any detailed information in Investigator Landow's closing report or investigative action report, rendered unreliable his recollection at trial that the recording, which referenced the "sleaze" and had been obtained by Investigator Samson almost three years ago, was a telephone call made by Barnes on March 6, 2023. Even crediting that the third recording was a telephone call made by Cano from GRVC on March 10, 2023, as reflected on the investigative action report, the recording related to a *subsequent* incident that was not charged herein and was not probative of the items passed by respondent to Barnes on March 7 or 9, 2023. See *Dep't of Health & Mental Hygiene v. Levia-Mena*, OATH Index No. 851/14 at 21 (Mar. 14, 2014), *aff'd*, NYC Civ. Serv. Comm'n Case No. 2014-0614 (Mar. 27, 2015) (where respondent was charged with "a pattern of . . . rude insolent behavior" through "discrete instances

of misconduct, as set forth in the specifications,” a finding based on petitioner’s evidence of additional, uncharged incidents of misconduct would violate due process).

Respondent denied having any knowledge at the time of the incidents that Officer Sanchez had obtained either the box or the envelope from Torres and argued that Officer Sanchez’s “knowledge of the origination of these items should not be imputed to [him]” (Tr. 257). Indeed, the video evidence showed that respondent was not present when Officer Sanchez received the box and envelope from Torres in the 1A housing area, and petitioner did not offer any testimony or statements from Officer Sanchez, Torres, or Barnes regarding respondent’s involvement. The circumstantial evidence, however, supports the conclusion that respondent knew that the box and envelope had come from a detainee in the restricted housing area. *See Dep’t of Social Services (Human Resources Admin.) v. DeFrance*, OATH Index No. 1593/20 at 8 (Sept. 28, 2020), *adopted*, Comm’r Dec. (Dec. 16, 2020), *aff’d*, NYC Civ. Serv. Comm’n Case No. 2020-0810 (Feb. 19, 2021) (“A finding based entirely on circumstantial evidence may be established in a civil service disciplinary proceeding so long as the circumstantial evidence supports the conclusion that ‘the inference drawn is the only one that is fair and reasonable.’”).

Twice within three days, respondent entered a restricted housing area, where only Torres and four other detainees were housed at the time, retrieved an item from Officer Sanchez, and delivered that item to Barnes, a known gang member in respondent’s assigned housing area. In contravention of protocol, respondent did not make an entry in the logbook regarding his receipt of the box or envelope from Officer Sanchez, which is indicative of an intent to conceal his actions on March 7 and 9, 2023. Moreover, respondent surreptitiously delivered the box to Barnes and received the envelope from Officer Sanchez. On March 7, 2023, respondent did not hand the box to Barnes in the dayroom of the 11B housing area, where others were present, but rather walked to the upper tier with Barnes and passed the box to him in his cell. The video evidence further showed that respondent observed Officer Sanchez remove the envelope from inside of his shirt under the staircase on March 9, 2023. This clandestine activity was particularly troubling given that respondent received the concealed envelope only 15 seconds after cordially greeting Torres, who was the source of the envelope. Finally, based on the audio recording from 8:34 p.m. on March 7, 2023, it appeared that Barnes knew that a correction officer from his housing area was about to go to the 1A housing area to retrieve an item from Torres, and the video evidence showed

Barnes waiting for respondent upon his return to the 11B housing area less than thirty minutes later, implying that Barnes knew that respondent was returning with an item for him from Torres.

It can be reasonably inferred from the totality of these circumstances that respondent knew that the box and envelope had come from a detainee in the restricted housing area and that respondent knowingly transported contraband to a detainee in another housing area. *See Dep't of Correction v. Parson*, NYC Civ. Serv. Comm'n Case No. 2024-0133 (Aug. 6, 2024), *modifying*, OATH Index No. 315/24 (Dec. 29, 2023) (finding evidence sufficient to establish that a correction officer knowingly facilitated a detainee to obtain unidentified items of contraband where the detainee had been identified by the Department as an intended contraband recipient and had received contraband during his “minute-long, unauthorized stops at another inmate’s cell,” and the video evidence showed that the detainee’s hands were within the officer’s sightline during multiple moments); *see also* Dep't of Correction Directive No. 4508R-E § IV(H) (eff. Aug. 15, 2013) (defining contraband as “any item . . . that the inmate does not have permission to possess”).

In contrast, respondent’s denial of any such knowledge was self-serving and not credible. Notably, respondent failed to provide any plausible legitimate reason for Officer Sanchez to deliver a box half filled with juice packets or a sealed envelope from inside a housing area on 23-hour court-ordered lockdown to a detainee in another housing area. His testimony was uncorroborated by any evidence that Officer Sanchez was responsible for the delivery of commissary, mail, or other property. Although respondent testified that he had previously delivered items to detainees in other housing areas at the request of his supervisor, there was no evidence that a captain had instructed him to retrieve the box or envelope for Barnes. Even if respondent had known Officer Sanchez for years, it did not make any sense that respondent would make deliveries from a restricted housing area to a known gang member at Officer Sanchez’s request without asking any questions about the items or having any knowledge about the items.

In sum, the credible evidence established that respondent knowingly facilitated the transfer of a box and an envelope between detainees secured in different housing areas at GRVC on March 7 and 9, 2023. This amounts to undue familiarity. *See Dep't of Correction v. Amaning*, NYC Civ. Serv. Comm'n Index No. 2025-0047 (May 1, 2025), *aff'g*, Comm'r Dec. (Dec. 27, 2024), *rev'g* OATH Index No. 2793/24 (Oct. 11, 2024) (affirming finding that a captain engaged in undue familiarity by transferring contraband between detainees); *Dep't of Correction v. Nwagwu*, OATH Index No. 0044/25 at 9 (Oct. 25, 2024) (finding that correction officer engaged in undue familiarity

by passing part of a mop head between detainees separately secured in an enhanced restraint housing area at the detainee's request); *Dep't of Correction v. Kitt*, OATH Index No. 1829/23 at 8-9 (Aug. 7, 2023), *adopted*, Comm'r Dec. (Sept. 28, 2023), *aff'd*, NYC Civ. Serv. Comm'n Case No. 2023-0522 (Feb. 1, 2024) (finding that correction officer engaged in undue familiarity by facilitating the writing and passing of personal notes between detainees in separate holding pens).

In addition, the credible evidence established that respondent's mere delivery of the box and envelope to Barnes outside of official channels constituted an impermissible favor or privilege. I credited the consistent and corroborated testimony of Investigator Landow and ADW Harris regarding the procedures required for officers to deliver property or commissary to detainees. Respondent did not follow any of these procedures. Although Investigator Landow confirmed that the box looked similar to an item sold in the commissary, respondent did not provide Barnes with a box of juice packets that he obtained directly from the commissary, and there was no evidence that Officer Sanchez, who was assigned to a post in the 1A housing area, had any responsibility for the delivery of commissary in any housing area. In delivering the box and envelope to Barnes at the request of Officer Sanchez, respondent granted Barnes a special favor and compromised the security and good order of the facility. *See Dep't of Correction v. Zapata*, OATH Index No. 1234/24 at 14-15 (Mar. 19, 2024) (finding that correction officer engaged in undue familiarity where the "favor of giving extra food beyond the regular food service was a gift and a favor to a detainee"); *Paul*, OATH 1712/21 at 22-23 (finding that captain engaged in undue familiarity by returning recreation shorts to a detainee where "the late-night visit to [the detainee's] cell was so unusual as to constitute a favor, even assuming *arguendo*, that it was well-intentioned"). As previously stated by this tribunal, "[d]oing special favors for detainees upsets the good order and discipline of the jails and creates a risk of injury to both detainees and staff; it also gives the detainees power over the officers to extract even more from them, with the threat of disclosing the favors to supervisors if the officers try to refuse to expand this kind of practice to more troubling favors." *Zapata*, OATH 1234/24 at 22.

Accordingly, the charges are sustained.<sup>4</sup>

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<sup>4</sup> Respondent requested that an adverse inference be drawn from petitioner's failure to preserve additional Genetec surveillance video beyond the angles and time periods in evidence (Tr. 179-81). Respondent specifically argued that additional video may have identified the small white object passed through the enclosure wall on March 9, 2023 (Tr. 242-43). "A party seeking sanctions due to evidence spoliation must show: (1) that the party with control over the evidence had an obligation to preserve it when it was destroyed, (2) that the records were destroyed with a 'culpable state of mind,' and (3) that the destroyed evidence was relevant to the party's claim or defense." *Dep't of Correction*

### **FINDINGS AND CONCLUSIONS**

1. Petitioner established that respondent engaged in undue familiarity by giving contraband to person in custody Barnes on March 7, 2023.
2. Petitioner established that respondent engaged in undue familiarity by giving contraband to person in custody Barnes on March 9, 2023.

### **RECOMMENDATION**

Upon making these findings, I obtained and reviewed respondent's personnel abstract. Respondent has been employed by petitioner since 2017. Petitioner awarded respondent unit citations in 2021 and 2022. His prior disciplinary record includes a 10-day penalty for excessive use of force in 2020 and a 45-day penalty related to an off-duty incident in 2021. Petitioner imposed a 30-day pretrial suspension upon respondent with respect to the incidents on March 7 and 9, 2023. Petitioner now seeks the termination of respondent's employment (Tr. 280). This is appropriate.

"Undue familiarity is one of the most serious acts of misconduct that a correction officer can engage in." *Dep't of Correction v. Pearson*, OATH Index No. 391/14 at 11 (Dec. 18, 2013), *adopted*, Comm'r Dec. (Feb. 26, 2014), *aff'd*, NYC Civ. Serv. Comm'n Case No. 2014-0252 (July 10, 2014). "With rare exception, the penalty for undue familiarity has been termination of employment. This is particularly the case where the undue familiarity is between correction officers and inmates within their care, custody, and control." *Dep't of Correction v. Hernandez*, OATH Index No. 1339/06 at 6 (Oct 4, 2006), *adopted*, Comm'r Dec. (Oct 26, 2006), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 07-46-SA (Apr. 17, 2007).

This tribunal has recommended termination for correction officers even with minor or no prior disciplinary history where they have granted favors or privileges to detainees under their care, custody, and control. *See Nwagwu*, OATH 0044/25 at 14-15 (recommending termination for officer with minor disciplinary history who transferred part of a mop head from one detainee to

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*v. Monclova*, OATH Index No. 1206/13 at 16 (June 20, 2013), *aff'd*, NYC Civ. Serv. Comm'n Case No. 35460 (Dec. 20, 2013). The video recordings relied upon by petitioner at trial depicted the transfer of items from Torres to Barnes by way of Officer Sanchez and respondent on March 7 and 9, 2023, and respondent admitted that he delivered the box and envelope to Barnes. Respondent failed to demonstrate that Investigator Samson willfully destroyed any relevant video recordings, or that respondent suffered any prejudice from the negligent failure to preserve the complete video. As such, an adverse inference is not warranted. *See Dep't of Correction v. Joseph*, OATH Index No. 3676/23 at 14-16 (Aug. 14, 2023), *adopted*, Comm'r Dec. (Oct. 12, 2023), *aff'd*, NYC Civ. Serv. Comm'n Case No. 2023-0545 (Jan. 18, 2024) (declining to draw an adverse inference for spoliation of Genetec video recording from before a use of force incident due to lack of any prejudice resulting from the missing video).

another in the enhanced restraint housing area); *Zapata*, OATH 1234/24 at 29, 32 (recommending termination for officer with minor disciplinary history who gave detainee extra food or other items opaquely wrapped in brown paper); *Kitt*, OATH 1829/23 at 14-15 (recommending termination for officer with no disciplinary history who passed notes between detainees in separate holding pens); *cf. Dep't of Correction v. Booker*, OATH Index No. 337/97 (Oct. 28, 1996), *adopted*, Comm'r Dec. (June 30, 1997) (recommending 40-day suspension for officer who provided detainee with food and drink while on escort duty).

Respondent argued that he was naïve in trusting his fellow officer, who turned out to be a “dirty cop,” and that he is willing to be “properly punished” for his misconduct, but it “is not something that rises to the level of termination” (Tr. 244-45, 251). Respondent’s claim of naivety, however, is belied by the record. The evidence established that respondent knowingly facilitated the transfer of contraband between detainees secured in different housing areas at GRVC on two occasions. Both detainees were known gang members, and one had been ordered by the court to be confined to his cell for 23 hours a day and prohibited to have contact with other detainees. Respondent’s actions enabled Torres to have contact with Barnes within the facility in contravention of those restrictions. The lack of proof regarding the specific contents of the box and envelope passed between the detainees does not mitigate respondent’s misconduct or warrant a lesser penalty. *See Parson*, NYC Civ. Serv. Comm’n Case No. 2024-0133 at 2 (affirming the termination of an officer who knowingly permitted a detainee to receive *unidentified* contraband items from the occupant of another cell during an escort). The evidence established that the item transferred on March 7, 2023 was not simply a box of juice packets from the commissary but rather a receptacle used to transport the “bully” from Torres to Barnes. There is also no mitigation to be found in respondent’s disciplinary record over his 8-year career as a correction officer.

Accordingly, I recommend that respondent’s employment be terminated.

Michael D. Turilli  
Administrative Law Judge

February 13, 2026

SUBMITTED TO:

**STANLEY RICHARDS**

*Commissioner*

APPEARANCES:

**JOHN ALVIN, ESQ.**

*Attorney for Petitioner*

**TOWNSEND LAW PLLC**

*Attorneys for Respondent*

**BY: SARENA TOWNSEND, ESQ.**



NEW YORK CITY DEPARTMENT OF CORRECTION  
Stanley Richards, Commissioner

Solange Grey, Deputy Commissioner  
Trials & Litigation Division  
75-20 Astoria Boulevard – Suite 310  
East Elmhurst, NY 11370

718-546-0404  
Fax 718-278-6526

Correction Officer Mackson Polidor



**RE: Final Determination**

DR #: 0520/2023

Dear Officer Polidor,

After a complete review of the record and the report and recommendation of the Honorable Michael Turilli, Administrative Law Judge, duly designated to conduct a disciplinary hearing on the charges and specifications listed above, I find you guilty as reflected in the report and recommendation. A copy of the report and recommendation is enclosed.

The sanction imposed upon is:

Termination **EFFECTIVE FORTHWITH.**

Under the provision of Section 76 of the Civil Service Law, you are entitled to appeal from this determination by application either to the Civil Service Commission or to a court in accordance with the provisions of Article 78 of the Civil Practice Law and Rules. If you elect to appeal to the Commission such appeal must be filed in writing within twenty (20) days of receipt of this determination. A decision of the Commission is final and conclusive.

Sincerely,



Stanley Richards, Commissioner

Date: 3/18/26

C: Office of Administrative Trials and Hearings

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print & Sign Name

Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print & Sign Name

**THE CITY OF NEW YORK  
DEPARTMENT OF CORRECTION**

**Findings and Recommendations of  
Charges and Specifications  
AGAINST**

File No.	OATH Index No. 0219/2026
Case No.	520/2023
Book No.	Page

<u>Correction Officer</u> Rank or Title	<u>Mackson Polidor</u> Name	<u>13109</u> Shield/ID	<u>GRVC</u> Facility/Unit	<u>06/19/2017</u> Date Appointed
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**-By-**

<u>Agency Attorney</u> Rank or Title	<u>John Karl Alvin</u> Name	<u>Office of Trials and Litigation</u> Facility/Unit
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<u>8/24/2023</u> Date of Charges	<u>1/7/2026</u> Trial Commenced	<u>1/7/2026</u> Trial Concluded
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ADJOURNMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXAMINED BY: Hon. Michael Turilli

**CHARGES**

Directives:

Rules:                   3.05.120  
                              3.20.010  
                              3.20.030  
                              3.20.300  
                              3.25.040

Other:

**FINDINGS AND RECOMMENDATION**

**DATE:** 2/13/2026

**ON CHARGES**

3.05.120-Guilty  
3.20.010-Guilty  
3.20.030-Guilty  
3.20.300-Guilty  
3.25.040-Guilty

**SPECIFICATIONS**

DR#520/23

1. Said officer, on or about March 7, 2023, inside of GRVC at approximately 2057 hours, failed to efficiently perform his duties, engaged in conduct unbecoming a member of service and of a nature to bring discredit upon the Department and engaged in undue familiarity when he gave contraband to Person In Custody Omar Barnes (B/C 32412100801).

2. Said officer, on or about March 9, 2023, inside of GRVC at approximately 1851 hours, failed to efficiently perform his duties, engaged in conduct unbecoming a member of service and of a nature to bring discredit upon the Department and engaged in undue familiarity when he gave contraband to Person In Custody Omar Barnes (B/C 32412100801).

**ON SPECIFICATIONS**

1. Guilty

2. Guilty

**DISPOSITION**

Termination

**DEPUTY COMMISSIONER**

**COMMISSIONER OF CORRECTION**

**ACTION OF THE COMMISSIONER**

DATE 3/18/26