

14PB2867

CHARGES

Police Officer Marcos Hernandez, Star Number 7917, is charged with violating the following rules contained in Article V of the Rules and Regulations of the Chicago Police Department ("Department"), which were in full force and effect on the date of the alleged violations:

- Rule 1: Violation of any law or ordinance.
- Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 4: Any conduct or action taken to use the official position for personal gain or influence.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 41: Disseminating, releasing, altering, defacing, or removing any Department record or information concerning police matters except as provided by Department orders.
- Rule 46: Advising any person engaged in a professional or commercial service that such professional or commercial services may be needed.

SPECIFICATIONS

1. Police Officer Marcos Hernandez, Star Number 7917, is charged with violating Rule 1, "Violation of any law or ordinance," in one or more of the following instances:

Count I: On or about September 13, 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, intentionally accessed and caused to be accessed a Chicago Police Department computer, specifically a mobile computer, and exceeded his authorized access, and thereby obtained information from a department or agency of the United States, namely, the National Crime Information Center ("NCIC") database which is housed at the Federal Bureau of Investigation's Criminal Justice Information Services Division in Clarksburg, West Virginia, in violation of Title 18, United States Code, Section 1030(a)(2)(B).

Count II: On or about September 13, 2006, Police Officer Marcos Hernandez knowingly conducted one or more license plate queries on one or more license plate numbers, obtained personal information from one or more motor vehicle records, and/or subsequently disclosed personal information from one or more

motor vehicle records to a non-Department member for an unpermitted use, in violation of the Driver's Privacy Protection Act of 1994 (18 U.S.C. § 2721 and/or § 2722).

- Count III: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, accessed a Chicago Police Department computer, specifically a mobile computer, obtained information from the NCIC or other database, and disseminated information from the NCIC or other database to a private citizen in exchange for one or more cash payments, thereby receiving, retaining, or agreeing to accept any property or personal advantage which he is not authorized by law to accept knowing that the property or personal advantage was promised or tendered with intent to cause him to influence the performance of acts related to his employment and/or functions as a public officer and/or employee, in violation of violation of the Illinois Compiled Statutes ("Bribery") (720 ILCS 5/33-1(d)).
- Count IV: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, accessed a Chicago Police Department computer, specifically a mobile computer, obtained information from the NCIC or other database, and disseminated information from the NCIC or other database to a private citizen in exchange for one or more cash payments, thereby knowingly performing an act which he knows he is forbidden by law to perform, in violation of the Illinois Compiled Statutes ("Official Misconduct") (720 ILCS 5/33-3(b)).
- Count V: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, accessed a Chicago Police Department computer, specifically a mobile computer, obtained information from the NCIC or other database, and disseminated information from the NCIC or other database to a private citizen in exchange for one or more cash payments, thereby performing an act in excess of his lawful authority with the intent to obtain a personal advantage for himself or another, in violation of the Illinois Compiled Statutes ("Official Misconduct") (720 ILCS 5/33-3(c)).

Count VI: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, accessed a Chicago Police Department computer, specifically a mobile computer, obtained information from the NCIC or other database, and disseminated information from the NCIC or other database to a private citizen in exchange for one or more cash payments, thereby soliciting and/or knowingly accepting for the performance of any act a fee or reward which he knows is not authorized by law, in violation of the Illinois Compiled Statutes ("Official Misconduct") (720 ILCS 5/33-3(d)).

Count VII: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, utilized a cellular telephone to contact a private tow truck driver ("Tow Driver A") and advised Tow Driver A of services needed at traffic accidents that occurred within the Chicago Police Department's 14th District and received payment for such information and/or advice, thereby knowingly performing an act which he knows he is forbidden by law to perform, in violation of the Illinois Compiled Statutes ("Official Misconduct") (720 ILCS 5/33-3(b)).

Count VIII: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, utilized a cellular telephone to contact a private tow truck driver ("Tow Driver A") and advised Tow Driver A of services needed at traffic accidents that occurred within the Chicago Police Department's 14th District and received payment for such information and/or advice, thereby performing an act in excess of his lawful authority with the intent to obtain a personal advantage for himself or another, in violation of the Illinois Compiled Statutes ("Official Misconduct") (720 ILCS 5/33-3(c)).

Count IX: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, utilized a cellular telephone to contact a private tow truck driver ("Tow Driver A") and advised Tow Driver A of services needed at traffic accidents that occurred within the Chicago Police Department's 14th District and received payment for such information and/or advice, thereby soliciting and/or knowingly accepting for the performance of any act a fee or reward which he knows is not authorized by law, in violation of the Illinois Compiled Statutes ("Official Misconduct") (720 ILCS 5/33-3(d)).

2. Police Officer Marcos Hernandez, Star Number 7917, is charged with violating Rule 2, "Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department," in one or more of the following instances:

Count I: On or about September 13, 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, accessed and caused to be accessed a Chicago Police Department computer, specifically a mobile computer, and exceeded his authorized access, and thereby obtained information from a department or agency of the United States, namely, the NCIC database which is housed at the Federal Bureau of Investigation's Criminal Justice Information Services Division in Clarksburg, West Virginia, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

Count II: On or about September 13, 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, accessed and caused to be accessed a Chicago Police Department computer, specifically a mobile computer, and exceeded his authorized access, and thereby obtained information from a department or agency of the United States, namely, the NCIC database which is housed at the Federal Bureau of Investigation's Criminal Justice Information Services Division in Clarksburg, West Virginia, which resulted in the filing of a criminal complaint against Police Officer Marcos Hernandez in the United States District Court for the Northern District of Illinois, Eastern Division, on June 28, 2010 for violating Title 18, United States Code, Section 1030(a)(2)(B). Thus, Police Officer Marcos Hernandez's conduct and the resulting criminal complaint impeded the Department's efforts to achieve its policy and goals and/or brought discredit upon the Department.

Count III: On or about August 16, 2011, Police Officer Marcos Hernandez entered a plea of guilty to Title 18, United States Code, Section 1030(a)(2)(B) before the Honorable Judge Elaine Bucklo in the United States District Court for the Northern District of Illinois, Eastern Division, and the plea of guilty was accepted by Judge Bucklo and entered into the public record, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

Count IV: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, accessed a Chicago Police Department computer, specifically a mobile computer, obtained information from the NCIC database, and disseminated information from the NCIC database to a private citizen in exchange for one or more cash payments, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

Count V: On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, utilized a cellular telephone to contact a private tow truck driver ("Tow Driver A") and advised Tow Driver A of services needed at traffic accidents that occurred within the Chicago Police Department's 14th District, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

3. Police Officer Marcos Hernandez, Star Number 7917, is charged with violating Rule 4, "Any conduct or action taken to use the official position for personal gain or influence," in the following instance:

On one or more occasions in or around 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, accessed a Chicago Police Department computer, specifically a mobile computer, obtained information from the NCIC or other database, and disseminated information from the NCIC or other database to a private tow truck driver ("Tow Driver A") in exchange for one or more cash payments, thereby using his official position for personal gain and/or influence.

4. Police Officer Marcos Hernandez, Star Number 7917, is charged with violating Rule 6, "Disobedience of an order or directive, whether written or oral," in the following instance:

On or about September 13, 2006, Police Officer Marcos Hernandez accessed the Chicago Police Department's computerized information system and/or database, specifically the NCIC database, and accessed information from the NCIC database for non-official police business and/or for personal purposes, in violation of Department General Order 98-07-04A-VII-A-2 ("Access to Computerized Data, Dissemination and Retention of Computer Data"), in effect on September 13, 2006, and/or Department General Order 09-01-01-VI-A-2 ("Access to

Computerized Data, Dissemination and Retention of Computer Data”), which is currently in effect.

5. Police Officer Marcos Hernandez, Star Number 7917, is charged with violating Rule 41, “Disseminating, releasing, altering, defacing, or removing any Department record or information concerning police matters except as provided by Department orders,” in the following instance:

On or about September 13, 2006, Police Officer Marcos Hernandez conducted one or more queries on one or more license plate numbers using the Chicago Police Department’s computerized information system and/or database, obtained personal information from one or more license plate queries, and/or subsequently disseminated personal information to a non-Department member, specifically a private tow truck driver (“Tow Driver A”), without an official police purpose and/or for personal purposes.

6. Police Officer Marcos Hernandez, Star Number 7917, is charged with violating Rule 46, “Advising any person engaged in a professional or commercial service that such professional or commercial services may be needed,” in the following instance:

On one or more occasions, including September 13, 2006, Police Officer Marcos Hernandez, while working in his official capacity as a Chicago Police Department patrol officer, utilized a cellular telephone to contact a private tow truck driver (“Tow Driver A”), a person engaged in a professional and/or commercial service, and advised Tow Driver A of services needed at traffic accidents that occurred within Chicago Police Department’s 14th District, thereby advising a person engaged in a professional or commercial service that such professional or commercial services may be needed.

Based on the foregoing charges and specifications, the Superintendent recommends that Officer Marcos Hernandez, Star Number 7917, be discharged from the Chicago Police Department.

Garry F. McCarthy

GARRY F. MCCARTHY
Superintendent of Police

APPROVED AS TO FORM

Katherine Robillard

KATHERINE ROBILLARD
Assistant Corporation Counsel

P. B. CASE # FILED

14 - 2867 JUL 02 2014

CHICAGO POLICE BOARD