



POLICE DEPARTMENT

January 8, 2024

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In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2019-20900
Police Officer Ali Alomaisi	:	2022-25126
Tax Registry No. 962918	:	
Narcotics Borough Brooklyn North	:	

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

APPEARANCES:

For the CCRB-APU: Deanna Everett-Johnson, Esq.
Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

For the Respondent: Michael Martinez, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE EDWARD A. CABAN
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

Case No. 2019-20900

1. Police Officer Ali Alomaisi, on or about September 2, 2018, at approximately 1640 hours, while assigned to the 63 Precinct and on duty, in the vicinity of 1474 East 57th Street, Kings County, wrongfully used force, in that he used a chokehold against Complainant 1.

P.G. 221-02, Page 2, Prohibition 11

USE OF FORCE

Case No. 2022-25126

1. Police Officer Ali Alomaisi, on or about July 19, 2020, at approximately 1958 hours, while assigned to the 63 Precinct and on duty, in the vicinity of East 46th Street and Kings Highway, Kings County, was discourteous, in that he smoked an e-cigarette while Complainant 2 was detained nearby inside the patrol car and exposed her to secondhand smoke without police necessity.

P.G. 203-10, Page 1, Paragraph 5
(*now encompassed by A.G. 304-06*)PUBLIC CONTACT --
PROHIBITED CONDUCT

2. Police Officer Ali Alomaisi, on or about August 5, 2021, at approximately 1042 hours, while assigned to the 63 Precinct and on duty, over video conference, provided an untruthful statement to the Civilian Complaint Review Board in that he denied smoking an e-cigarette while Complainant 2 was present, even after he was confronted with body-worn camera footage depicting him smoking an e-cigarette while in the patrol car with Complainant 2 present.

P.G. 203-08
(*now encompassed by A.G. 304-10*)FALSE OR MISLEADING
STATEMENTS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on December 6, 2023. Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The CCRB offered the hearsay statements of Complainant 1 and Complainant 2¹, two body-worn camera videos, and still photographs from those recordings. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police

¹ Complainants' identities are known to the Tribunal.

Commissioner's review. Having evaluated all the evidence, the Tribunal finds Respondent Not Guilty of the charged misconduct.

ANALYSIS

Disciplinary Case 2019-20900

Respondent is charged with using a chokehold against Complainant 1 on September 2, 2018. CCRB did not call Complainant 1 to testify; however, her statement to CCRB investigators and Respondent's body-worn camera were entered into evidence (CCRB Exs. 6, 7 and 7A).

The following is a summary of the portion of CCRB Exhibit 6 that captures the alleged chokehold:

- 00:00-00:10: Respondent opens the side door of the ambulance. Complainant 1's legs are visible and hanging off a seat inside the ambulance. A female EMT is reaching toward Complainant 1 and places her hand on Complainant 1's thigh. Respondent steps into the ambulance.
- 00:11-00:39: Complainant 1 is lying on a bench inside of the ambulance with the bottom half of her legs hanging down from it. Respondent takes out his handcuffs and grabs Complainant 1's wrist. A male officer who was inside the ambulance with Complainant 1 is trying to turn her on her side, with her face toward the inside wall. Complainant 1 is flipped onto her front, and the officers attempt to handcuff her. She begins to yell, "You're hurting me," and officers are telling her to stop. Someone is holding her legs down as Respondent tries to handcuff her. Another male officer says, "Stop resisting, stop resisting." Respondent says, "Get this hand right here," as he moves her left hand toward the wall. Complainant 1 flails her legs, and a female is heard saying, "Stop moving, stop moving. Stop resisting." Respondent is still unable to get the handcuff on her wrist.
- 00:40-00:54: Complainant 1 continues to move and resist Respondent, who yells at her to stay still. Complainant 1 continues screaming, "Don't try to grab me." Other officers instruct her to remain still; someone still holds her legs. Respondent places the handcuffs on both of her wrists.

- 00:55-01:04: Two individuals are holding Complainant 1 by the legs; the male officer is holding her left arm, and Respondent is holding her right arm. Complainant 1 screams, "Don't touch me." The officers unstrap the buckles on the stretcher in the ambulance and lift Complainant 1 to place her on it.
- 01:05-01:18: Complainant 1 screams, "You're wildin' the fuck out; you're hurting me," as she resists the officers who are trying to lift her. Respondent and the male officer get her upper body on the stretcher with her head facing the back door. Complainant 1 continues to resist the officers, cursing at them and flailing her body to prevent them from getting her on the stretcher. The male officer grabs her legs, turning her body so her feet are closest to the back door of the ambulance.
- 01:19-01:24: The officers attempt to strap her onto the stretcher using the orange straps. Two individuals are at her legs, trying to secure the straps there as she bends her knees and moves her legs to prevent them from doing so. Respondent is further up. Complainant 1 yells, "I can't even fucking breathe." The female EMT says, "Calm down."
- 01:25-01:26: Complainant 1 sits up on the stretcher; her upper body is not yet secured. She continues to move her legs, making it difficult for her lower body straps to be secured.
- 01:27: Respondent reaches with his left hand and places it on Complainant 1's neck. His thumb is visible; his other four fingers are on the other side of her neck. Respondent does not succeed at pushing her onto the stretcher; Complainant 1 continues moving herself upward.
- 01:28-01:29: Respondent's hand is off Complainant 1's neck. Her legs still appear not fully secured by the straps, and her upper body is not secured down. She screams, "Don't fucking grab my neck." She is still sitting up as she spits at Respondent.
- 01:30-01:40: Complainant 1 repeats, "Don't grab my fucking neck." Officers are heard repeatedly saying, "Don't spit." Respondent pushes down on Complainant 1's forehead to keep her down on the stretcher. Complainant 1 begins to scream, screeching, "They're abusing me." Respondent has his hand down on Complainant 1's head, keeping her down and her face turned toward the shelving space in the ambulance.
- 01:40-01:49: Complainant 1 screams, "Get off of me," as she continues to resist the officers and her restraints. Two individuals are holding Complainant 1's legs down. Complainant 1 lifts her upper body and tells Respondent, "Stop touching my fucking face." He responds, "Nah, you're not gonna spit. You're not spitting."

- 01:50-02:39: Respondent says, "Get this other strap," and lifts an unsecured orange strap. An officer takes it from him to buckle and secure the strap. A male is telling Complainant 1, "Stop spitting," and she continues to scream, "Because he grabbed my neck." Complainant 1 continues to twist her body as the officer tightens the strap. Complainant 1 continues to scream while in the ambulance; the female EMT is heard telling her to calm down.
- 02:40-02:47: Complainant 1 moves her arms and hands while handcuffed. Respondent pushes Complainant 1's hand to her side and says, "Keep your hand right here." A male officer says, "Let's get something to tie her hands down." An officer still holds her legs down as she moves them and attempts to pull them through the orange straps.
- 02:48-05:21: Complainant 1 lifts her upper body off the stretcher again and says, "Why you choking me?" Respondent grabs her by the upper arms and tries to pull her back down; someone else also grabs her arms to pull her down. Respondent places his hand near Complainant 1's mouth on her chin and holds her down on the stretcher. Complainant 1 continues to twist her body away from officers. Two officers have her on her side facing the shelving area in the ambulance and are holding her down. A male EMT and a female EMT are toward the end of the stretcher to secure her feet with white material. Complainant 1 continues to scream and resist the officers. She yells that she can't feel her wrists. After approximately 2 minutes, the EMTs secure her feet.
- 05:22-05:50: Complainant 1 lifts her upper body off the stretcher again. A male officer states, "Sit back, sit back. You don't listen. Cuffs aren't coming off." The female EMT lifts the back of the stretcher, so Complainant 1 is sitting up. Respondent steps out of the ambulance.

Complainant 1 provided a statement to CCRB investigators (CCRB Ex. 7 & 7A). She stated that her uncle was trying to have her removed from his home, so he called the police. Respondent and his partner responded and dealt with the dispute before leaving. Complainant 1 then said her uncle called the police again, stating that she hit him, so she also called the police and reported that he head-butted her. Complainant 1 admitted to the investigators that they did not hit each other (CCRB Ex. 7A at 45-46). She said that her uncle told the officers she had a mental disorder, but that was incorrect, and she was seeking hospital treatment for chemical

dependency (*Id.* at 4). When the ambulance arrived, she told the officers that she did not want to go, but they started to place her hands behind her back like she was going to be arrested, so she ran into the ambulance (*Id.* at 5). She stated that she refused to answer any questions, and when she tried to leave, “that’s when the officer grabbed [her] arm, and ... twisted it behind [her] back and banged [her] head on the wall” (*Id.*). She further stated that they tried to put her on the stretcher, and that is when Respondent² started to “choke” her and was telling her to put her head back (*Id.* at 6). Complainant 1 said she “couldn’t breathe for like a few seconds,” and she told the officer this, and he stopped. She admitted to spitting on Respondent because he “choked” her (*Id.*).

Respondent testified that on September 2, 2018, he and his partner, Police Officer Carter, responded to a family dispute, where Complainant 1’s uncle was trying to have her evicted (T. 26). They stayed for about 20 minutes, generated a Domestic Incident Report, and then left without making any arrest. Approximately five minutes later, they returned to the location. Respondent explained that he could not remember the description that transmitted over the radio but did recall speaking to the uncle, who stated that Complainant 1 made a threat to the family and herself. Based upon that information, Respondent testified they notified a supervisor. They decided to call EMS to have Complainant 1 evaluated as an emotionally disturbed person (T. 28).

When asked by the Tribunal to explain further why they believed her to be an emotionally disturbed person, he stated she was “refusing to go to the hospital, kicking her feet, lunging back and forth, screaming and yelling, cursing, spitting also. ... [I]t was kind of like an

² When comparing Complainant 1’s statement to CCRB and Respondent’s body-worn camera footage, it is clear that Complainant 1 confuses the actions of Respondent and his partner, Police Officer Carter. She states that the Respondent is the officer who was initially in the ambulance with her and provided his shield number to the investigators and that Carter comes in once the doors are open and is the officer who placed his hand on her neck.

erratic behavior, unpredictable, that we couldn't really tell if she was going to hurt herself or hurt us with her during the process" (T. 33). He stated that Complainant 1 voluntarily went inside the ambulance after being told by a supervisor that it was recommended she go, or "it has to be taken to another measure." Still, she became uncooperative once inside the ambulance (T. 29, 60). Police Officer Carter agreed to ride in the ambulance with Complainant 1, and Respondent was going to follow in the RMP.

Respondent stated that while standing outside the ambulance, it started to shake, and the supervisor tried to open the door to find out what was happening. Once they opened the door, Respondent observed Complainant 1 "sitting on her belly sideways, trying to like slide out, flaring her legs and arms" (T. 30). He testified they had handcuffed her for her own safety and then wanted to place her on the stretcher since she was on the other side of the ambulance. They ensured she had been turned around and put on her back, so she and the other officers in the ambulance would not be injured. Respondent recalled Complainant 1 was "screaming, yelling ... kicking her feet, lunging back and forth, and she made it very difficult for us to strap her to the stretcher so she [didn't] hurt herself" (T. 31). He further explained that there were "three huge males" inside of the ambulance. Respondent testified that he had Complainant 1's upper body. He believed that her legs were strapped down, but her upper body was not, so the "only option" he had was to place her down (T. 34).

Respondent testified that because Complainant 1 was female, he "didn't want to aim for the breasts" and did not think grabbing her shoulder was a viable option because he knew she would "move side to side" (T. 35). He explained his only option was the collarbone area, knowing that "the neck area would be considered a chokehold, and then the breast area would be kind of disrespectful because she's a female" (T. 36). When he attempted to place his left hand

on her torso to “put pressure on to keep her down,” she “lunged up and it came up to her neck.” He stated that once he realized that his hand made contact with her neck for a second, he took his hand from her, and she spit right at him (T. 35).

Respondent admitted that his thumb was on one side of her neck and his other four fingers were on the other side, and that his hand was in a “closed” and “gripped” motion (T. 65). In his interview regarding the incident with CCRB, he stated that he did not believe his grip could have restricted any breathing, and that he was aiming for her collarbone, so once he realized his hand was on her neck, he let go of her (T. 70-71). Respondent testified his hand touched Complainant 1’s neck area “inadvertent[ly] and unintentional[ly]” and that he did not apply pressure to her neck, squeeze his hand, or attempt to close his hand (T. 37). Respondent explained that he considered using a different form of touch, other than a grip, to apply force to Complainant 1’s collarbone to bring her down. Still, because of the “small frame she had” and his “big hands,” he was worried that he would hurt her, so he tried to make it smaller (T. 74).

Specification 1: Use of Chokehold

CCRB has failed to meet its burden of proof by a preponderance of the relevant, credible evidence that Respondent used a chokehold.

The Patrol Guide states, “Members of the service **SHALL NOT** ... use a chokehold” (emphasis in original). It defines a chokehold as follows: “A chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which *may* prevent or hinder breathing or reduce intake of air” (emphasis added) (P.G. § 221-01).

Respondent denied using a chokehold against Complainant 1; CCRB relies on Complainant 1’s statement to investigators and a moment in Respondent’s body-worn camera video (CCRB Ex. 7A at 6; CCRB Ex. 6 at 01:27). To prove that a chokehold was used, CCRB

must prove that Respondent applied pressure to Complainant 1's "throat or windpipe, which may prevent or hinder breathing or reduce air intake" (*see* P.G. 221-01, Page 2, Definitions [issued June 1, 2016]).

Upon close review of the body-worn camera video, Respondent's hand does make contact with Complainant 1's neck; however, the video corroborates Respondent's testimony that he did so inadvertently. Respondent's hand is on Complainant's neck for approximately one second as she lurched her upper body forward from the stretcher (CCRB Ex. 6 at 01:27). It does not appear that he exerted any pressure to push her down, as she remained sitting up. Once he realized he had made contact with Complainant 1's neck, he immediately removed his hand (T. 70-71). She then turned toward Respondent and spat at him before he placed his hand on her forehead to push her down. The contact Respondent made was fleeting and unintentional.

Complainant 1's statement that she could not breathe due to Respondent's hand on her neck is not supported by what is captured on the body-worn camera footage. Complainant 1 screams at the officers that she cannot breathe while they are trying to place her and strap her on the stretcher before the Respondent's hand ever makes contact with her neck (*See* CCRB Ex. 6 at 01:19-01:24). Further, she does not say she cannot breathe, while either his hand is on her neck, or after he takes it off (*See* CCRB Ex. 6).

Accordingly, I find Respondent Not Guilty of Specification 1.

Disciplinary Case No. 2022-25126

On July 19, 2020, Respondent was performing patrol duties when he and his partner, Police Officer Anton, responded to a 911 call reporting a car accident (T. 38). He recalled approaching the second motorist, Complainant 2, while his partner spoke with the first motorist. He testified she was on the phone with her insurance company, and when he asked for her

license, registration, and insurance, she “rolled her eyes,” then only gave him her license and told him he had to wait (T. 39-40).

When Respondent ran a database check of Complainant 2’s license and discovered it had been suspended, he activated his body-worn camera and placed her under arrest. Respondent testified that about a year later, he learned that Complainant 2 had filed a CCRB complaint against him for smoking an e-cigarette³ in front of her. Respondent admitted to being a user of e-cigarettes and possessing one on the incident date. He explained that “for the most part,” he smokes in private when he has a break and does not use it when dealing with civilians during an arrest (T. 43). Respondent admitted that he used his e-cigarette while he was taking the report inside of the RMP and Complainant 2 was nearby outside (T. 45). He testified that he was not trying to be discourteous to Complainant 2 by smoking from his e-cigarette (T. 49).

In Complainant 2’s CCRB statement, she informed the investigator that when she was in the RMP, the window was down. She observed Respondent walk to the front side of the car on the passenger side and begin smoking from his e-cigarette, and “all that smoke was coming all into the window” (CCRB Ex. 3A at 17, 30-31).

During his CCRB interview on August 5, 2021, Respondent admitted to having an e-cigarette and smoking it at the scene in the vehicle while completing the accident report, but denied smoking it while Complainant 2 was inside as well (CCRB Ex. 9A at 18-19). When asked if he smoked it in her presence, he responded, “No” (*Id.* at 19). He testified that he was only shown his body-worn camera footage after the initial round of questions. He stated that he could see there was something in his hand, but the “image was too dark,” and he “couldn’t distinguish what the item was” (T. 45). He was unsure whether it was a flashlight or maybe a

³ Respondent described an e-cigarette as “an electronic device that is pretty much vapor with a scent to it, depending on the flavor” (T. 43).

key fob since those items look similar, and could not tell what he did with the object when he motioned his left hand up based upon the angle of his body-worn camera. He stated, “It’s just how I am; I just have something in my hand” (T. 58).

Respondent’s body-worn camera shows that Complainant 2 was placed in the back seat on the passenger side of the RMP. It appears that the window may be open as Police Officer Anton speaks with her (CCRB Ex. 1 at 02:27-02:45). When Police Officer Anton speaks with her again approximately five minutes later, he opens the rear passenger side door and the window appears to be rolled up; the front passenger side window is open (*Id.* at 07:26-07:42). Respondent is holding a small black object in his left hand while he stands at the front passenger side of the RMP with the door open (*Id.* at 09:35-09:41). The body-worn camera video does not show that Complainant 2 complained in the moment that Respondent was smoking from an e-cigarette.

After charges were served on Respondent, and in preparation for trial, he received Police Officer Anton’s body-worn camera recording and had an opportunity to review it. He testified that it was not shown to him during his CCRB interview to refresh his recollection of the incident. He stated that had it been shown to him before being questioned about the incident, he would have told the investigators that he did smoke in the RMP, because it was “clear as day” (T. 48). Indeed, Anton’s body-worn camera does capture Respondent using his e-cigarette while they are driving back to the stationhouse (CCRB Ex. 2 at 02:24-02:37, 03:05-03:13).

Specification 1: Discourtesy

I find that CCRB has failed to meet their burden of proof by a preponderance of the credible, relevant evidence that Respondent was discourteous to Complainant 2 when he smoked his e-cigarette while in the RMP with her.

Discourtesy “may include foul language, acting in a rude or unprofessional manner (such as demeanor or tone), and flashing rude or offensive gestures that are unjustified or unwarranted with no legitimate law enforcement purpose” (Disciplinary Matrix, p. 26). An officer is usually found to be discourteous through intentional words or actions taken against another person with whom he is interacting.

It does not appear that Respondent intentionally smoked his e-cigarette to be discourteous toward Complainant 2. Respondent testified that he is a regular e-cigarette user and that he usually smokes it in private, on break, but he conceded that the Patrol Guide does not permit it (T. 44). Based upon the credible, relevant evidence in the record, it appears that this was a habitual act performed by Respondent, which was, in and of itself, unremarkable. While the Tribunal does not condone this conduct, as it is against Department policy, it does not rise to discourtesy under the facts presented.

Accordingly, I find Respondent Not Guilty of Specification 1.

Specification 2: False Statements

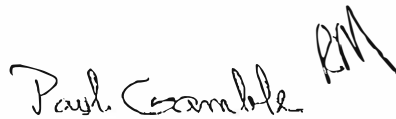
I find that CCRB has failed to meet their burden of proof by a preponderance of the credible, relevant evidence that Respondent made an untruthful statement to the CCRB when he denied smoking an e-cigarette while Complainant 2 was present, even after being confronted with body-worn camera footage.

Respondent testified credibly that he could not positively identify the object in his hand when shown his body-worn camera footage. I have reviewed the video, and it is indeed dark; the absence of sufficient light in the RMP makes it difficult to identify the black object in his hand. CCRB investigators did confront Respondent with his body-worn camera footage, and he told them he was unable to tell if that was his e-cigarette in his hand. The CCRB investigators did

not, however, confront Respondent with his partner's body-worn camera footage during the interview. Respondent testified at trial that, once he had the opportunity to review Police Officer Anton's body-worn camera recording, it was "clear as day" that he was smoking the e-cigarette while they were driving back to the stationhouse

Accordingly, I find Respondent Not Guilty of Specification 2.

Respectfully submitted,



Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

APPROVED


MAR 22 2024
EDWARD A. CABAN
POLICE COMMISSIONER