



POLICE DEPARTMENT

February 12, 2024

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In the Matter of the Charges and Specifications
- against -

Detective Starlette Gillespie
Tax Registry No. 940000
Warrant Section

Case No.
2022-27496

Detective Michael Parks
Tax Registry No. 928934
Warrant Section

Case No.
2022-27498
----- X

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

Before: Honorable Anne E. Stone
Assistant Deputy Commissioner Trials

APPEARANCES:

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

For Respondents: Marissa Gillespie, Esq.
Karasyk & Moschella, LLP
233 Broadway, Suite 2340
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To:
HONORABLE EDWARD A. CABAN
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2022-27496

1. Detective Starlette Gillespie, on or about August 3, 2021, at approximately 0645 hours, while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] [REDACTED] abused her authority as a member of the New York City Police Department, in that she entered [REDACTED] without sufficient legal authority.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

2. Detective Starlette Gillespie, on or about August 3, 2021, at approximately 0645 hours, while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] [REDACTED] was discourteous, in that she stated in sum and substance, "The fuck is wrong with you," "Shut the fuck up and stop talking to me," "Fucking shit, man, on Facebook beating a girl's ass," and "What the fuck" to Eddie Miller without police necessity. (*As amended*)

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

P.G. 200-02

MISSION, VISION &
VALUES OF THE NYPD

Disciplinary Case No. 2022-27498

1. Detective Michael Parks, on or about August 3, 2021, at approximately 0645 hours, while assigned to the Warrant Section and on duty, in the vicinity of [REDACTED] [REDACTED] abused his authority as a member of the New York City Police Department, in that he entered [REDACTED] without sufficient legal authority.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on December 5 and December 14, 2023. Respondents Gillespie and Parks, through their counsel, each entered a plea of Not Guilty to the charged misconduct. CCRB-APU called Sergeant Richard Sagistano and Eddie Felton as witnesses. Respondents testified on their own behalves. A stenographic

transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, I find Respondent Parks Not Guilty, and I find Respondent Gillespie Not Guilty of Specification 1 and Guilty of Specification 2. I recommend a forfeiture of three (3) vacation days for Respondent Gillespie.

ANALYSIS

This case arose out of a CCRB complaint made by Eddie Felton who alleged that Respondents entered his mother's apartment without legal authority and that, during the encounter, Respondent Gillespie was discourteous. The following is a summary of facts that are not in dispute. On August 3, 2021, Respondents Gillespie and Parks were working as detectives in Brooklyn North Warrant Squad performing a 0427x1300 tour of duty. Sergeant Richard Sagistano tasked Respondent Gillespie with the investigation of a "probable cause" I-Card that had been issued in regards to a domestic assault allegedly committed by Mr. Felton's son, Eddie Miller.¹ In the course of conducting searches of NYPD databases, Respondent Gillespie ascertained that, in previous police interactions, Mr. Miller had listed [REDACTED] in Brooklyn as his home address. When further researching that address, Respondent Gillespie found an active bench warrant dated 2008 for [REDACTED] Person A. Respondents, along with Sergeant Sagistano and Detective (then Police Officer) William Dawson, visited the home of Mr. Miller's accuser, who indicated that he was at the [REDACTED] apartment. The officers went there intending to arrest Mr. Miller. (Tr. 26-30, 49, 95-103, 148-51)

Once there, Respondent Gillespie, with Respondent Parks standing beside her, knocked on the door, which was eventually opened. (Tr. 30, 103, 151) Mr. Felton and his son were both

¹ In the course of his testimony, Mr. Felton confirmed that his son is now deceased.

inside. Exactly who opened the door, and what happened after that is disputed by the parties. However, there is no dispute that while Mr. Miller was standing at the door to the apartment, Respondent Gillespie informed Mr. Miller that he was going to be arrested, and that he appeared willing to go with the officers. (Tr. 43, 81-82, 107-08, 152-53) It is also uncontested that Mr. Miller was arrested, Mr. Felton was placed in handcuffs, and that the officers entered the apartment without consent. While inside, the officers did not conduct a search of the apartment.

A short time later Mr. Felton was released. As Mr. Miller was being led out of the apartment, Respondent Gillespie began yelling at him, stating in sum and substance: “The fuck is wrong with you,” “Shut the fuck up and stop talking to me,” “Fucking shit, man, on Facebook beating a girl’s ass,” and “What the fuck?” Mr. Felton’s wife recorded some of the incident with her cell-phone camera. This video was later provided to CCRB. (CCRB Ex. 1; Tr. 120-22)

Sergeant Richard Sagistano² was called to the stand by CCRB-APU. He recounted the events of August 3, 2021 in a professional and straightforward manner. Sergeant Sagistano recalled that he and Detective Dawson were standing behind Respondents at the door of Apartment [REDACTED] when Respondent Gillespie knocked (Tr. 41). He testified that Mr. Miller opened the door. He recognized Mr. Miller from his photo. Respondent Gillespie took the lead in speaking to Mr. Miller. She asked Mr. Miller who else was present in the residence, and informed him about the active bench warrant for [REDACTED] Person A [REDACTED] Mr. Miller stated that [REDACTED] Person A [REDACTED] was his cousin, but that she was not there. (Tr. 30) Sergeant Sagistano recalled Respondent Gillespie explaining to Mr. Miller that they also had an I-Card for him, and asking if they could come in. (Tr. 31) He described Mr. Miller as calm during the initial conversation with

² Sergeant Sagistano accepted a Schedule B Command Discipline in regard to misconduct substantiated by CCRB relating to this incident (Tr. 49)

Respondent Gillespie, and that after being told about the I-Card, he was willing to accompany the officers. (Tr. 42-43)

At this point, according to Sergeant Sagistano, Mr. Felton came to the door and asked to see the bench warrant, which Respondent Parks showed him on his phone. (Tr. 32) He described Mr. Felton's demeanor when he came to the door as "rather combative and angry," and recalled thinking that Mr. Felton was intoxicated based on his behavior and the smell of alcohol emanating from him. Shortly after Mr. Felton's appearance at the door, things "got a little hectic." Although Mr. Felton was "agitated," Sergeant Sagistano could not recall Mr. Felton pulling his son into the apartment. (Tr. 42, 44) Sergeant Sagistano recounted that the officers entered the apartment to take Mr. Miller into custody and Mr. Felton interfered, resulting in both men being handcuffed. He testified that he did not recall if Mr. Felton or his son gave consent for Respondents to enter the apartment, nor did he recall Respondents asking for consent to do so. (Tr. 32-33, 45)

Sergeant Sagistano testified that once inside the apartment he did not see any interaction between Respondent Gillespie and Mr. Felton because he and Detective Dawson were dealing with Mr. Miller who had "became a little more resistant." (Tr. 33, 42-45) Sergeant Sagistano also stated that Detective Dawson lost his shield in the "melee," which was thrown out of the apartment after one of the officers knocked on the door to retrieve it. (Tr. 46-47) He denied seeing Mr. Miller or indeed any part of his body cross the threshold of the apartment into the hallway prior to him being brought out by the officers. (Tr. 32, 43)

Finally, he explained that although Mr. Felton "did interfere," Sergeant Sagistano decided not to go forward with the arrest of Mr. Felton for Obstructing Governmental Administration stating, "...he was elderly, and we didn't feel like it was necessary. Things calmed down, we

were able to address the situation that we initially went there for and just decided not to". (Tr. 45-48)

Mr. Felton appeared remotely to testify in this matter. He recalled being in the apartment in the early hours of August 3, 2021, caring for his ailing mother who was the leaseholder of the residence. Mr. Felton explained that he and his immediate family did not live in that apartment, but were often there providing homecare services for his mother. (Tr. 66) Mr. Felton heard a knock at the door, but did not realize that the individuals knocking were police officers. His testimony regarding who answered the door was conflicting. At first he stated that he answered the door, then at another point he recalled that "[My son] opened the door and I was coming to the door, at the same time, [my son] walked away from the door." (Tr. 63, 67)

During cross-examination, Mr. Felton stated that his son was going to answer the door and that he prevented Mr. Miller from doing so by opening it himself. (Tr. 70-71) He professed to have seen Respondent Gillespie place her foot "through the doorway." (Tr. 67, 90) Mr. Felton described inquiring as to why the officers were there. He repeatedly asked them, "Do you have a warrant for this location to come to talk to him?" (Tr. 68) He did not recall being shown a warrant or any other paperwork, but admitted he would have been unable to read anything shown to him because he did not have his glasses on. Mr. Felton also maintained that he refused to allow the officers into the apartment. (Tr. 66-68)

Mr. Felton denied being informed by Respondent Gillespie about a bench warrant for Person A and further denied having a relative or knowing anyone by that name. (Tr. 68) However, on cross-examination, after affirming he remembered that he was interviewed by CCRB, he stated that he did not recall telling them that Person A was his niece. (Tr. 78) Mr. Felton stated that no part of his son's body left the apartment until the officers took him out

in handcuffs. (Tr. 69) Mr. Felton confirmed that neither he nor his son gave consent for the officers to enter the apartment. (Tr. 69) He professed that he "did want [his son] to go" with the police, continuing, "Why they didn't wait for Eddie to get out the door? That's what he was getting ready to do in the first place. Before they came in the house, he was getting ready to go out the door." (Tr. 81-82) On cross-examination, Mr. Felton reiterated his son's willingness to go with the police in the following exchange:

Q: Because Eddie had no problem with going with the police that day, correct?

A: Exactly.

Q: He was willing to go, correct?

A: Exactly.

Q: He didn't give the cops any problems that day, correct.

A: No, he didn't. (Tr.82)

Respondent Gillespie testified that she has been with Brooklyn North Warrant Squad for 11 years. She described conducting the background investigation, including computer searches and visiting the woman who was the alleged victim of the domestic violence, and ascertaining the probable location of Mr. Felton's son. Respondent Gillespie recalled approaching the door to Apartment 12E along with Respondent Parks, Sergeant Sagistano and Detective Dawson. Respondent Gillespie had paper copies of the bench warrant for Person A as well as the I-Card for Mr. Miller in her hand. She testified that she knocked on the door and identified herself as a police officer. She said Mr. Miller, whom she recognized from her investigation, answered the door. (Tr. 102-04)

Respondent Gillespie detailed that she introduced herself and asked Mr. Miller the "last names of the people who lived in the apartment. He did give off a couple of last names, and then I stated to him -- I asked him if he knew who Person A was, and he goes, 'That's my cousin.'" Respondent Gillespie asked if Person A was present and Mr. Miller replied, "No, but I'll get my dad." (Tr. 104) Respondent Gillespie explained that although the purpose of the

visit was to arrest Mr. Miller, she utilized a tactic that she had used before, asking him questions about the unrelated bench warrant. The tactic allows her to "...gauge and understand the person's demeanor...when you talk to someone and have a conversation with someone, they tend to lead you to believe that they're cooperative, so once you get a little cooperation out of them, then you can typically use your skill to now interject, let them know, hey, listen, by the way, I'm also here for this, and that's basically why I led with the [Person A] warrant." (Tr. 104-05) When asked about the demeanor of Mr. Miller during this conversation, Respondent Gillespie answered, "He was very cooperative, he was calm, he was cool and collected, very forthcoming." (Tr.105)

According to Respondent Gillespie, "within a minute or so," Mr. Felton came to the door. (Tr. 105-06) She explained to him why they were there, and testified that she stated, "...then said, 'well, by the way, we also have an active I-Card for your son,' and [his son] goes (makes a sighing sound) 'alright,' and . . . [Mr. Miller] says, 'okay,' and I'm like, 'oh, so you know what this is about', he [said] 'yeah, I know'... And I said, 'you know, you have to come with us, we're gonna go down to the precinct', he's like, 'alright.' And he, kind of like, proceeds to step out of the door." (Tr. 107-08) She described taking out her handcuffs during this conversation with Mr. Miller because he was under arrest, recalling, "I know his hand, his arm, half his arm was out because I grabbed it to cuff it. And at that point in time, [Mr. Felton] said, 'my son is not going any fucking where,' and he yanked him back inside the apartment." (Tr. 108) Respondent Gillespie denied putting her foot in the door, stating that she did not recall doing so, but "there was no need to because [Mr. Miller] stood against the door to where the door wouldn't close anyway because he was stopping it from closing." (Tr. 116, 132)

Respondent Parks described Respondent Gillespie knocking on the door of the apartment and Mr. Miller answering it. He testified that Mr. Felton came to the door about “two minutes” later. (Tr. 153) Respondent Parks recalled Respondent Gillespie talking to Mr. Miller, although he acknowledged not hearing the whole conversation. Respondent Parks stated, “[f]rom then, he made the gesture to leave the apartment.” (Tr. 151) Respondent Parks explained that Mr. Miller “proceeded to attempt to walk out, [and] like most people, they lead with one arm as they’re going out.” (Tr. 152) He recounted that Mr. Miller’s arm and part of his upper torso and shoulder came out “beyond the frame of the door,” and that Mr. Felton “pulled him back into the apartment.” (Tr. 152-54)

Respondent Gillespie explained that after his father pulled Mr. Miller back inside, she and the other officers “unanimously” decided, through “gestures” that Mr. Miller had crossed the threshold and they were going inside to arrest him. (Tr. 110) She stated that once inside, Mr. Felton put his hands in a U-shape on her throat and tried to push her out of the apartment. Respondent Parks observed Mr. Felton push Respondent Gillespie by her neck forcefully while he tried to restrain him. She testified that Sergeant Sagistano and Detective Dawson had also stepped inside to deal with Mr. Miller while she and Respondent Parks were trying to get Mr. Felton to stop interfering. (Tr. 111, 154) She testified that Mr. Felton was “screaming, yelling, cursing, and he definitely reeked of alcoholic beverages;” Respondent Parks also believed Mr. Felton was intoxicated because he smelled of alcohol (Tr. 112, 156) He was placed in handcuffs, and his wife emerged from somewhere in the apartment, complaining of chest pains. Respondent Gillespie said that Sergeant Sagistano made the decision not to arrest Mr. Felton for Obstructing Governmental Administration out of concerns for his wife’s health, and the handcuffs were removed. (Tr. 114-15)

Disciplinary Case No. 2022-27496: Respondent Gillespie
Disciplinary Case No. 2022-27498: Respondent Parks

Specification 1: Unlawful Entry

Respondent Gillespie and Respondent Parks each stand charged with entering [REDACTED] [REDACTED] in Brooklyn without sufficient legal authority to do so. It is undisputed that Respondents had probable cause to arrest Mr. Miller. However, in the course of their testimony, each Respondent acknowledged entering the residence without an arrest warrant or consent. The issues before the Tribunal are whether, prior to being placed in handcuffs, Mr. Miller crossed the threshold of the apartment into the hallway; and whether Respondents then had sufficient legal authority to enter the residence in order to effect his arrest. I find that, under these particular circumstances, Respondents had the authority to do so.

The order of events is critical in determining whether Respondents had the legal authority to enter the apartment. This Tribunal credits the testimony of Respondents and Sergeant Sagistano, who each testified that Mr. Miller answered the door after Respondent Gillespie knocked. They all agreed that shortly thereafter, Mr. Felton came to the door. I further credit Respondent Gillespie's account that Mr. Miller was standing in the doorway of the apartment when she informed him that he was under arrest and that she pulled out her handcuffs. Indeed, Respondent Parks and Sergeant Sagistano confirmed that Mr. Miller was speaking to Respondent Gillespie in the doorway before Mr. Felton got there. Furthermore, all four witnesses in this case testified that Mr. Miller was cooperative with the officers and seemed willing to accompany them voluntarily.

More significantly, I credit Respondents' testimony that Mr. Miller partially crossed the threshold of the apartment as they spoke. Specifically, they each recounted that Mr. Miller's arm and part of his torso passed beyond the frame of the door before Mr. Felton pulled him back

inside. This Tribunal notes that Respondents' testimony regarding this critical fact was measured and without embellishment. For example, they did not contend that Mr. Miller stood in the public hallway. Instead, their detailed and specific testimony that Mr. Miller only partially breached the threshold of the residence added credence to their account.

Respondents' assertion that Mr. Miller was pulled back into the apartment by his father was also credible. Mr. Felton admitted that he inquired about a warrant. Given his concerns, it is consistent with common sense and experience that he would pull his son back inside the apartment precisely because Mr. Miller had started to voluntarily walk out.

This is not a situation where Respondents immediately rushed inside the apartment, as soon as he opened the door, to place Mr. Miller in handcuffs. Though they intended from the start to arrest him, they remained outside the apartment and continued to engage him verbally. Not until Mr. Miller leaned across the threshold did Respondent Gillespie reach out to grab him, and only when his father pulled Mr. Miller back did Respondents pursue him inside to effect the arrest. This restraint suggests an awareness of the law and procedures in this area, and belies the notion that Respondents simply pushed their way in.³

It is well-established law that the threshold of a private residence is considered a public place for the purposes of Fourth Amendment analysis. "What a person knowingly exposes to the public, even in his own house or office, is not a subject of Fourth Amendment protection...[H]e was not merely visible to the public but was as exposed to public view, speech, hearing, and

³ In making this credibility finding I note Sergeant Sagistano testified that he did not see Mr. Miller's body exit the door; however, he was standing behind Respondents and acknowledged that they were best positioned to view Mr. Miller. (Tr. 40-41) In addition, although Mr. Felton denied that his son crossed the threshold until the officers took him out, his testimony was inconsistent and at times confused, and therefore was of little probative value. Unfortunately, the Tribunal was unable to hear from Mr. Miller, who passed away prior to the date of this hearing and no hearsay statement was presented.

touch as if [h]e had been standing completely outside [his] house.” *See United States v. Santana*, 427 U.S. 38 (1976)

When Mr. Miller’s arm and torso crossed the doorway of the apartment he “had voluntarily emerged, at least in part, from his home. By doing so, he surrendered the enhanced constitutional protection of the home.” *People v. Gonzales*, 111 A.D.3d 147, 152 (2013) Once that occurred Mr. Felton could not halt the arrest by pulling his son back inside. A person cannot “defeat an arrest which has been set into motion in a public place... by the expedient of escaping into a private place.” *Santana*, 427 U.S. at 43. Akin to the holding in *Santana*, where officers followed the defendant through an open door into her home, Respondents were justified in following Mr. Felton and his son a very short distance into the apartment in order to complete taking Mr. Miller into custody and their actions were consistent with the law.

For the forgoing reasons I find both Respondent Gillespie and Respondent Parks Not Guilty of Specification 1.

Disciplinary Case No. 2022-27496: Respondent Gillespie

Specification 2: Discourtesy

CCRB entered into evidence cell phone video, recorded by Mr. Felton’s wife. (CCRB Ex. 1) In that video, Respondent Gillespie is heard at various points repeatedly yelling, in sum and substance: “The fuck is wrong with you,” “Shut the fuck up and stop talking to me,” “Fucking shit, man, on Facebook beating a girl’s ass,” and “What the fuck?” She yelled this while Mr. Miller was standing by the door with other officers, in handcuffs. Another male voice can be heard from somewhere off the camera yelling as well. Respondent Gillespie and another officer are in the narrow hallway with everyone trying to exit the apartment. (CCRB Ex. 1 at 00:00-01:40)

Respondent Gillespie admitted to using profanity aimed at Mr. Miller at the end of the interaction. She admitted her anger that the situation had escalated so quickly, in her opinion due to the actions of Mr. Felton and his son. Respondent Gillespie also described having a continuing underlying fear for her team's safety since they were unable to check who else was in the apartment. (Tr. 121) Added to this was her concern for Mr. Felton's wife, who looked sick, and "about to pass out and possibly have a heart attack." (Tr. 122)

As a preliminary matter, the statements made by Respondent Gillespie, in particular the tone and manner in which they were made, were discourteous. Patrol Guide section 200-02 requires officers to, "[v]alue human life, respect the dignity of each individual and render our services with courtesy and civility." Counsel for Respondent Gillespie made the argument that the profanity was not misconduct because of its use in the course of a high-stress situation. While it is true that this Tribunal has found officers not guilty of discourtesy when profane language was used in the context of a dynamic situation over which the officer is attempting to gain control, those were not the circumstances in the present matter.

As is clear both from her testimony, and the recording of the interaction, Respondent Gillespie made the statements after Mr. Miller was under arrest and they served no legitimate purpose. They were gratuitous and made out of frustration for both his and Mr. Felton's volatile behavior when Mr. Miller was taken into custody. For the forgoing reasons I find Respondent Gillespie Guilty of discourtesy as set forth in Specification 2.

PENALTY

In order to determine an appropriate penalty for Respondent Gillespie, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the

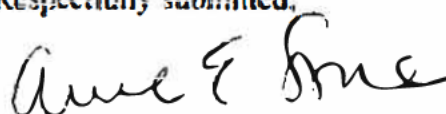
record. Respondent Gillespie's employment history was examined. *See* 38 RCNY § 15-07. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent Gillespie, who was appointed to the Department on January 9, 2006 has been found guilty of speaking discourteously to Eddie Miller during his arrest on August 3, 2021. The presumptive penalty for this misconduct is five (5) days; the mitigated penalty is one (1) day. The CCRB recommends forfeiture of five (5) vacation days for this specification.

The events that occurred in the early morning hours of August 3, 2021 escalated, in large part, because of the actions of Mr. Felton. Mr. Miller understood immediately that the police had probable cause to arrest him and was voluntarily submitting to the arrest. After pulling his son into the apartment, Mr. Felton instigated a physical altercation with Respondent Gillespie, which included him trying to push her out of the door by her neck.

I agree with Respondent Gillespie's counsel that this situation was intense, and that our officers are indeed human. Respondent Gillespie was understandably upset and angry about the way events transpired. However, even when facing challenging situations, NYPD officers are held to a higher standard because of their position of authority. Here, Respondent Gillespie made not just one, but multiple profane and discourteous comments in quick succession. She should have, in the view of the Tribunal, exercised more restraint with her words. In determining an appropriate penalty, all of the circumstances surrounding Respondent Gillespie's discourtesy must be taken into consideration. I believe that a penalty of three (3) vacation days strikes the correct balance between the inappropriate nature of the misconduct and the challenging events that preceded it.

Respectfully submitted,



Anne E. Stone

Assistant Deputy Commissioner Trials

APPROVED



EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
DETECTIVE STARLETTE GILLESPIE
TAX REGISTRY NO. 940000
DISCIPLINARY CASE NO. 2022-27496

Respondent was appointed to the Department on January 9, 2006. On her three most recent annual performance evaluations, she received 4.0 ratings of "Highly Competent" in 2021, 2022 and 2023.

In 2015, Respondent forfeited two (2) vacation days for frisking an individual without sufficient legal authority.

For your consideration.

Anne E. Stone
Assistant Deputy Commissioner Trials