



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

September 15, 2023

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Dylan Mattern**
Tax Registry No. 964150
81 Precinct
Disciplinary Case No. 2019-21545

Police Officer Jimmy Romero
Tax Registry No. 962062
73 Precinct, Detective Squad
Disciplinary Case No. 2019-21543

Police Officer Jeanene Reyes
Tax Registry No. 963634
105 Precinct
Disciplinary Case No. 2019-21540

The above named members of the service appeared before Assistant Deputy Commissioner Jeff S. Adler on November 15, 2022, charged with the following:

DISCIPLINARY CASE NO. 2019-21545

1. Police Officer Dylan Mattern, on or about October 21, 2018, at approximately 1625 hours, while assigned to 081 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, abused his authority as a member of the New York City Police Department, in that he did not obtain medical treatment for an individual without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

P.G. 202-01, Page 1, Paragraph 8

POLICE OFFICER

2. Police Officer Dylan Mattern, on or about October 21, 2018, at approximately 1625 hours, while assigned to 081 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, wrongfully used force, in that he used a chokehold against Person A

P.G. 221-01, Page 3, Prohibition 2

FORCE GUIDELINES

POLICE OFFICER DYLAN MATTERN
POLICE OFFICER JIMMY ROMERO
POLICE OFFICER JEANENE REYES

DISCIPLINARY CASE NO. 2019-21545
DISCIPLINARY CASE NO. 2019-21543
DISCIPLINARY CASE NO. 2019-21540

DISCIPLINARY CASE NO. 2019-21543

1. Police Officer Jimmy Romero, on or about October 21, 2018, at approximately 1625 hours, while assigned to 081 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, abused his authority as a member of the New York City Police Department, in that he did not obtain medical treatment for an individual without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

P.G. 202-01, Page 1, Paragraph 8

POLICE OFFICER

2. Police Officer Jimmy Romero, on or about October 21, 2018, at approximately 1625 hours, while assigned to 081 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, wrongfully used force, in that he kneeled on the chest of [Person A] restricting his breathing without police necessity.

P.G. 221-01, Page 3, Prohibition 2

FORCE GUIDELINES

DISCIPLINARY CASE NO. 2019-21540

1. Police Officer Jeanene Reyes (then known as Jeanene Martinez), on or about October 21, 2018, at approximately 1625 hours, while assigned to 081 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, wrongfully used force, in that she struck [Person A] with a Taser without police necessity. (*As amended*)

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

USE OF FORCE

2. Police Officer Jeanene Reyes (then known as Jeanene Martinez), on or about October 21, 2018, at approximately 1625 hours, while assigned to 081 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, wrongfully used force, in that she attempted to discharge a Taser at [Person A] without police necessity. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

POLICE OFFICER DYLAN MATTERN
POLICE OFFICER JIMMY ROMERO
POLICE OFFICER JEANENE REYES

DISCIPLINARY CASE NO. 2019-21545
DISCIPLINARY CASE NO. 2019-21543
DISCIPLINARY CASE NO. 2019-21540

In a Memorandum dated December 22, 2022, Assistant Deputy Commissioner Jeff S. Adler found Police Officer Dylan Mattern guilty of Specification No. 1 and not guilty of Specification No. 2 in Disciplinary Case No. 2019-21545; Police Officer Jimmy Romero was found guilty of Specification No. 1 and not guilty of Specification No. 2 in Disciplinary Case No. 2019-21543; and Police Officer Jeanene Reyes was found guilty of Specification No. 1 and not guilty of Specification No. 2 in Disciplinary Case No. 2019-21540.

I have reviewed and considered the entire record in this matter, and approve of Assistant Deputy Commissioner Adler's findings and recommended penalties for Police Officer Mattern and Police Officer Romero, however, while I approve the findings for Police Officer Reyes, I disapprove the recommended penalty. I have determined that based on the totality of the circumstances, a higher penalty is warranted for Police Officer Reyes in regard to Specification No. 1. Police Officer Reyes' wrongful use of her Taser as an impact weapon warrants a higher penalty. Therefore, it is directed that Police Officer Reyes forfeit ten (10) vacation days.



Edward A. Caban
Police Commissioner



POLICE DEPARTMENT

December 22, 2022

-----X
In the Matter of the Charges and Specifications :
- against - :

Police Officer Dylan Mattern :
Tax Registry No. 964150 :
81 Precinct :

Case No. 2019-21545

Police Officer Jimmy Romero :
Tax Registry No. 962062 :
73 Precinct, Detective Squad :

Case No. 2019-21543

Police Officer Jeanene Reyes :
Tax Registry No. 963634 :
105 Precinct :

Case No. 2019-21540

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

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:

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To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2019-21545

1. Police Officer Dylan Mattern, on or about October 21, 2018, at approximately 1625 hours, while assigned to 81 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, abused his authority as a member of the New York City Police Department, in that he did not obtain medical treatment for an individual without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

P.G. 202-21, Page 1, Paragraph 8

POLICE OFFICER

2. Police Officer Dylan Mattern, on or about October 21, 2018, at approximately 1625 hours, while assigned to 81 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, wrongfully used force, in that he used a chokehold against Person A

P.G. 221-01, Page 3, Prohibition 2

FORCE GUIDELINES

Disciplinary Case No. 2019-21543

1. Police Officer Jimmy Romero, on or about October 21, 2018, at approximately 1625 hours, while assigned to 81 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, abused his authority as a member of the New York City Police Department, in that he did not obtain medical treatment for an individual without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

P.G. 202-01, Page 1, Paragraph 8

POLICE OFFICER

2. Police Officer Jimmy Romero, on or about October 21, 2018, at approximately 1625 hours, while assigned to 81 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, wrongfully used force, in that he kneeled on the chest of Person A restricting his breathing without police necessity.

P.G. 221-01, Page 2, Prohibition 11

FORCE GUIDELINES

Disciplinary Case No. 2019-21540

1. Police Officer Jeanene Reyes (then known as Jeanene Martinez), on or about October 21, 2018, at approximately 1625 hours, while assigned to the 81 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, wrongfully used force, in that she struck Person A with a Taser without police necessity. (*As amended*)

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

USE OF FORCE

2. Police Officer Jeanene Reyes (then known as Jeanene Martinez), on or about October 21, 2018, at approximately 1625 hours, while assigned to the 81 PCT and on duty, in the vicinity of the intersection of Gates Avenue and Marcus Garvey Boulevard, Kings County, wrongfully used force, in that she attempted to discharge a Taser at Person A without police necessity. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on November 15, 2022. Respondents, through their counsel, entered pleas of Not Guilty to the subject charges. The CCRB entered into evidence video footage of the incident, and the hearsay statement of the arrestee. 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, the Tribunal finds as follows:

Respondent Mattern:

Specification 1 (did not obtain medical treatment): Guilty

Specification 2 (chokehold): Not Guilty

Respondent Romero:

Specification 1 (did not obtain medical treatment): Guilty

Specification 2 (kneeled on chest): Not Guilty

Respondent Reyes:

Specification 1 (struck with Taser): Guilty

Specification 2 (attempted to discharge Taser): Not Guilty

Recommended penalty: Five (5) vacation days for each Respondent.

ANALYSIS

This case centers around the arrest of an individual (“the arrestee”) at approximately 1630 hours on October 21, 2018 in Brooklyn, NY. The validity of the arrest, itself, is not challenged. Rather, it is alleged that each Respondent used excessive force as the arrestee was being placed in handcuffs. Two of the Respondents are also charged with failing to obtain medical treatment for another individual, who allegedly had been involved in a motor vehicle accident just prior to the interaction with the arrestee.

The arrestee did not appear to testify. Instead, the CCRB offered into evidence an audio recording of a video interview they conducted with the arrestee while he was incarcerated on November 15, 2018. It is well-settled that hearsay evidence is admissible in administrative proceedings, and may form the sole basis for a finding of fact. The hearsay, however, must be carefully evaluated to determine whether it is sufficiently reliable. It is preferable to have testimony from a live witness, where opposing counsel has the opportunity to cross examine, and the court can observe the witness’s demeanor. In the absence of live testimony from the arrestee here, this tribunal carefully considered his prior statement in conjunction with the other evidence presented.

In the interview, the arrestee stated he was in the vicinity of Gates and Marcus Garvey Boulevard when a woman driving a car accidentally struck a boy on a bicycle. The boy walked

off into an apartment building as if he were okay, and the driver left the scene. Concerned that the boy might have been injured, an individual who had been talking with the arrestee crossed the street and approached nearby police officers to complain that they were not investigating the matter. An argument between the individual and the officers ensued, and the arrestee walked over to try to calm the situation. As a crowd gathered, a female officer told them to leave. The arrestee stated that “like 15 or 20 or 30 police officers” were on him, and he “was taken down real fast.” The officers were pressing him hard on the ground on his left side, trying to place him in handcuffs, but he resisted. He felt a knee pressed on his head. During the struggle, he bit the female officer on her leg. At one point during the interview, the arrestee asked his questioners to review the camera footage, “because I can’t remember everything that happened.” (CCRB Ex. 1A at 12-16, 19, 21, 26-27, 39-40)

The arrestee stated that every time the officers brought him to the ground, his breathing stopped from the officers “pressing on my chest and everything.” He did not, however, remember any officer wrapping their arm around his neck, nor did he recall a white officer ever touching his neck. The arrestee also was asked if an officer attempted to use a Taser against him; he answered that somebody tried, but no one actually used a Taser on him, and he did not remember being struck in the head. The arrestee added that when he saw the Taser, he attempted to take it away. As a result of the incident, the arrestee sustained injuries leaving marks above and below his left eye. (CCRB Ex. 1A at 6-9, 31-38, 41, 44-45).

Video footage taken with the cell phones of two individuals at the scene captured the interaction between the arrestee and the police officers. That footage will be discussed in more detail below. The force charges against each Respondent will be considered separately, followed by the charge of failing to obtain medical treatment.

Allegation of Chokehold -- Respondent Mattern

Specification 2 against Respondent Mattern charges him with using a chokehold against the arrestee. Section 221-01 of the Patrol Guide states that members of the service shall not use a chokehold. "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."

In his hearsay statement, the arrestee admitted that he had difficulty recalling the precise details of the struggle, and encouraged his questioners to review the video footage. He acknowledged that he did not remember any officer wrapping their arm around his neck, and did not recall a white officer even touching his neck.

Mattern, meanwhile, testified in a detailed, credible manner about the incident. He stated that he and Respondent Romero were talking with several individuals at the scene, who were claiming that there had just been a motor vehicle accident nearby. The crowd started to grow and became more hostile, cursing at the officers for their lack of response to the accident. Respondent Reyes and Police Officer Anthony Medina arrived to assist. Mattern testified that he observed Medina confront the arrestee, and the arrestee tackled Medina to the ground. Mattern tried to pull the arrestee off of his colleague, but the arrestee was able to stand back up. Mattern grabbed the arrestee's leg and brought him to the ground, but the officers were having a difficult time gaining control of him. In order to handcuff the arrestee, Mattern attempted to roll him over into a face-down position, by using his left hand to grab the arrestee's far shoulder by his hoodie, but Mattern was bumped from behind by one of his colleagues. The arrestee was again able to stand up, before he was brought back to the ground and finally placed in handcuffs. Mattern denied ever choking the arrestee during the altercation, insisting that he did not place his arm

across the arrestee's neck, and that there was space between his arm and the bottom of the arrestee's chin. (Tr. 83-90, 98-110)

Video footage (CCRB Ex. 2) confirms Mattern's description of events. The footage shows the arrestee violently struggling with the officers, as a hostile crowd screams and curses at the police. At about the 0:36 mark of the slowed-down version of the video (CCRB Ex. 2A), Mattern grabs the arrestee's left shoulder with his left hand, with his thumb inside the arrestee's armpit. It does not appear that Mattern makes any contact with the arrestee's neck, or is exerting pressure on the neck or choking him in any way. At 0:56, another officer bumps into Mattern, and the arrestee turns to the right, with the side of his face to the ground. Mattern's hand moves toward the side of the arrestee's face, near his left ear. Again, Mattern does not appear to be choking the arrestee in any way.

The CCRB has the burden of proving, by a preponderance of the credible evidence, that Mattern used a chokehold on the arrestee. After listening carefully to the credible testimony of Mattern, in conjunction with the video footage, I am not persuaded that they have met that burden. Mattern reached across the arrestee and grabbed his sweatshirt in the shoulder area; there is no indication that he made contact or exerted pressure on the arrestee's throat or windpipe in a way that might have prevented or hindered his breathing, or reduced his intake of air. The record has failed to establish that Mattern wrongfully used force against the arrestee by employing a chokehold. Accordingly, I find Mattern not guilty of Specification 2.

Allegation of Kneeling on Chest – Respondent Romero

Specification 2 against Respondent Romero charges him with wrongfully using force in that he knelt on the chest of the arrestee, restricting his breathing without police necessity. Section 221-02 of the Patrol Guide states that members of service should apply no more than the

reasonable force necessary to gain control. An officer should avoid actions which may result in chest compression, such as kneeling on a subject's chest, thereby reducing the subject's ability to breathe.

In his hearsay statement, the arrestee claimed that each time he was brought to the ground he had trouble breathing from the officers "pressing on my chest and everything," though the physical exertion from fighting multiple officers could have affected his breathing as well. As noted above, he acknowledged that he did not have a clear memory of the specifics of what occurred, and directed his questioners to the video footage instead. Since the arrestee did not appear to testify, there was no opportunity to cross examine him about his role in the altercation, and the details of what occurred while he was on the ground.

Respondent Romero, meanwhile, testified in a logical, credible manner about the incident. He stated that he and his colleagues went to assist Officer Medina after the arrestee grabbed Medina's shoulder and brought him to the ground. There was a struggle for several minutes, as the arrestee was twice able to get back to his feet before he finally was brought back to the ground and handcuffed. Since the arrestee was moving his body, the officer's body weight was shifting around. Romero testified that during the struggle, he kneeled down in order to help gain control and handcuff the arrestee. He insisted that he was not pressing down on the arrestee's chest; rather, Romero's knee was more in the arrestee's stomach area. (Tr. 116-18, 124-26, 130-31)

The video footage of the incident (CCRB Ex. 3) supports Romero's testimony that he did not press his knee into the arrestee's chest. As discussed above, the arrestee can be seen actively resisting and violently struggling with the officers, as a hostile crowd surrounds and curses them. The arrestee is repeatedly shifting his body position as the officers try to gain control. At about

the 0:21 mark of the slowed-down version of the video (CCRB Ex. 3B), Romero appears to place his left kneecap below the right armpit of the arrestee. Romero's shin appears to press diagonally across the arrestee's stomach, with Romero's foot down by the arrestee's waist. At no point can Romero be seen pressing his knee into the arrestee's chest in a way that would restrict his breathing.

The CCRB has the burden of proving, by a preponderance of the credible evidence, that Romero used excessive force in that he kneeled on the arrestee's chest and restricted his breathing without police necessity. After carefully considering the evidence, particularly the video footage, I am not persuaded that the CCRB has met their burden. When Romero kneeled down to try to gain control of the arrestee, who was actively and violently resisting the officers' efforts to place him in handcuffs, his knee appeared, at one point, to rest under the arrestee's armpit. There is no indication that his knee was pressing down into the arrestee's chest and restricting his breathing. Moreover, given the violent nature of the struggle, during which the officers faced a very real risk of harm from the actively aggressive subject, and in light of the constantly shifting body positions, Romero's actions were not excessive. The record has failed to establish that Romero wrongfully used force against the arrestee. Accordingly, I find Romero not guilty of Specification 2.

Allegation of Improper Use of Taser – Respondent Reyes

Respondent Reyes faces two charges in connection with her use of her Taser during the incident. In his hearsay statement, the arrestee stated that somebody tried to use a Taser against him, but confirmed no one actually used one on him, and he did not remember being struck in the head. He acknowledged that when he saw the Taser, he attempted to take it away.

The video footage (CCRB Ex. 3) shows Reyes removing her Taser and pointing it in the arrestee's direction. In the slowed-down version of the video (CCRB Ex. 3A), the arrestee can be seen grabbing Officer Medina in a bear hug and propelling him backward to the ground. Reyes removes her Taser and points it toward the arrestee, but bodies are shifting positions and Medina is between her and the arrestee. At the 0:23 mark, the arrestee grabs the Taser from her hand, but she is able to take it back. As the arrestee is being brought to the ground, Reyes appears to use her Taser as an impact weapon to strike the arrestee on the top of his head several times, causing the green cartridge to fly off. Reyes then appears to place the Taser against the arrestee's neck, but he immediately grabs her arm and the Taser falls to the ground as the struggle continues.

Reyes testified that when the arrestee approached the officers, he said to Reyes, "I'll fuck you up." She then observed the arrestee bear-hug Officer Medina to the ground. Reyes removed her Taser, but did not pull the trigger on it because another officer was in front of her. The arrestee grabbed the Taser from her hand, but she was able to retrieve it. Even after watching the video footage, Reyes testified that she could not recall striking the arrestee in the head with the Taser. She also did not recall trying to drive stun the arrestee in the neck, noting that the Taser was not armed. During the struggle, the arrestee bit Reyes on her left calf, breaking the skin. Reyes described the crowd in the area as loud and "very hostile." (Tr. 45-50, 54-64, 67-72, 75)

Specification 1 alleges that Reyes wrongfully struck the arrestee with her Taser without police necessity, while Specification 2 charges her with attempting to discharge her Taser in the arrestee's neck area without police necessity. Section 221-08 of the Patrol Guide provides guidance on the proper use of a Conducted Electrical Weapon ("CEW"). Use of a CEW is authorized against an individual who is actively resisting or exhibiting active aggression, or to

prevent an individual from physically injuring others actually present. An officer should “avoid discharging at an individual’s head, neck, and chest, if possible.”

Based on the video footage of the incident, and the various accounts of what transpired, I am not persuaded that the record has established, by a preponderance of the credible evidence, that Reyes committed misconduct by attempting to drive stun the arrestee in the neck area. On the one hand, she did appear, from the video, to briefly place her Taser against the arrestee’s neck, before he grabbed her arm and the Taser fell from her hand. The Taser Data Sheet (CCRB Ex. 5) appears to show that her Taser was armed at some point during the incident. There is no indication, though, that she actually discharged her Taser into the arrestee’s neck.

Although the Guidelines caution against discharging a Taser into an individual’s neck when possible, in this specific situation Reyes’s attempted use of her Taser was not unreasonable. Seconds earlier, in the midst of the altercation, the arrestee had ripped the Taser from Reyes’s hand. Reyes was able to regain control of her Taser, but the arrestee, who earlier had threatened to “fuck up” Reyes, continued to fight violently with the officers who were attempting to effect a lawful arrest. The body positions of those involved were constantly shifting. At some point during the altercation, the arrestee bit Reyes’s leg, and at another point he can be seen biting down in the shoulder area of one of the other officers. Despite the officers’ combined efforts to gain control, the arrestee was twice able to get back on his feet and continue the struggle, forcing the officers to take him back to the ground in order to gain control.

Taking into account the totality of these specific circumstances, the credible evidence has failed to prove that Reyes acted unreasonably by placing the Taser to the arrestee’s neck area. Accordingly, I find Reyes not guilty of Specification 2.

However, the video footage of the incident did establish that Reyes wrongfully used her Taser as an impact weapon to strike the arrestee on the top of his head multiple times. This tribunal is mindful that at the time she did so, the officers were involved in a violent struggle with an actively resisting subject, while a hostile crowd screamed insults and threats at the officers. However, even in dangerous circumstances such as these, an officer is not permitted to resort to any means necessary to subdue a subject. The primary duty of all MOS is to protect human life, including the lives of individuals being placed in police custody. An officer must use only the reasonable force necessary to gain control and custody of the subject. Here, Reyes was not justified in repeatedly striking the arrestee in the head with her Taser in the manner that she did. She used the Taser, a device designed to be employed in a specific way, as an impact weapon against the arrestee, which was not reasonable under the circumstances presented here. As such, I find Reyes guilty of Specification 1.

Allegation of Failure to Obtain Aid – Respondents Mattern and Romero

Respondents Mattern and Romero also face charges for failing to obtain medical aid for a child who had been struck by a motor vehicle. Specifically, it is alleged that immediately prior to the physical altercation discussed above, a bystander had approached the two officers while on their post at Gates Avenue and Marcus Garvey Boulevard, just inside the border of the 81 Precinct. He informed them that a child had been hit by a car. According to each Respondent, the bystander pointed in the general direction of the accident, which was inside the confines of the neighboring 79 Precinct, but provided no further information as to the precise location or the details of what occurred, even after being prompted by Mattern to do so. Both Mattern and Romero testified that they looked in the direction the bystander pointed, but did not see any

indication of an accident. As a result, neither officer took any steps toward investigating the accident or obtaining aid for the child victim. (Tr. 80-81, 92-94, 114-15, 122-23)

Mattern testified that he did not walk in the direction the bystander had pointed in order to investigate. He also did not put the information over the radio. Instead, Mattern told the bystander, "That's not my precinct." He did not provide the bystander with any further guidance in terms of contacting the 79 Precinct. The bystander was visibly upset at the officer's lack of response, and other individuals at the location joined in his criticism of the officers. (Tr. 93-97)

Romero noted that when he returned to the precinct, he did a check on the Department's Domain Awareness System to see if there had been any 911 calls reporting an accident in the area; there were no such calls. However, a Police Accident Report (CCRB Ex. 4), prepared two days later, did indicate that an individual on a bicycle had been struck by a motor vehicle in that area, and that the individual's mother had taken him to the hospital as a result of being struck. (Tr. 120-22)

It is undisputed that neither Mattern nor Romero took any action, while on the scene, to investigate the bystander's report of an accident. To be sure, the information provided was minimal, and the bystander was pointing into an adjacent precinct. Nevertheless, it is unacceptable that Respondents did not take any steps to find out if an accident had, in fact, occurred, and more importantly, whether a child was injured and in need of medical aid. Instead, Mattern dismissively told the bystander, "That's not my precinct," without providing any guidance to the bystander, putting the information over the radio, or taking any steps to investigate the report. Their failure to do so angered the individuals in the vicinity, and contributed to the confrontation that followed. Based on their failure to act on the information provided, I find Mattern and Romero each guilty of Specification 1.

PENALTIES

In order to determine appropriate penalties, 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. Respondents' employment histories also were examined. *See* 38 RCNY § 15-07. Information from their personnel records that was considered in making these penalty recommendations are contained in attached memoranda.

Respondent Reyes

Respondent Reyes, who was appointed to the Department on April 12, 2017, has been found guilty of wrongfully using her Taser as an impact weapon to strike an individual in the head. The presumptive penalty for this use of force is 20 penalty days, with a mitigated penalty of 10 days. The CCRB recommends that Reyes forfeit 20 vacation days for this misconduct, the presumptive penalty. However, in light of the surrounding circumstances of what occurred here, that recommendation is excessive.

On the one hand, Reyes did use excessive force in repeatedly striking the arrestee in his head with her Taser. She employed the Taser as an impact weapon, which was unreasonable and improper. Even if the arrestee did not suffer any injury from these blows, Reyes's actions ran afoul of the Patrol Guide and constituted misconduct, and there must be accountability.

However, it also is important to keep in mind the context in which this occurred. As described above, the police officers here encountered an actively resisting, actively aggressive individual who, from the start, threatened to "fuck up" Reyes. True to his threat, the arrestee initiated the altercation by placing Officer Medina in a bear hug, bringing him to the ground. The arrestee struggled mightily with the officers as they attempted to effectuate what the CCRB

acknowledges was a lawful arrest. Despite the combined efforts of several officers to gain control and place him in handcuffs, the arrestee twice fought off the officers and rose from the ground. During the altercation, he bit Reyes on her leg, breaking the skin, and appeared to attempt to bite another officer as well in the shoulder area. This violent and dangerous struggle occurred while the officers were surrounded by an angry, hostile crowd of people, screaming curses and threats at the officers.

In light of the above, and Reyes's otherwise unblemished record with the Department, a lesser penalty is warranted. Taking into account the totality of the facts and circumstances in this specific matter, I recommend that Reyes forfeit five (5) vacation days.

Respondents Mattern and Romero

Respondents Mattern and Romero, who were appointed to the Department on July 5, 2017 and July 13, 2016 respectively, have each been found guilty of failing to obtain medical aid for a child. The CCRB has recommended that each Respondent forfeit five vacation days for this misconduct. Under the circumstances, that recommendation is reasonable.

On the one hand, this was not a situation where the officers specifically witnessed an individual in need of medical attention, and failed to provide it, which would have warranted a higher penalty. Rather, the failure here was to take any steps to determine if there was, in fact, a child in need of assistance. Even though the information provided to them was minimal, their dismissive attitudes toward the bystander, and their failure to take any steps to investigate, was unacceptable, and there must be accountability. To be sure, the arrestee was in no way justified in his violent behavior toward the officers. But at the same time, had the officers done a better job responding to the report of the accident, the unfortunate chain of events that ensued might

POLICE OFFICER DYLAN MATTERN
POLICE OFFICER JIMMY ROMERO
POLICE OFFICER JEANENE REYES

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have been averted. On balance, a forfeiture of five (5) vacation days for each Respondent is appropriate to address their misconduct in this matter.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

DISAPPROVED



EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER DYLAN MATTERN
TAX REGISTRY NO. 964150
DISCIPLINARY CASE NO. 2019-21545

Respondent was appointed to the Department on July 5, 2017. On his three most recent annual performance evaluations, he was rated "Exceeds Expectations" for 2019, 2020, and 2021. He has received two medals for Excellent Police Duty and one medal for Meritorious Police Duty.

Respondent has no formal disciplinary history. He was placed on Level 1 Force monitoring on June 24, 2020; this monitoring remains ongoing.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER JIMMY ROMERO
TAX REGISTRY NO. 962062
DISCIPLINARY CASE NO. 2019-21543

Respondent was appointed to the Department on July 13, 2016. On his three most recent annual performance evaluations, he was twice rated "Exceptional" for 2020 and 2021, and was rated "Exceeds Expectations" for 2019. He has been awarded six medals for Meritorious Police Duty and five medals for Excellent Police Duty.

In 2018, Respondent forfeited 25 vacation days after pleading guilty to failing to appear for his scheduled tour, failing to report to his District Surgeon as directed, making misleading statements to a lieutenant regarding why he failed to report to the District Surgeon, and leaving the confines of the city and residence counties without the approval of the Chief of Personnel.

Respondent was placed on Level 1 Force Monitoring from January 2020 to January 2021 for having received three or more CCRB complaints in a one-year period.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER JEANENE REYES
TAX REGISTRY NO. 963634
DISCIPLINARY CASE NO. 2019-21540

Respondent was appointed to the Department on April 12, 2017. On her three most recent annual performance evaluations, she was rated "Exceeds Expectations" for 2019, 2020, and 2021. She has been awarded one medal for Excellent Police Duty.

Respondent has no disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials