



POLICE DEPARTMENT

December 15, 2022

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2021-23846
Police Officer William Schumacher	:	
Tax Registry No. 949640	:	
75th Precinct	:	

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

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Nishat Tabassum, Esq.
Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

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

To:

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

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CHARGES AND SPECIFICATIONS

1. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue (Fiorentino Plaza), Kings County, abused his authority as a member of the New York City Police Department, in that he failed to provide **Person A** with a business card without sufficient legal authority.

P.G. 203-09, Page 1, Paragraph 4

PUBLIC CONTACT – GENERAL

2. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue (Fiorentino Plaza), Kings County, abused his authority as a member of the New York City Police Department, in that he failed to provide **Person B** with a business card without sufficient legal authority.

P.G. 203-09, Page 1, Paragraph 4

PUBLIC CONTACT – GENERAL

3. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue (Fiorentino Plaza), Kings County, abused his authority as a member of the New York City Police Department, in that he failed to provide **Person C** with a business card without sufficient legal authority.

P.G. 203-09, Page 1, Paragraph 4

PUBLIC CONTACT – GENERAL

4. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue (Fiorentino Plaza), Kings County, abused his authority as a member of the New York City Police Department, in that he failed to provide individuals with a business card without sufficient legal authority.

P.G. 203-09, Page 1, Paragraph 4

PUBLIC CONTACT – GENERAL

5. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue (Fiorentino Plaza), Kings County, abused his authority as a member of the New York City Police Department, in that he interfered with **Person B's** use of a recording device without sufficient legal authority.

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

PUBLIC CONTACT –
PROHIBITED CONDUCT

6. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue

(Fiorentino Plaza), Kings County, made remarks to Person A based upon the gender of Person A by stating in sum and substance, "All right ladies, have fun."

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

PUBLIC CONTACT –
PROHIBITED CONDUCT

7. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue (Fiorentino Plaza), Kings County, made remarks to Person B based upon the gender of Person B by stating in sum and substance, "All right ladies have fun."

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

PUBLIC CONTACT –
PROHIBITED CONDUCT

8. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue (Fiorentino Plaza), Kings County, made remarks to Person C based upon the gender of Person C by stating in sum and substance, "All right ladies have fun."

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

PUBLIC CONTACT –
PROHIBITED CONDUCT

9. Police Officer William Schumacher, on or about August 13, 2019, at approximately 2130, while assigned to 075 PCT and on duty, in the vicinity of 2189 Pitkin Avenue (Fiorentino Plaza), Kings County, made remarks to individuals based upon the gender of individuals by stating in sum and substance, "All right ladies have fun."

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

PUBLIC CONTACT –
PROHIBITED CONDUCT

10. Police Officer William Schumacher, on or about April 14, 2021, at approximately 0929, while assigned to 075 PCT and on duty, in the vicinity of 100 Church Street, New York County, provided a false official statement to CCRB in that he stated he used the word "ladies" to refer to women and not men.

P.G. 203-08

MAKING FALSE STATEMENTS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on November 18, 2022. Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The CCRB entered into evidence video footage of the incident, as well as a hearsay statement of an

individual who was present. Respondent testified on his own behalf. 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 as follows:

Specifications 1-4 (business card): Guilty

Specification 5 (interfered with recording device): Not Guilty

Specifications 6-9 (gender comment): Guilty

Specification 10 (false statement): Not Guilty

Recommended penalty: Five (5) vacation days and training.

ANALYSIS

On the evening of ^{Tuesday} August 13, 2019, Respondent and his partner approached a group of individuals who were hanging out in the rear of a NYCHA apartment building in Kings County, New York. The officers engaged the individuals in conversation, much of which was captured on a video that was recorded by one of the civilians with his phone. In that video (CCRB Ex. 1), the officers ask the individuals for their names and whether any of them live there. Respondent tells them he saw them smoking; one of them denies it, saying that whatever was on the table had been left there. Respondent can be seen shining his flashlight around the area. The entire incident lasts for approximately two minutes. As he is walking away, Respondent says to the group, "Alright ladies, have fun." One of the individuals answers back, "Alright ladies," and the officers depart. At no point does Respondent offer the individuals a Right-to-Know Business Card.

None of the civilians at the location appeared to testify at trial. Instead, the CCRB offered into evidence an audio recording of a sworn interview they conducted with one of the

individuals ("the individual") along with the accompanying transcript (CCRB Exs. 5 & 5A). In that interview, which occurred on August 28, 2019, the individual stated that he and several friends were sitting on the benches when the two police officers approached. Respondent's partner rubbed the individual's pants pocket, and the individual moved away from him. Respondent accused them of smoking; according to the individual, there was dried up Fronto leaf on the table, but they were not smoking. The officers asked for their names, and whether anybody lived there. The individual stated that as one of his friends was recording the interaction, Respondent, for a couple of seconds, shined his flashlight in front of the camera that was being used to record the encounter. As the officers were leaving, Respondent said something disrespectful like "alright ladies," and one of the individual's friends repeated the same comment back at the officer. Neither officer provide a business card. (CCRB Ex. 5A at 4-5, 7, 11, 16-17, 21-25, 32)

Respondent was interviewed about the incident by the CCRB on April 14, 2021. (CCRB Exs. 4 & 4A) In that interview, which was conducted using Microsoft Teams, Respondent repeatedly states from the start that he does not recall this particular incident. Even after being furnished with details of the encounter, and shown a photograph of one of the individuals, Respondent reiterates that he does not remember the incident. He answers some questions by explaining what he would typically do in such a situation, but could not answer specifically regarding what occurred on this particular occasion.

After being shown video footage from the incident, Respondent states that he "vaguely" remembers the incident, in which they stopped a group of guys and girls with marijuana. He recounts some details of the encounter, but sounds uncertain in many of his responses, and at one point states that this is "complete speculation" on his part. When asked why he stated, "Alright

ladies, have fun," Respondent answers that he does not remember specifically. He states that there were females present, and as a military man it's proper custom for him to greet the female first; Respondent adds, however, "I don't remember saying it or why, but that's probably why." When pressed as to whether he was calling any of the men "ladies," Respondent answers "absolutely not." (CCRB Ex. 4A at 19-20, 48-50)

Respondent testified that he engages in approximately 30-40 interactions per night, and he does not have a specific recollection of this incident, even after viewing the video footage. Based on his review of the video, this appeared to be a "very common" interaction for him. He conceded, from the video, that he did not provide a business card to any of the individuals, explaining that it was a fairly new rule at the time, and he did not believe he needed to provide one in that situation; now, he realizes he is required to do so. Respondent also testified that for safety reasons, he typically would shine his flashlight toward the torso and head of an individual in order to see their hands and facial expressions. He could not tell why he briefly raised the light, but stated it may have been because he rested his arm on the scaffolding or was looking up into the scaffolding. He noted that he always assumes he is being recorded, it does not bother him, and from his viewing of the video he did not try to interfere with the recording. (Tr. 36-41, 45, 48, 61-62, 64-65)

Respondent testified that when he was questioned about the incident by the CCRB, it was almost two years later, and he told the investigator that he had no independent recollection of the encounter. When he was shown the video during the interview, he used that footage to explain what he would typically do in such a situation. He testified that he may have said, "alright ladies" because he believed there were more people present than seen on the video, though he

added that maybe he was confusing this incident with another interaction. Respondent insisted that he was not trying to interfere with the CCRB's investigation. (Tr. 42-44, 51-52, 65-71)

Specifications 1-4 allege that Respondent failed to provide a Right-to-Know Business Card to the individuals present. Section 203-09 of the Patrol Guide states that a police officer involved in law enforcement activity must offer a business card to those individuals who are part of the encounter. Here, Respondent approached several individuals and questioned them about smoking marijuana. He also asked whether any of them lived at the location in order to determine if they were trespassing. No arrests were made and no summonses were issued.

It is undisputed that Respondent did not offer or provide cards to any of the individuals present. Respondent explained that the rule about the Right-To-Know cards had just recently been enacted, and he did not realize he needed to provide the cards in that situation. He added that he now understands the need to do so.

In the situation presented here, Respondent was responsible for offering business cards to the individuals with whom he interacted. This he failed to do, and I find him guilty of Specifications 1-4.

Specification 5 charges Respondent with interfering with an individual's use of a recording device. Section 203-29 of the Patrol Guide states that individuals have a right to lawfully record police activity, though the right can be limited in the interest of safety. An officer must not intentionally block or obstruct recording devices when there is no legitimate law enforcement purpose for doing so.

Here, the individual who provided a statement to the CCRB stated that Respondent "started putting a light in front of the camera" after he knew he was being recorded. At the 1:24 mark of the video footage, Respondent's flashlight very briefly shines toward the camera.

However, nothing that occurred before or after that brief moment is obstructed in any way, and the encounter is entirely visible.

Respondent denied that he intentionally interfered with the recording, and I credit his testimony. He explained that he understands that civilians have a right to record their encounters with police – indeed, they do so in most of his interactions. From viewing the video, he could not be certain why the flashlight briefly shined at the camera at the 1:24 mark. He testified that for safety reasons, he typically shines his flashlight toward the torso and head of an individual in order to see their hands and facial expression.

In this particular situation, I am not persuaded by the credible evidence that Respondent was trying to interfere with the recording of the encounter. Respondent properly used his flashlight in order to gain a better view of his surroundings during this incident in a high crime area. There is no indication that he was attempting to cover up his interaction with the individuals. In fact, the entire encounter was essentially captured by the footage. The CCRB has not met its burden of proving that Respondent wrongfully interfered with the use of a recording device. Accordingly, I find Respondent not guilty of Specification 5.

Specifications 6-9 charge Respondent with making a discourteous or disrespectful remark to the individuals as he was leaving the scene, stating to the males present, “Alright ladies, have fun.” The individual who provided the statement to the CCRB stated that Respondent made the “disrespectful” comment as he was leaving. The video footage (1:53 mark) confirms that Respondent made the statement.

Respondent could not specifically recall making the remark, but conceded from the video footage that he did say it. Counsel for Respondent suggested that there may, in fact, have been

female individuals present at the location, and that the video footage provided by the CCRB, even though it scanned the area, was inconclusive on that point.

However, from the video it appears that Respondent is making his comment directly to the male individuals with whom he has just been interacting. Indeed, one of the male individuals then says back to Respondent, "Alright, ladies," in a way that sounds like a retort to the comment Respondent has just made to them. The credible evidence has established not only that Respondent made the remark, but that he did so in way that was being disrespectful to the male individuals at the scene. Accordingly, I find Respondent guilty of Specifications 6-9.

Specification 10 charges Respondent with intentionally making a false statement during his interview with the CCRB on April 14, 2021. Specifically, it is alleged that Respondent deliberately provided untrue answers about his "Alright ladies, have fun" comment, in that he claimed he was directing the remark toward ladies who were present at the scene.

However, from the start of the interview, Respondent repeatedly informed his questioners that he did not specifically recall this incident. His lack of recall was understandable under the circumstances: the encounter, which lasted approximately two minutes and was relatively uneventful, occurred approximately 20 months prior to the interview. In the interim, Respondent had continued working, handling an average of 30-40 interactions a night.

Later in the interview, Respondent was shown the video footage of the incident. He then was asked again about making the "ladies" comment. Although Respondent did state that he was not referring to the males present as ladies, and probably was directing the comment toward the females who were present, he prefaced his answers by again reiterating that he did not remember making the comment or why he said it. As Respondent explained at trial, to the extent he had a

vague recollection of what occurred, he could have been confusing this incident with one of the numerous other similar encounters he has been involved in.

Under these specific circumstances, I am not persuaded that Respondent intentionally made statements that he knew to be untrue. Given the length of time that had elapsed, and that the event was not one likely to be particularly noteworthy or memorable to Respondent, an active police officer, I credit his testimony that he genuinely did not recall the encounter, and was trying to cooperate with his questioners by answering to the best of his ability. The credible evidence has failed to prove that Respondent made intentionally false statements, and I find him not guilty of Specification 10.

PENALTY

In order to determine an appropriate penalty, 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's employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent was appointed to the Department on July 6, 2010. Prior to that, he joined the United States Marines, with whom he currently is a Gunnery Sergeant; he was deployed to Iraq in 2007 and 2009. In 2016, Respondent forfeited 10 vacation days in connection with an excessive force case. He has been awarded 25 medals for Excellent Police Duty, and 12 medals for Meritorious Police Duty.

The CCRB recommended that Respondent be dismissed from the Department for making a false statement; however, Respondent has been found not guilty of that charge. With respect to

the charge of interfering with the use of a recording device, the CCRB recommended that Respondent forfeit 20 vacation days; however, Respondent has been found not guilty of that count as well. For the remaining counts, the CCRB recommends that Respondent forfeit a total of 23 vacation days, while counsel for Respondent asks for a lesser penalty.

Of the remaining charges, Respondent has been found guilty for failing to provide a business card, and for making a disrespectful remark toward the male individuals at the scene. With respect to the business card charge, this was not a situation where someone requested a card and Respondent refused to provide it. I credit Respondent's testimony that given the low-level nature of the encounter, he did not believe he needed to provide a business card in this situation. He acknowledged, however, that he now understands the need to do so, even if a card was not specifically requested. For this misconduct, the mitigated penalty of training is appropriate.

As for Respondent's "alright ladies" comment, it was disrespectful to the individuals present and there needs to be appropriate accountability. The encounter did not result in an arrest or summons being issued, and Respondent could have walked away from the scene without further incident. This was not a situation where Respondent made the comment in the midst of a heated confrontation, in which case a lesser penalty might be justified; rather, as he was exiting the location, he made a completely gratuitous remark in which he referred to the male individuals as ladies. On balance, a forfeiture of five (5) vacation days is appropriate for this offense, and will hopefully serve as a deterrent to similar misconduct in the future. Since Respondent made the statement only one time and directed it toward the individuals collectively, the penalties for Specifications 6-9 should run concurrently with each other.

Taking into account the totality of the facts and circumstances in this matter, I recommend that Respondent forfeit a total of five (5) vacation days, and that he receive training on the issuance of Right-to-Know Business Cards.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

MAY 31 2023

KEECHAMANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER WILLIAM SCHUMACHER
TAX REGISTRY NO. 949640
DISCIPLINARY CASE NO. 2021-23846

Respondent was appointed to the Department on July 6, 2010. On his three most recent annual performance evaluations, he was rated “Exceptional” for 2019, and “Exceeds Expectations” for 2020 and 2021. He has been awarded 25 medals for Excellent Police Duty, and 12 medals for Meritorious Police Duty.

In 2016, Respondent forfeited 10 vacation days after being found guilty of using excessive force.

Based on his overall CCRB history, Respondent was placed on Level 1 Force monitoring from May 20, 2013 through September 14, 2017 and more recently on October 8, 2021. Monitoring remains ongoing.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials