



POLICE DEPARTMENT

October 28, 2024

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In the Matter of the Charges and Specifications :

- against - :

Police Officer Jamie Truglio :

Tax Registry No. 959786 :

106 Precinct :

Case No.

2022-24895

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

Before: Honorable Anne E. Stone
Assistant Deputy Commissioner Trials

APPEARANCES:

For the CCRB-APU:

Nicole Jardim, Esq.
Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

For Respondent:

Michael Martinez, Esq.
Worth, London & Martinez, LLP
111 John Street, Suite 640
New York, New York 10038

To:
HONORABLE THOMAS G. DONLON
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Police Officer Jamie Truglio, on or about February 6, 2020, at approximately 2040 hours, while assigned to 044 PCT 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 damaged Complainant's [REDACTED] property by pushing in the entrance door with her shoulder, breaking the chain lock without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5
(now encompassed by A.G. 304-06)

PUBLIC CONTACT–
PROHIBITED CONDUCT

2. Police Officer Jamie Truglio, on or about February 6, 2020, at approximately 2040 hours, while assigned to 044 PCT 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.

P.G. 203-10, Page 1, Paragraph 5
(now encompassed by A.G. 304-06)

PUBLIC CONTACT–
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on September 26, 2024. Respondent, through her counsel, entered a plea of Not Guilty to the charged misconduct. The CCRB presented a hearsay case, entering the audio and written transcript of the CCRB interview of Complainant's¹, as well as body-worn camera and cellphone video footage into evidence. Respondent testified on her 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 Respondent Guilty of both specifications and recommend forfeiture of eight (8) vacation days, and that Respondent attend training.

¹ Complainant's CCRB interview was conducted in Spanish; the Spanish language audio and transcript, as well as an English translation, were provided to the Tribunal.

ANALYSIS

This case arises from a 911 call made on February 6, 2020 regarding a domestic dispute over property. The following is a summary of facts which are undisputed. On the date in question, Respondent and her partner, Police Officer [REDACTED], were assigned to patrol in the 44 Precinct. They responded to a 911 call at [REDACTED] which is an apartment building. Once inside Respondent met [REDACTED] ("911 Caller"). He told Respondent that his estranged wife, [REDACTED] ("Complainant") was refusing to return his car keys and passport, which he alleged were inside of the apartment they used to share.

After speaking with the 911 Caller, Respondent knocked on the door of the residence. After initially refusing, Complainant secured the door with a chain lock before opening it about four inches. While a dispute exists as to whether Respondent leaned on or pushed the door, the parties agree that Respondent made contact with it. The door opened fully and Respondent entered the apartment by standing at the threshold. Complainant repeatedly objected to Respondent entering her apartment and accused her of breaking the chain lock. Respondent remained in the threshold of the apartment, near the open door for approximately three minutes. (CCRB Exhibit 1, body-worn camera footage, at 00:00-03:02; CCRB Exhibit 2, cell-phone recording, Tr. 23-32, 40-43; CCRB Exhibit 4b, Complainant's CCRB interview at 3-6, 9-14)

Complainant, who did not appear before the Tribunal, was interviewed by CCRB two weeks after the incident, on February 21, 2020. She recalled police officers knocking on the door of her apartment. Complainant explained that she did not immediately open the door out of fear. She contended that her mother-in-law had threatened her, and that when she looked out of the peephole, she saw that her estranged husband was in the hall with the officers. (CCRB Ex. 4b at 3) Complainant recounted that she told Respondent that they could speak with the door closed. In

response, Respondent “insisted” that Complainant open the door and that if she did not, Respondent would “knock it down.” Complainant recounted engaging a chain lock before opening the door. (CCRB Ex. 4b at 3-5) She asserted that Respondent broke that lock by “kicking” the door open and then Respondent stepped into the apartment. (CCRB Ex. 4b at 4, 27-28) Complainant maintained that at no point during their encounter did she consent to Respondent entering her residence, and emphasized that she repeatedly told Respondent that she was not allowed in her home. Complainant conceded that, once inside, Respondent remained close to the open door throughout the entire incident, and provided her name and shield number when Complainant requested them. (CCRB Ex. 4b at 6, 23-24)

CCRB entered Respondent’s body-worn camera footage of the incident into evidence.

The following is a summary of Respondent and Complainant’s conversation:

Complainant: “Because I talked to my lawyer. The lawyer said [the police are] not supposed to go in if they don’t have an order from the [judge]². That’s all that my lawyer said.”

Respondent: “Okay, I’ll tell you right now. When you have a police officer that is responding to a 911 call and we’re giving you an order to open your door, your lawyer can’t tell you not to comply with the police.”

Complainant: “Okay.”

Respondent: “That’s illegal.”

Complainant: “He said that’s illegal if you don’t have the [judge]- the [judge]-“

Respondent: “I don’t know what the [judge] is.”

Complainant: “The [judge] order.”

(CCRB Ex. 1 at 00:35-00:57)

² Complainant is a non-native English speaker and pronounced the “u” in “judge” with a long vowel sound. The Tribunal acknowledges that Complainant was saying “judge” throughout this encounter.

Approximately one minute later Complainant and Respondent had the following exchange:

Respondent: "Can you stop- Ma'am! Clear as day, you have me on video standing in your apartment. Can we now move on? Can we move forward with why I'm here?"

Complainant: "Yeah, but now-"

Respondent: "Because you guys-"

Complainant: "You needed permission to go inside. You [broke] the door."

Respondent: "I did push the door."

Complainant: "You [broke] the door."

Respondent: "Because you cracked it open, and you had something in your hand. You were refusing to go forward."

(CCRB Ex. 1 at 02:13-02:28)

In addition, CCRB presented a cell phone video recorded by Complainant's brother, [REDACTED] who was present during the encounter. (CCRB Exhibit 2) The video footage depicts the mirror image of the interaction captured on Respondent's body-worn camera, providing the vantage point from inside of the apartment.

00:00-00:44: Respondent and Complainant argue while Respondent has one foot within Complainant's apartment and one foot outside of the apartment.

00:45-00:56: Complainant moves to retrieve a writing instrument and paper.

00:58-01:50: Complainant records Respondent's name and shield number. Complainant hands her writing instrument and paper to Respondent's partner, who writes his name and shield number down and then returns the items to Complainant.

01:51-02:14: Respondent places both feet across the threshold to Complainant's apartment and continues to speak with Complainant.

02:15-02:40: Complainant's brother ushers Complainant further down the hallway. Respondent does not move from her position near the open door.

02:41-02:46: Respondent exits the apartment.

(CCRB Ex. 2)

Respondent took the stand on her own behalf. She recalled responding to a 911 call involving a domestic dispute over property. Respondent testified that when she and her partner arrived at [REDACTED] they met with the 911 Caller in the hallway outside of Complainant's apartment. He needed help getting his passport and car keys, which were inside of the apartment. Respondent acknowledged that Complainant indicated, through the closed door, that she did not want to speak to the police. Respondent contended that her efforts to communicate were hindered by a language barrier, and that she called the "language line" in order to get assistance from an interpreter. Respondent recalled that a short time later, Complainant partially opened the door, and that a chain lock was in place. (Tr. 24-26)

Although she denied kicking the door, Respondent did acknowledge that she "leaned" her body against it. She explained that she saw an "object" in Complainant's hand, which made her believe the situation was potentially "dangerous." Respondent testified that she was unsure how the lock was disengaged, but admitted that once the door was fully opened, she stepped inside of the apartment. Respondent asserted that she did not see any damage to the door, and that once inside she remained just over the threshold, near the open door. Respondent remembered trying, unsuccessfully, to explain to Complainant why she was there. Respondent explained her hope was to resolve the issue, by returning the 911 Caller's property, in order to avoid other officers being called there again in the future. After a couple of minutes Respondent determined that Complainant was not "willing" to speak to her, and left the residence. Respondent returned to the hallway, spoke to the 911 Caller, referred him to housing court, and then completed a Domestic Incident Report. (Tr. 28-33)

Respondent stands charged with two specifications, first that she wrongfully damaged the chain lock of the door to Complainant's residence, and second that she subsequently entered the

apartment without legal authority. For the reasons set forth below, I find Respondent guilty of both specifications.

These specifications are comprised of two distinct actions, Respondent breaking the chain lock, and then entering Complainant's home. However, the assessment of each relies on an analysis of whether Respondent's warrantless entry into the apartment was justified. The question for the Tribunal is whether circumstances existed which allowed Respondent to enter Complainant's home lawfully. I find that they did not.

The Supreme Court in *U.S. v. Allen* held that, "at a minimum, law enforcement officers violate *Payton* when, in the absence of exigent circumstances or consent, they physically enter protected premises to effect a warrantless search or arrest." 813 F.3d 76 (2016), citing *U.S. v. Stokes*, 733 F.3d 438, 444 (2d. Cir. 2013).

The parties agree that Respondent stepped inside of Complainant's apartment and remained there after the door was opened. It is undisputed that Respondent possessed neither a warrant, nor consent to enter Complainant's residence. Additionally, Respondent did not claim that she intended to arrest Complainant and there is nothing in the record indicating that there was probable cause that Complainant had committed a crime. The property which Respondent was attempting to retrieve had apparently been left behind by the 911 Caller when he moved out several months before. There was no mention of violence in the radio run.

CCRB presented two video recordings, each offering a different perspective of the events that occurred after Respondent was inside of Complainant's apartment. In addition, Complainant's interview with CCRB investigators was entered into evidence. However, there is no video capturing the moments when the chain lock broke, the door opened, and Respondent stepped inside. Complainant initially told the CCRB investigator that Respondent "broke the

chain.” Later during the interview, she alleged that the lock was damaged when Respondent “kicked” the door open. (CCRB Ex. 4b at 3, 27) Respondent, on the other hand, acknowledged that she saw the chain lock was engaged when Complainant first opened the door, but contended that she did not know how the chain was subsequently removed. Respondent can be heard on the video footage admitting, “I did push the door,” when Complainant accused her of “breaking” it. (CCRB Ex. 1 at 02:21-02:28)

During the encounter, Respondent seemed to be laboring under a fundamental misunderstanding of the law when she said that it was “illegal” for Complainant to refuse to allow a police officer responding to a 911 call into her home. (CCRB Ex. 1 at 00:35-00:57) On the stand, Respondent appeared to still be confused about warrantless entries. During her testimony, Respondent explained that she “wasn’t looking to enter the apartment” when she stepped inside of it, she simply wanted to speak to Complainant “face to face.” (Tr. 31-32)

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 Complainant here, this Tribunal carefully considered her prior recorded statement, and, I credit Complainant’s assertion that Respondent’s making contact with the door caused the lock to break. Indeed, CCRB Exhibit 2, the cell phone footage taken inside of the apartment shows the chain dangling from the slide portion of the lock, instead of hanging from the metal plate on the door frame, indicating it was damaged. (CCRB Ex 2 at 02:43-02:44) This evidence combined with Respondent’s admission to Complainant that she pushed the door prior to its opening supports the conclusion that

Respondent's actions caused damage to the lock. As discussed above, Respondent did not possess a warrant or consent, and there were no exigent circumstances present. Under the circumstances, Respondent was obligated to abide by Complainant's wish to keep her door partially closed. Indeed, Complainant was not required to open the door at all. Respondent's pushing or leaning on it, causing the lock to break, over Complainant's expressed objection, was therefore improper.

Once the lock was broken, Respondent crossed the threshold of Complainant's home and remained there for approximately two minutes. During the interaction with Complainant, and again at trial, Respondent made a vague reference to her safety being compromised by Complainant's partial opening of the door with an unidentified object in her hand. The Tribunal acknowledges the inherent dangers involved when responding to a domestic dispute. However, I am not satisfied that the evidence presented in this matter indicated any circumstances which would justify Respondent's warrantless entry into the apartment. General safety concerns are intrinsic to every police interaction, and without more, do not rise to the level of exigency permitting warrantless entry into a private residence. Fourth Amendment privacy protections of the home are a core constitutional right, unless the exigencies of the situation make the needs of law enforcement so compelling that the intrusion is objectively reasonable. In this case, Respondent did not possess any additional information which would cause a reasonable officer to fear for their safety and there was no evidence in the record that exigent circumstances were present. For the foregoing reasons, I find Respondent Guilty of Specifications One and Two.

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 her personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent was appointed to the Department on October 7, 2015, and has one prior formal disciplinary matter from 2019 where she pled guilty to failing to safeguard a prisoner who then escaped. Here, she has been found guilty of wrongfully damaging Complainant's property and entering her apartment without legal authority. The CCRB has recommended the presumptive penalty for wrongful property damage, forfeiture of ten (10) vacation days for Specification 1, to run concurrently with the presumptive penalty for Specification 2 of ten (10) days for unlawful entry. As discussed below, I believe a forfeiture of eight (8) vacation days is a more appropriate penalty.

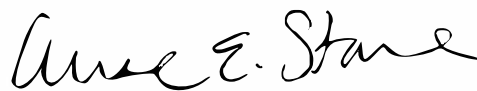
I believe Respondent's testimony that she was hoping to act as an intermediary between the parties in order to resolve the issues surrounding the property as expeditiously as possible. Indeed, the ideal scenario would have been Respondent knocking on the door, explaining the situation, Complainant handing Respondent the items, and Respondent in turn giving them to the 911 Caller. The Tribunal recognizes that the Department encourages officers to be problem solvers. However, that laudable sentiment does not trump the laws in place which protect citizens from unreasonable intrusions into their homes. The evidence shows that Respondent, based on a mistaken understanding of the law, was determined to have the apartment door open while she spoke to Complainant despite Complainant's clear objection to her presence at the door. Once Complainant partially opened the door, Respondent improperly leaned or pushed on the door,

causing the chain lock to break. Rather than staying outside, she stepped over the threshold into Complainant's residence without a lawful basis to do so.

CCRB is seeking the presumptive penalty of ten (10) days for an unlawful entry with substantial physical presence or remaining on the premises without sufficient evidence. Once Respondent was in the home, the encounter was relatively brief. Respondent remained close to the open door and did not conduct a search. She provided her name and shield number to Complainant upon request. My assessment is that the evidence supports the less intrusive, de minimus, "foot over the threshold" category of entry contemplated by the Matrix. The presumptive penalty for which is three (3) vacation days. With regard to the broken chain, I believe that the mitigated penalty of five (5) vacation days is appropriate. Although there is evidence that Respondent's actions caused the chain to break, the CCRB has not proven by a preponderance of the evidence that Respondent intended to do so. I believe that the penalties should run consecutively.

On balance, a penalty which makes clear that officers must not violate the core Fourth Amendment protections for private residences, except where there is a recognized legal exception, while at the same time acknowledging Respondent's lack of intent to cause harm is appropriate. I believe the forfeiture of eight (8) vacation days is appropriate. In addition, it is my opinion that Respondent would benefit from training regarding the law surrounding warrantless entries into private homes.

Respectfully submitted,



Anne E. Stone
Assistant Deputy Commissioner Trials

APPROVED

NOV 13 2024



THOMAS G. DONLON
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER JAMIE TRUGLIO
TAX REGISTRY NO. 959786
DISCIPLINARY CASE NO. 2022-24895

Respondent was appointed to the Department on October 7, 2015. On her three most recent annual performance evaluations, she was rated “Exceeds Expectations” for 2021, 2022 and 2023.

In 2019, Respondent forfeited fifteen (15) vacation days after pleading guilty to failing to safeguard a prisoner, resulting in the prisoner’s escape. In connection with that case, she was placed on Level 1 Discipline Monitoring from April 2019 to June 2020.

For your consideration.

Anne E. Stone
Assistant Deputy Commissioner Trials