



THE POLICE COMMISSIONER
CITY OF NEW YORK

MEMORANDUM IN SUPPORT OF NYPD'S DEVIATION FROM THE DISCIPLINARY SYSTEM PENALTY GUIDELINES

Re: CCRB Case No. 201903484 regarding Police Officer Daniel Calixte

Date: July 12, 2021

This disciplinary matter was investigated by the Civilian Complaint Review Board ("CCRB"). The CCRB substantiated a single allegation against Police Officer Daniel Calixte of wrongfully using a chokehold against an uncooperative individual suspected of being armed with a firearm. As its penalty, the CCRB recommended that Police Officer Calixte forfeit ten (10) Vacation Days. I agree that this proposed penalty is wholly appropriate for the reasons enumerated below.

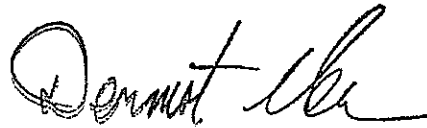
During its investigation, the CCRB reviewed the facts and circumstances of the misconduct committed by Police Officer Calixte who responded to a priority 911 call that alleged that one or more individuals seated in a parked vehicle was armed with a firearm. Individuals on the scene seated inside a vehicle matched the suspects' description. While one of the individuals cooperated with police officers on the scene, the other individual remained seated inside the vehicle and refused to comply with Police Officer Calixte's instructions to exit the vehicle.

Body-Worn Camera footage shows that in attempting to gain compliance, and in order to extricate the uncooperative individual from within the vehicle, Police Officer Calixte's hand briefly contacted the individual's neck. Police Officer Calixte's limited contact applied *no pressure* to the individual's neck or restricted the individual's airflow, and caused *no injuries*. Furthermore, the Body-Worn Camera footage shows that the incidental contact was brief in duration and that Police Officer Calixte lacked any intent to obstruct the breathing of the uncooperative individual.

The presumptive penalty under the NYPD's Disciplinary System Penalty Guidelines ("Disciplinary Matrix"), calls for termination of a member of service who wrongfully applies a chokehold while the mitigated penalty for such misconduct is forced separation.

However, although CCRB's recommendation is below the one prescribed in the Disciplinary Matrix, I find such penalty to be altogether appropriate given the exceptional facts and the circumstances in this case.

Therefore, though the proposed penalty deviates from the Disciplinary Matrix, the forfeiture of ten (10) Vacation Days, as recommended by the CCRB, is appropriate in this matter and I find no reason to disturb it.

A handwritten signature in black ink, appearing to read "Dermot Shea", with a stylized, cursive script.

Dermot Shea
Police Commissioner