OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

June 18, 2024

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Delare Rathour**
Tax Registry No. 952149
Manhattan Court Section
Disciplinary Case Nos. 2020-22533 & 2023-27756

The above named member of the service appeared before Assistant Deputy Commissioner Jeff S. Adler on March 12 and 13, and April 9, 2024, and was charged with the following:

DISCIPLINARY CASE NO. 2020-22533

1. Said Probationary Detective Delare Rathour, while assigned to Narcotics Borough Brooklyn South, on or about August 11, 2020, at about 1100 hours, at his residence in [redacted] Nassau County, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Detective wrongfully engaged in a physical altercation with his wife, causing her to suffer injury.

P.G. 203-10, Page 1, Paragraph 5 — **PUBLIC CONTACT— PROHIBITED CONDUCT**

2. Said Probationary Detective Delare Rathour, while assigned to Narcotics Borough Brooklyn South, on or about and between May 2020 and August 11, 2020, wrongfully failed to notify his Commanding Officer of his change of residential address, as required.

P.G. 203-18, Page 1, Note — **RESIDENCE REQUIREMENTS**

DISCIPLINARY CASE NO. 2023-27756

1. Said Probationary Detective Delare Rathour, while assigned to Manhattan Court Section, while off-duty, on or about October 29, 2022, between about 0007 hours and 0030 hours, near [redacted] Queens County, New York, and in violation of an active Order of Protection, issued on March 16, 2022 by Nassau County

District Judge Joy Watson, in effect until February 1, 2023, improperly endangered the welfare of [redacted], his wife and the passenger in his private vehicle, by driving said vehicle in a reckless or otherwise dangerous or unlawful manner, suddenly accelerating and decelerating, driving through multiple steady red lights and against the lawful flow of traffic, with said vehicle's front passenger door open, and [redacted] screaming with her leg hanging out of said open door while said Police Officer held [redacted] by her hair.

A.G. 304-06, Page 1, Paragraph 5	**PROHIBITED CONDUCT**
N.Y. Penal Law § 215.50 (3)	**CRIMINAL CONTEMPT IN THE SECOND DEGREE**
N.Y. Penal Law § 120.20	**RECKLESS ENDANGERMENT IN THE SECOND DEGREE**
N.Y. Veh. & Traf. Law § 1212	**RECKLESS DRIVING**

In a Memorandum dated May 24, 2024, Assistant Deputy Commissioner Jeff S. Adler found Police Officer Delare Rathour guilty of Specification Nos. 1 and 2 (Police Officer Rathour entered a plea of guilty to Specification No. 2), in Disciplinary Case No. 2020-22533, and guilty of the sole specification in Disciplinary Case No. 2023-27756. Having read the Memorandum and analyzed the facts of this matter, I approve of the findings as to the second specification in Disciplinary Case No. 2020-22533 and the sole specification in Disciplinary Case No. 2023-27756, but disapprove the finding as to the first specification in Disciplinary Case No. 2020-22533 and disapprove the proposed penalty.

After reviewing the facts and circumstances of this matter, I find [redacted]'s testimony at trial to be credible and corroborated by the testimony of Police Officer Rathour and the testimony of their son. Thus, I find Police Officer Rathour not guilty of Specification No. 1 in Disciplinary Case No. 2020-22533. However, based on the preponderance of the evidence, it is clear that Police Officer Rathour violated an order of protection by operating his personal vehicle recklessly and endangered the safety of himself and [redacted]. I find Police Officer Rathour guilty of the sole specification of Disciplinary Case No. 2023-27756 and will impose the aggravated penalty for reckless driving and the presumptive penalty for violating an order of protection, to be aggregated consecutively. Additionally, I accept Police Officer Rathour's admission of guilt as to Specification No. 2 in Disciplinary Case No. 2020-22533.

Therefore, with respect to Specification No. 1 of Disciplinary Case No. 2020-22533, Police Officer Rathour shall receive no disciplinary action and be restored thirty (30) suspension days previously served. In regards to Specification No. 2, Police Officer Rathour shall forfeit five (5) vacation days, as a disciplinary penalty.

Furthermore, with respect to Disciplinary Case No. 2023-27756, Police Officer Rathour shall forfeit thirty (30) suspension days already served, forfeit thirty (30) vacation days, be placed on one (1) year dismissal probation, and complete 24-week domestic violence counseling.

Edward A. Caban
Police Commissioner

POLICE DEPARTMENT

May 24, 2024

In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2020-22533
Police Officer Delare Rathour	:	2023-27756
Tax Registry No. 952149	:	
Manhattan Court Section	:	

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

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: David Green, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: Peter Brill, Esq.
Brill Legal Group, P.C.
176 Lexington Avenue, Suite O
New York, NY 10016

To:

HONORABLE EDWARD A. CABAN
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2020-22533

1. Said Probationary Detective Delare Rathour,[1] while assigned to Narcotics Borough Brooklyn South, on or about August 11, 2020, at about 1100 hours, at his residence in [redacted] Nassau County, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Detective wrongfully engaged in a physical altercation with his wife, causing her to suffer injury.

   P.G. 203-10, Page 1, Paragraph 5 — PUBLIC CONTACT– PROHIBITED CONDUCT

2. Said Probationary Detective Delare Rathour, while assigned to Narcotics Borough Brooklyn South, on or about and between May 2020 and August 11, 2020, wrongfully failed to notify his Commanding Officer of his change of residential address, as required.

   P.G. 203-18, Page 1, Note — RESIDENCE REQUIREMENTS

Disciplinary Case No. 2023-27756

1. Said Probationary Detective Delare Rathour, while assigned to Manhattan Court Section, while off duty, on or about October 29, 2022, between about 0007 hours and 0030 hours, near [redacted] Queens County, New York, and in violation of an active Order of Protection, issued on March 16, 2022 by Nassau County District Judge Joy Watson, in effect until February 1, 2023, improperly endangered the welfare of [redacted] his wife, and the passenger of his private vehicle, by driving said vehicle in a reckless or otherwise dangerous or unlawful manner, suddenly accelerating and decelerating, driving through multiple steady red lights and against the lawful flow of traffic, with said vehicle's front passenger door open, and [redacted] screaming with her leg hanging out of said door while said Police Officer held [redacted] by her hair.

   A.G. 304-06, Page 1, Paragraph 5 — PROHIBITED CONDUCT

   N.Y. Penal Law § 215.50 (3) — CRIMINAL CONTEMPT IN THE SECOND DEGREE

   N.Y. Penal Law § 120.20 — RECKLESS ENDANGERMENT IN THE SECOND DEGREE

   N.Y. Veh. & Traf. Law § 1212 — RECKLESS DRIVING

[1] Respondent was demoted from Detective to Police Officer in connection with the charges in these cases.

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 12 and 13, and April 9, 2024. Respondent, through his counsel, entered pleas of Not Guilty to the domestic violence allegation set forth in Specification 1 in Case No. 2020-22533 as well as the sole specification in Case No. 2023-27756. He pleaded Guilty to Specification 2 in Case No. 2020-22533, for failing to update the Department regarding a change of his residential address. The Department called Lieutenant Vanessa Tejada, Sergeants Leo Ma and Stephen Williams, Police Officers Jack Crawford and James Droge, and [redacted] as witnesses. Respondent called [redacted], [redacted], and the 12-year-old son of Respondent and [redacted] as witnesses, and 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 Respondent Guilty on all counts, and recommend a penalty of Termination from the Department.

ANALYSIS

Respondent faces charges in connection with two separate off-duty incidents involving his wife [redacted]. In the first matter, Respondent is accused of wrongfully engaging in a physical altercation with [redacted] inside their Nassau County home on August 11, 2020. In the second case, it is alleged that Respondent violated an active Order of Protection on October 29, 2022, in that he endangered [redacted], a passenger in his vehicle, by driving in a dangerously reckless manner.

In support of the allegation in the first matter, the Department Advocate introduced into evidence hearsay statements of [redacted], during which she alleged that Respondent pushed her

against a closet, causing an injury to her back. At trial, [redacted] testified as a witness for the defense, and claimed that the injury occurred when she slipped and fell outside her bathroom, and that Respondent did not push her. With respect to the second case, an eyewitness, [redacted] testified as to her observations of the vehicle being recklessly driven by Respondent, and how [redacted], the front seat passenger, appeared to be screaming for help and trying to escape. [redacted] was in another car with her husband, who recorded a portion of the incident. [redacted] testified for the defense in this matter as well, claiming that there was no wrongdoing on the part of Respondent. The two cases will be discussed separately below.

Case No. 2020-22533 – Specification 1

It is alleged that on the morning of August 11, 2020, Respondent wrongfully shoved his wife [redacted] during an argument in their home, causing an injury to her back. Later that day, [redacted] went to Nassau Community Hospital, where she was interviewed by Sergeant Leo Ma of IAB; that interview was recorded and transcribed (Dept. Exs. 1 & 1A). In that interview, [redacted] stated that she was in the shower when Respondent knocked on the door. He was late for a doctor's appointment, and was looking for his turban. [redacted] came out of the shower and told him she did not know where it was. An argument ensued, during which Respondent pushed her hard against a closet, and she fell to the floor. [redacted] stated that her back was badly hurt, and she was in "really bad pain." She asked him to take her to the hospital, but Respondent gave her two Tylenol and told her to wait until he returned from his appointment. After Respondent left, [redacted] decided she could not wait, and called Respondent's parents to tell them that she needed to go to the hospital. They came over and called an ambulance, At the hospital, she learned that her spine was fractured from the altercation. [redacted] stated that

while at the hospital, she spoke with officers from the Rockville Centre Police Department; she told them what had occurred, and filled out a Domestic Incident Report ("DIR"). (Dept. Ex. 1A at 2-6, 8-10)

Sergeant Ma testified that when he was with [redacted] at the hospital, he reviewed the DIR. According to Sergeant Ma, the information in the DIR was consistent with her statement to him. Respondent was arrested by Rockville County Police that day. (Tr. 39-40)

Lieutenant Vanessa Tejada, who at the time of the incident was a sergeant assigned to the Detective Bureau Investigations Unit, testified that she conducted a follow-up telephone interview with [redacted] on August 27, 2020. Lieutenant Tejada described [redacted] as "very forthcoming" during their conversation, consistent in her account during multiple tellings, and she did not appear to be exaggerating what occurred. The interview was recorded and transcribed (Dept. Exs 2 & 2A). (Tr. 44-50, 52-57)

In that interview, [redacted] again stated that Respondent knocked on the door while she was in the shower. She toweled off and came out to the hallway, where he argued with her about finding his turban. [redacted] stated that Respondent pushed her backward against a closet door, and she fell to the floor. She was crying due to really bad back pain, but he ignored her and went inside the bedroom to wrap his knee for his doctor's appointment. According to [redacted], their eight-year-old son did not witness the push, but when he heard her screaming he came out and offered to help. [redacted] pleaded with Respondent to bring her to the hospital, but he told her he would take her when he gets back in about a half hour, and he left. She called her in-laws, who lived nearby, told them that their son had pushed her, and she needed to go to the hospital. The in-laws came, and called for an ambulance. When the ambulance arrived, [redacted] was on the phone with Respondent when she overheard her mother-in-law say to the ambulance

worker that [redacted] slipped in the bathtub, which was a lie. At the hospital, [redacted] told the nurse the true story, that her husband pushed her. The nurse notified the police, and [redacted] told them what happened as well. (Dept. Ex. 2A at 4-11, 16-17)

At trial, [redacted] testified that the night before the incident, she and Respondent were arguing about how Respondent listened to his parents and not [redacted]. [redacted] confirmed that she did hurt her back and spine the following day, but claimed it happened when she slipped and fell after leaving the shower. She called her in-laws and told them she slipped and fell. When the ambulance arrived, her mother-in-law spoke with the EMT, since [redacted]'s English was not as good. According to [redacted], the reason she told the Rockville Centre police that Respondent pushed her was because she was angry with Respondent for not treating her with respect, for listening to his parents instead of her, and for not including her in decision-making. She testified that she believed making the false report against Respondent "would fix him," and that he would learn from it. (Tr. 189-92, 204-08)

By way of background, [redacted] explained that she and Respondent had an arranged marriage in 2010, and there were marital tensions in the years that followed, including difficulties between [redacted] and her in-laws. In December 2018, [redacted] was hospitalized [redacted] following an argument with her mother-in-law. She had a psychiatric consultation with a doctor there, who diagnosed her with [redacted] (*See* Resp. Ex. B, medical records from Good Samaritan University Hospital). Her relationship with Respondent was fine in 2019-2020, though there were financial pressures that strained their marriage at times. After this incident, [redacted] and Respondent were separated for about one year, but have since reunited and are living together. [redacted]

[redacted]

[redacted] Respondent's father, testified that [redacted] called to say that she fell and hurt her back badly. He and his wife went to the house, and [redacted] told them she slipped and fell in the hallway by the closet, and she wanted to go to the hospital. According to [redacted], they called 911, and when the ambulance arrived he told the EMT that [redacted] had said she slipped and fell, and since she did not speak English well he could translate for her. [redacted] also claimed he heard [redacted] tell the EMT that she slipped and fell. Later that evening, Rockville Centre police came to the house and arrested Respondent. (Tr. 251-57)

The 12-year-old son of Respondent and [redacted], who was eight at the time of the incident, testified that he was in the kitchen preparing to have cereal when he heard his mother scream, followed by the sound of her hitting the floor. He peeked his head out of the kitchen and saw his mother on the floor in the hallway, near the closet door, with no clothes on and a towel beside her. Respondent, who had been in the living room, ran past his son to [redacted]. The son helped his dad carry [redacted] to the bedroom, where she continued to scream in pain. According to the son, his grandfather arrived and called for an ambulance while Respondent was still home. The son also testified that he did not recall hearing his parents arguing immediately before the incident. (Tr. 272-77, 286-96)

Respondent testified that he and [redacted] had argued about money the night before the incident, though he claimed that they did not quarrel that morning, and there was no argument about finding his turban. He echoed [redacted]'s testimony that there had been a lot of tension in their marriage, and that his wife had often accused him of taking his mother's side in arguments with [redacted]. On the morning of the incident, Respondent was in the living room

when he heard a scream and a thump. He ran to the hallway and saw [redacted] on the floor with no clothes on. According to Respondent, [redacted] said that she had slipped on the tile, and complained that her back hurt. Respondent covered her with a towel and helped her into bed. He asked [redacted] if she wanted him to take her to get medical attention, but she answered that she was fine. When Respondent again offered to take her to the hospital, she said that he should just go, "You only care about yourself." He helped her get dressed, and then went to his knee appointment with the District Surgeon. (Tr. 303-07, 314-21, 347-48)

On his way back from the District Surgeon, Respondent spoke with [redacted], who was in an ambulance. Respondent testified that she told him she was going to say he pushed her. When he went to the hospital to try to visit [redacted], Respondent was told he could not see her because she had made a complaint of domestic violence. He returned home, called his delegate, spoke with an attorney, and was placed under arrest later that day. The criminal case was eventually adjourned in contemplation of dismissal, and the full Order of Protection was modified to a limited order, which was still in effect at the time of the second incident as discussed below. (Tr. 321-25, 349-51)

Specification 1 charges Respondent with wrongfully engaging in a physical altercation with his wife, [redacted]. Specifically, it is alleged that during an argument, he pushed his wife hard against a closet, causing her to fall to the floor, and that she sustained a serious injury to her back as a result of the shove.[2] [redacted] testified at trial that she merely slipped and fell, but in light of her multiple prior statements to the contrary, her trial testimony was not convincing. In a recorded interview with Sergeant Ma on the day of the incident, she provided a detailed account of how Respondent pushed her. Her statement to Ma was essentially consistent with what she

[2] Although no medical records were produced, [redacted] told the police that when she went to the hospital she learned that her spine was fractured. At trial, she confirmed that her back and spine were injured.

told police officers from Rockville County earlier that day. Approximately two weeks later, [redacted] spoke with Sergeant Tejada and provided the same detailed description of how Respondent pushed her during an argument. Throughout these statements, [redacted] remained consistent in her account, including specific details as to the argument that preceded the physical altercation, the shove into the closet, the serious pain she suffered, how she unsuccessfully pleaded with her husband to take her to the hospital, and her interactions afterward with her in-laws, the medical personnel, and the police.

At trial, [redacted], who is again living with Respondent and has an interest in his retaining his job, claimed that these statements were all lies, and that she said those things because she was angry at her husband and wanted "to fix him." However, in light of her previous detailed statements to law enforcement, which remained consistent through multiple tellings, including one interview which occurred two weeks later, I reject her trial testimony as contrived. It is implausible that in a moment where she was suffering excruciating pain, she concocted a story against her husband, which she then repeated to multiple hospital and law enforcement personnel. Similarly, I was not persuaded by the testimony of Respondent's father and young son, interested family members who, like [redacted], had a motive to provide biased testimony on Respondent's behalf.

Additionally, I reject Respondent's testimony as self-serving and implausible. Respondent's claim that there was no argument that morning was contradicted by [redacted]'s repeated descriptions of how he banged on the bathroom door looking for his turban. Likewise, his claim that she just slipped and fell was convincingly contradicted by [redacted]'s statements regarding how he pushed her into the closet. Respondent's testimony that [redacted] told him she was fine and did not need to go to the hospital is incredible in light of what occurred after

Respondent left the house, when [redacted] immediately reached out for medical assistance for a serious back injury, enlisting the assistance of the very in-laws with whom she had so much conflict.

After carefully considering the totality of the evidence, I conclude that the initial accounts provided by [redacted] accurately described what actually occurred. Those statements were detailed and consistent, and I am not persuaded that they were the byproduct of any mental health issues suffered by [redacted]. The record has established, by a preponderance of the credible evidence, that Respondent wrongfully engaged in a physical altercation with [redacted], in that he pushed her into a closet causing her to suffer serious pain to her back. Accordingly, I find Respondent Guilty of Specification 1.

Case No. 2020-22533 – Specification 2

In an unrelated count, Specification 2 charges Respondent with failing to make the required notification regarding his change of residential address. Respondent pleaded guilty to this charge, candidly admitting that he did not initially make the required notification. He explained that he had moved during the pandemic, and many of the Department's civilian employees who would help with the address change were working from home on irregular schedules. Also, it was a time where there were riots throughout the city, and his post was changing every day. Nevertheless, Respondent acknowledged that he made a mistake, and should have found the time to make the necessary notification. (Tr. 80-81) In light of his admission, I find Respondent Guilty of Specification 2.

Case No. 2023-27756

On October 29, 2022, Respondent was driving his personal vehicle, with [redacted] in the front passenger seat. At the time of this incident, there was a limited Order of Protection in place stemming from the first matter. (Dept. Ex. 6) Though it did not require Respondent to stay away from her, the order, in pertinent part, required Respondent to refrain from assaulting, stalking, harassing, menacing, or recklessly endangering [redacted]. It is alleged that Respondent endangered [redacted] by operating the vehicle on the streets of Queens County in a reckless manner.

[redacted] testified that she and her husband were stopped at a traffic light in their own car at the intersection of 51st Avenue and Queens Boulevard, with Respondent's vehicle directly in front of them. She observed the front passenger door of Respondent's vehicle open, and heard [redacted] yelling and shouting for help. [redacted]'s leg was outside the car, and it appeared to [redacted] that she was trying to exit the vehicle, but Respondent drove off with the door still open. [redacted] and her husband briefly followed Respondent's vehicle, which went through multiple red lights, and at one point drove in the wrong lane against traffic, before [redacted] lost sight of the car. (Tr. 147-51, 157-60, 162-67)

[redacted]'s husband used her phone to record what was occurring in Respondent's vehicle when it was initially stopped at the red light. (Dept. Ex. 7) That footage, which lasts approximately 30 seconds, shows Respondent's car with the front passenger door open. What sounds like screams can be heard coming from the vehicle for the entire 30 seconds of the video. With the door still open, the vehicle drives off and makes a turn, with the sound of [redacted] still screaming, and it appears her leg is outside the car.

In addition to recording what occurred, [redacted]'s husband called 911. In that call (Dept. Exs. 3 & 3A), he can be heard stating that there is a female screaming for help inside the car. He reports that the car is moving with the door opened, and states that the driver "is crazy." The operator asks if he believes that the woman is being kidnapped, and he replies yes. Bautista also gets on the phone and says they were "driving like crazy." She states that the woman wanted to get out of the car, but the driver pulled her back inside. The car drove through several red lights, before [redacted] and her husband lost them. At the request of the 911 operator, [redacted] and her husband pulled over to wait to be interviewed by police. [redacted] testified that she told the responding officers what had occurred, and showed them the video that her husband had recorded with her phone. They then went to the precinct where they were interviewed again. (Tr. 152-55)

Police Officers Jack Crawford and James Droge each testified that they were assigned to a call of a possible abduction. They responded to where [redacted] and her husband had pulled over, and Officer Crawford spoke with them about what had transpired with respect to Respondent's vehicle. The officers also watched the video recorded by [redacted]'s husband (Dept. Ex. 7). Meanwhile, Respondent's car pulled over as well, and Officer Droge spoke with Respondent, who said that he and [redacted] were just trying to get home. [redacted] emerged from the vehicle with her phone in hand, and tried to get the officers to speak with the Borough Chief of Queens North about the incident, but the officers declined to speak with him. [redacted] told the officers that she and Respondent just wanted to leave, but the officers told her to get back inside her car and wait until their supervisor arrived. Neither Respondent nor [redacted] provided any details of what had occurred inside their vehicle: at no point did [redacted] tell the officers that Respondent had abducted her. When Lieutenant Molina arrived,

everyone at the scene was instructed to go to the precinct. Respondent and [redacted] drove together in their car, at a "very low rate of speed" while they spoke on their cell phones. At the precinct, the officers asked [redacted] what happened, but she refused to provide any details. (Tr. 80, 83-88, 90-92, 95, 104, 107-09, 222-32, 236, 242-43, 245-46)

Lieutenant Alex Molina testified that he responded to the location and spoke with Respondent and [redacted], both of whom said that nothing had happened, and they just wanted to leave. Neither seemed to be intoxicated. Molina also spoke with [redacted], who stated that she observed [redacted] try to exit the vehicle, but Respondent forced her back in. She and her husband followed the vehicle, which drove through several red lights before they lost sight of it. [redacted] showed Molina the video they had recorded, and the lieutenant concluded that contrary to the claims of Respondent and [redacted], something *had* happened. Molina again questioned Respondent and [redacted], but they continued to deny that anything had occurred, so Molina decided to have all parties go to the stationhouse in order to investigate further. Molina testified that at the precinct he confronted [redacted] with the accounts provided by [redacted] and her husband. In response, [redacted] stated that she almost fell out of the car because the door was not fully closed, and Respondent pulled her back in. (Tr. 115-19, 127-34)

Sergeant Stephen Williams of IAB testified that on the day of the incident, he interviewed the duty captain, Captain Benjamin Cui, about the matter. Captain Cui informed Williams that he had spoken with Respondent, who stated that the reason he drove through several red lights at a high rate of speed was because he felt he was going to be robbed by someone traveling in the car behind him. Approximately two weeks after the incident, Williams spoke briefly with [redacted] by phone. She stated that nothing had happened in the car with her husband. (Tr. 62-63, 73-76)

[redacted] testified that she and Respondent were on their way home from a Department fraternal dinner, where she had consumed seven or eight alcoholic beverages. [redacted] and Respondent argued, because she was upset that they stayed at the dinner too long and needed to get home to their children. [redacted] was angry that Respondent never listens to her. The argument got worse in their car, and [redacted] confirmed that she was screaming as depicted in the video. She attempted to jump out of the car, but Respondent tried to stop her, telling her that she would get hurt if she fell. Respondent succeeded in calming her down. According to [redacted], at no point did Respondent punch, hit, or pull her hair. She explained that the reason she tried to get the officers on the scene to speak with the Chief was because she wanted to find out why they had been stopped by the police. [redacted] testified that at the scene, she told the officers that nothing had happened, but back at the precinct she informed the police that she and Respondent had been arguing, and that she tried to jump out of the car. (Tr. 193-96, 209-13)

Respondent testified he had a few alcohol drinks at the dinner, and [redacted] drank even more. He did not know whether she also took any medication for her depression that day. In the car on the way home, they argued because [redacted] was angry that they stayed too long, and that he left her by herself while he talked with his friends. According to Respondent, [redacted] was yelling and screaming, and he tried to calm her down as he drove down 51st Avenue. As they approached the intersection of Queens Boulevard, she opened the front passenger door, and tried to jump out. He grabbed her because he was concerned she would exit the vehicle and try to hurt herself, and he wanted to protect her. Instead of stopping, Respondent chose to continue driving, even though the door was open and [redacted]'s leg was outside the car. (Tr. 328-29, 336-39, 352, 361-62, 370, 377)

Rather than turn right onto Queens Boulevard as he originally intended, Respondent turned left onto the service road, then made a right turn onto Dongan Aveneue. Respondent testified that once he turned onto the side street, [redacted] shut the passenger door, and he continued to drive for several blocks. He claimed that he was trying to calm [redacted], who continued to yell and curse, and pull on his clothes. Respondent acknowledged that he may have passed through several red lights and even driven in the oncoming traffic lane at one point. Respondent testified that in hindsight, he realizes that maybe he could have used better judgment and pulled over sooner, but his focus was on keeping [redacted] safely inside the car. He also noted that he did believe he was being followed by another vehicle during the incident. (Tr. 329-30, 333-36, 340-42, 362-63, 365-70)

Respondent eventually pulled over, to make sure that the situation was under control before they got on the highway. He testified that their vehicle was approached by a police officer, who instructed them to wait at the scene. [redacted] exited the car with her phone and spoke with one of the officers at the location, then returned to the car. Respondent did not know why [redacted] called the Borough Chief on her phone, though he acknowledged that the Chief was a family friend of theirs. Respondent did not tell the responding lieutenant anything about what had just occurred with [redacted] inside the vehicle. The lieutenant instructed them to drive to the precinct, which they did; Respondent let [redacted] drive, and she proceeded slowly because she was a beginner driver. Respondent testified that he could not recall telling the Duty Captain at the precinct that he and [redacted] had been followed by another vehicle and feared they would be the victims of a gunpoint robbery. Though Respondent was released from the precinct that day, he was arrested three months later for reckless endangerment and violating the order of protection; those charges were eventually dismissed. (Tr. 330-33, 367-75, 378-79)

Respondent faces one specification in connection with this matter, which alleges that he improperly endangered [redacted]'s safety, in violation of a valid order of protection, by driving in a reckless, dangerous manner. [redacted] an eyewitness to the incident, testified credibly regarding her observations, including seeing the passenger door open and [redacted]'s leg hanging out. It appeared to [redacted] that [redacted], who was screaming, was trying to get out of the car, but Respondent drove off with the door still open. [redacted] and her husband were so concerned about what they were seeing that they continued to follow the car. Making matters worse, Respondent then proceeded to drive through multiple red lights, and at one point drove in an oncoming traffic lane.

[redacted]'s testimony was reinforced by the 911 call (Dept. Ex. 3), in which she and her husband each reported their observations as events were unfolding. Her account was further corroborated by the video (Dept. Ex. 7) recorded by her husband. This disturbing footage shows Respondent driving off, even though the car door is open and [redacted] can be heard screaming the entire time. Even [redacted], with her trial testimony, confirmed that she and Respondent were arguing, that she was screaming and trying to exit the vehicle, but Respondent stopped her from doing so.

At trial, Respondent denied the charge, but I found his testimony to be incredible. Respondent's claim that he merely was concerned with protecting [redacted] from hurting herself is difficult to reconcile with the actions he took: if his priority really was the safety of [redacted], he could immediately have stopped the vehicle to deal with the situation. Instead, Respondent dangerously continued to drive, turning onto the Queens Boulevard service road, *even though the passenger door was open with* [redacted] *'s leg hanging out*. After turning onto a side street, Respondent still failed to stop the car; he continued to drive recklessly for several

more blocks, running red lights and driving in the wrong lane. There is no reasonable view of this evidence that Respondent was acting for the safety of [redacted]. Rather, Respondent's actions were extremely reckless, and endangered the safety of his wife.

When police officers arrived to question Respondent and [redacted] regarding what had occurred, neither of them provided any details as to what had just transpired, further undermining Respondent's trial testimony. Respondent did not, for instance, tell the officers the same story he relayed at trial, namely that [redacted] had tried to jump out of the car, and he was just trying to protect her from hurting herself. Instead, they each insisted that nothing had happened, and they just wanted to go home. Toward that end, [redacted] even tried to get the officers at the scene to speak with a Borough Chief, who was a friend of the family.

Then, at the precinct, Respondent and [redacted], for the first time, spoke of the incident. Lieutenant Molina credibly testified that when confronted with [redacted]'s account, [redacted] stated that she "almost fell out of the car" because the door was not closed, and Respondent pulled her back in. Sergeant Williams credibly testified that the Duty Captain informed him that Respondent had claimed that the reason he sped through red lights was because he believed he was going to be robbed by the people in the car behind him. I find that neither of these explanations were supported by the credible evidence, and were nothing more than an attempt to minimize Respondent's misconduct.

Taken as a whole, the record has established, by a preponderance of the credible evidence, that Respondent, following an argument with [redacted], endangered her safety by operating his vehicle in an extremely reckless manner. That conduct was in violation of a valid order of protection, which ordered Respondent to refrain from recklessly endangering

[redacted]. But more than that, Respondent's actions were grossly improper and dangerous. Accordingly, I find Respondent Guilty.

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, who was appointed to the Department on January 9, 2012, has been found Guilty on all counts, the most serious of which were two counts of domestic violence that occurred on two separate dates. The Department Advocate asks for a penalty of termination. For physical acts of domestic violence, the Disciplinary Guidelines provides a presumptive penalty of 30 suspension days, dismissal probation, and counseling, and an aggravated penalty of Termination.

Based on the totality of Respondent's misconduct in these matters, a penalty of Termination is warranted. In the first case, Respondent argued with [redacted] when she came out of the shower, and took out his frustration by dangerously shoving her into a closet, causing her to fall to the floor. Even though she was in a great deal of pain, Respondent refused to take her to the hospital, forcing her to rely on her in-laws to get medical help for a serious injury to her back and spine.

In the second matter, Respondent showed a shocking disregard for the safety of his wife by operating his vehicle in an extremely reckless manner. He and [redacted] had been arguing in their vehicle and she tried to get away from him. Rather than allow her to do so, Respondent drove forward, even though the passenger door was open and [redacted]'s leg was hanging out of the car. Her chilling screams were audible during the entire 30-second video, and were heard by [redacted] and her husband from their car as well. Even after the door was closed, Respondent continued driving recklessly for several blocks, running red lights and driving against traffic. He did so despite an order of protection that required him to refrain from recklessly endangering his wife.

It is deeply troubling that Respondent's domestic violence arrest on August 11, 2020, and the order of protection that was issued to him, were not enough to deter him from committing an additional act of domestic violence against his wife two years later. There may well have been challenging aspects to their marriage, but that in no way justifies Respondent's violent actions toward his wife, and there must be appropriate accountability. Further, Respondent's egregious conduct in these matters demonstrates that he cannot be relied upon to control his behavior in a way that is expected of a member of this Department. Taking into account the totality of the facts and circumstances in these matters, I recommend a penalty of Termination from the Department.

Respectfully submitted,

Jeff S. Adler
Assistant Deputy Commissioner Trials

DISAPPROVED

JUN 18 2024

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 DELARE RATHOUR
TAX REGISTRY NO. 952149
DISCIPLINARY CASE NOS. 2020-22533 & 2023-27756

Respondent was appointed to the Department on January 9, 2012. On his three most recent annual performance evaluations, he was twice rated "Exceeds Expectations" for 2022 and 2023, and received a 4.5 rating of "Highly Competent/Extremely Competent" in 2020. Respondent has been awarded four medals for Excellent Police Duty.

Respondent has no formal disciplinary history. In connection with the instant matters, Respondent was suspended without pay from August 12, 2020 to September 14, 2020, and from January 18, 2023 to February 16, 2023. Additionally, he was placed on Level 2 Discipline Monitoring in March 2023; monitoring remains ongoing.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials