POLICE DEPARTMENT

In the Matter of the Disciplinary Proceedings	:	
- against -	:	FINAL
Police Officer Stephan Grant	:	ORDER
Tax Registry No. 963058	:	OF
23 Precinct	:	DISMISSAL

Police Officer Stephan Grant, Tax Registry No. 963058, having been served with written notice, has been tried on written Charges and Specifications numbered 2024-29710 (PODS Case C-031357), as set forth on form P.D. 468-121, dated February 23, 2024, and most recently amended on September 4, 2025. After a review of the entire record, Respondent is found Guilty of the charged misconduct.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Stephan Grant from the Police Service of the City of New York.

HONORABLE JESSICA S. TISCH
POLICE COMMISSIONER

EFFECTIVE: 10/31/25

POLICE DEPARTMENT

October 14, 2025

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	C-031357
Police Officer Stephan Grant	:	
Tax Registry No. 963058	:	
23 Precinct	:	

At:	Police Headquarters One Police Plaza New York, NY 10038
Before:	Honorable Paul M. Gamble, Sr. Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:	Timothy Marsh, Esq. Department Advocate's Office One Police Plaza, Room 402 New York, NY 10038
For the Respondent:	Craig Hayes, Esq. Worth, London & Martinez, LLP 111 John Street, Suite 640 New York, NY 10038

To:

HONORABLE JESSICA S. TISCH
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Police Officer Stephan Grant, while assigned to MELD, on or about March 10, 2023, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Stephan Grant inappropriately touched the genitals of an individual known to the Department, causing said individual to become uncomfortable. *(As amended)*

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

2. Said Police Officer Stephan Grant, while assigned to MELD, on or about March 10, 2023, failed to notify the Department of his involvement in an off-duty incident.

   A.G. 304-06, Page 1, Paragraph 1 FAILURE TO NOTIFY

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on September 11 and 12, 2025. Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The Department called Sergeant Daphney Pamphile as a witness. Respondent testified on his own behalf and called Jesus Sanchez. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all the evidence in this matter, I recommend that Respondent be terminated from his employment with the Police Department of the City of New York.

Introduction

This case arose from an allegation of off-duty misconduct by Respondent during a period of authorized military leave with the New York National Guard. Jesus Sanchez, who was Respondent's superior non-commissioned officer, appeared before the Tribunal and provided relevant testimony regarding the Asylum Seeker mission, located at the Night Hotel in Manhattan, to which Respondent and his alleged victim, SP, [redacted] were assigned. Sanchez testified credibly regarding the daily operations of the mission; the respective duties of Respondent and

SP within that mission; and the policies governing the conduct of the National Guard personnel assigned to it.

The evidence offered by the Department Advocate in support of the charges was primarily in the form of hearsay statements from SP and two outcry witnesses, her mother, C., and her friend, E.C. SP's statements were contained in: (1) memoranda completed by two investigators, New York State Police Investigator Jeffrey Shillingford and Sergeant Daphney Pamphile, Internal Affairs Bureau; (2) a Supporting deposition SP completed and swore to after her second interview with Investigator Shillingford; and (3) a recorded, transcribed interview of SP conducted by Sergeant Pamphile.

The Department Advocate also offered documentary evidence, including copies of text messages between SP and Respondent; Instagram messages between Respondent and SP's friend, E.C.; and various National Guard documents associated with the aftermath of SP reporting the alleged incident.

After reviewing all the evidence, this Tribunal concluded that the actual day-to-day events during the night shift at the asylum seeker mission, under Respondent's supervision, were significantly different from the textbook operation described by Jesus Sanchez. It is within this backdrop that the Tribunal evaluated the evidence in support of the charges.

ANALYSIS

The following is a summary of the facts which are not in dispute.

On March 10, 2023, Respondent was off duty, on military leave, serving with the New York National Guard, on a mission located at the Night Hotel, 132 W. 45th Street, New York, New York (T. 24, 155; Dept. Ex. 1, Incident Report). His assignment was to the Joint Task Force Asylum Resource Support as a team leader of an eight to ten-soldier unit that served meals

to asylum seekers housed at the hotel (*Id.*). Respondent supervised his team from 2300 hours on March 9th to 0700 hours on March 10th[1] (Dept. Ex. 4, Hotel Sign-In Sheet, at 6). As a sergeant (E-5), he outranked all the soldiers in his unit (*Id.*). Specialist [redacted] (hereinafter "SP") [redacted][2] was the only female soldier assigned to his unit (*Id.*). The soldiers performed their duties in the hotel kitchen; Respondent's duty area was primarily the lobby of the hotel (T. 191).

The soldiers assigned to the asylum seeker mission reported to the hotel for their eight-hour tours of duty but did not reside there (T. 120, 156). There were no sleeping arrangements made for the soldiers staffing the overnight shift, as they were expected to perform their duties during that time; the hotel management did, however, set aside two rooms for soldiers to use for breaks and the performance of administrative tasks (T. 120, 158). Both rooms were in the "penthouse" area: one had a living room and a couch (T. 158). The second room was a duplex: the first floor was set up as an office but also had a living room, couch and bathroom; on the second floor, there was a bed, couch, television and a full bath with a shower (T. 158-159).

Respondent and SP [redacted] each had the other's personal mobile telephone numbers and would correspond by text message for official and unofficial matters (T. 159; Dept. Ex. 3, text messages between SP [redacted] & Respondent). Respondent's telephone number was saved in SP's [redacted] contacts as "Ssg Grant[3]" (*Id.*).

On March 10, 2023, sometime between 0044 hours and 0539 hours, SP [redacted] and Respondent had an interaction in "Room 32" of the Night Hotel, the nature of which is disputed

[1] The New York National Guard had established an asylum seekers mission, staffed 24/7, in three shifts of soldiers (T. 114-115; Dept Ex. 4).
[2] SP's [redacted] identity is known to the Department.
[3] "SSG" is a shorthand version of Staff Sergeant, a rank to which Respondent expected to be promoted upon reporting to his new unit (T. 182).

(Dept. Ex. 3). SP has accused Respondent of kissing her and touching her private parts over her clothing; Respondent denies engaging in either act.

On or about and between March 12, 2023, and March 14, 2023, SP was transferred from Respondent's unit (T. 129).

On March 27, 2023, SP executed a military Victim Reporting Preference Statement (DD FORM 2910, Nov. 2021) with a Sexual Assault Response Coordinator and elected "Unrestricted Reporting" (Dept. Ex. 5, Victim Reporting Statement).

On March 27, 2023, Respondent was removed from the asylum seeker mission (Dept. Ex. 6, DoD Departmental Counseling Form). He was later served with a Military Order of Protection in favor of SP. which ordered him to stay away from her (T. 183; Dept. Ex. 7, Military Protective Order).

On April 17, 2023, SP's complaint was reported to the New York State Police; Investigator Jeffery Shillingford was assigned to investigate the matter (T. 26; Dept. Ex. 1). Investigator Shillingford made telephonic contact with SP on April 20, 2023; during that conversation, she indicated that she wished to move forward in pressing charges and a tentative meeting was set for May 8, 2023 (*Id.*). On May 9, 2023, Investigator Shillingford had another telephone conversation with SP, who stated that she was having second thoughts and wanted a few more days to think about her decision (*Id.*). On May 15, 16, and 17, 2023, Investigator Shillingford attempted to reach SP by telephone but was unsuccessful (*Id.*).

On June 5, 2023, Investigator Shillingford met SP and conducted an interview concerning the March 10, 2023, incident (Dept. Ex. 1).

On July 10, 2023, Investigator Shillingford met SP again and interviewed her a second time; after her interview, she signed a supporting deposition stating that she wished to press charges against Respondent for Forcible Touching and Harassment (T. 28; Dept. Exs. 1, 2).

On August 21, 2023, SP was interviewed by the New York County District Attorney's Office. On October 16, 2023, Assistant District Attorney Paul Barker informed Sergeant Daphney Pamphile, Internal Affairs Bureau, that they would not be moving forward with a case against Respondent (T. 81; Resp. Exs. A, B). No disciplinary action against Respondent was taken by the New York National Guard (T. 104).

The following is a summary of the relevant evidence introduced during the trial.

Sergeant Daphney Pamphile

Sergeant Daphney Pamphile testified that she is an investigator in Group 1, Internal Affairs Bureau, and in or about mid-August 2023, was assigned to investigate an allegation of forcible touching against Respondent (T. 21-22). She obtained documents from military and civilian authorities relating to the initial investigations by the New York State Police and the New York County District Attorney's Office, as well as documentation of the actions taken by the New York National Guard because of SP's complaint (Dept. Exs. 1, 2, 4, 5, 6, 7). During her investigation, she conducted interviews with SP; SP's mother, C; SP's friend, E.C.; and Respondent (Dept. Exs. 8A, 8B, 9A, 9B, 10A, 10B, 11A, 11B). Sergeant Pamphile also obtained copies of text message communications between SP and Respondent, as well as Instagram message communications between E.C. and Respondent (Dept. Exs. 3 & 12).

Jesus Sanchez[4]

Jesus Sanchez testified that he is a Sergeant First Class and a 22-year member of the New York National Guard, stationed at the Whitestone Armory (T. 114). He worked with Respondent on the Asylum Seeker Task Force in February/March 2023 at the Night Hotel, where he was the Non-Commissioned Officer-in-Charge ("NCOIC") (*Id.*). Sanchez testified that the mission was to provide meals and housing for the asylum seekers as their requests for asylum in the United States were processed (*Id.*). Respondent was assigned as a team leader for the overnight shift; his responsibilities were to ensure the asylum seekers were back in the hotel by curfew and to manage a small team of soldiers (T. 116). According to Sanchez, Respondent would report to the hotel at 2230-2300 hours, change into his uniform and meet with Sanchez to conduct a "walk-through" (*Id.*). Sanchez would conduct a turnover briefing and make Respondent aware of any infractions by asylum seekers which had occurred during the day tour (*Id.*). Respondent was also responsible for coordinating with any other agencies involved with the mission and the hotel security staff (*Id.*).

Sanchez testified that there were 26-30 soldiers assigned under his command (T. 116-117). He testified further that when a new soldier was assigned to the mission, he would conduct a 15-minute briefing to provide guidance on what the command expected of them– uniform regulations, reporting times, and issues specific to the asylum seeker mission (T. 117). Sanchez testified that he had such a briefing with SP when she was assigned to the mission; according to Sanchez, when he informed SP that he assigned her to the night shift, she told him that she was "not planning on being here that long" and was arranging with friends to be reassigned to the Staten Island Armory with better hours (T. 118-119).

[4] Jesus Sanchez was called by Respondent, but his testimony appears at this point in the decision in the interest of fluidity.

Sanchez testified that SP never approached him about sleeping arrangements for the soldiers assigned to the mission because there were no such arrangements; none of the on-duty soldiers were supposed to sleep but they were permitted to take breaks in rooms which had been configured as lounges (T. 120). Sanchez testified that he was on leave on March 10, 2023, and did not return to duty until March 12, 2023; it was "one or two days later" that he learned through a telephone call from headquarters that SP was going to be transferred due to a hardship (T. 129). He testified that when he asked what the reason for the transfer was, he was told that it could not be discussed over the telephone (*Id.*).

Sanchez was questioned by the Tribunal as to Respondent's duties in a designated rest area of the hotel; he responded:

> First of all, fraternization is a no-go. That's one thing I would say if you have a male and female alone in a room, it don't look right. Sergeant Grant used to always tell soldiers [to] separate because it didn't look right. He'll patrol to make sure that nobody who's not supposed to be upstairs in those rooms are in that room...

The Tribunal then asked a follow-up question:

> Q. Based on your instructions, were guardsmen permitted to get onto that bed, recline to go to sleep?
>
> A. No. We have had soldiers kind of pass out on the chairs. On the bed, no. But I was told that there was three individuals that were in the bed and Sergeant Grant told them to get up, it didn't look right. And, you know, if it was the first sergeant or myself walked in, all hell broke loose. He did stop a lot of that.

(T. 140-141).

SP

The Department Advocate offered three hearsay statements made by SP: (1) her June 5, 2023 statement to a New York State Police investigator; (2) a supporting deposition, sworn on July 10, 2023; and (3) an Internal Affairs interview on March 15, 2024 (Dept Exs. 1, 2, 8A, 8B).

Respondent offered an additional hearsay statement SP made to a New York County Assistant District Attorney on August 21, 2023 (Resp. Ex. A). SP's statements are summarized below.

1. *NYSP Interview*

On June 5, 2023, SP was interviewed by Investigator Jeffrey Shillingford, New York State Police, who summarized her statements on an Incident Report Form (Dept. Ex. 1 at 3). SP told Investigator Shillingford that she was working in her capacity as a New York National Guard soldier in New York City, working with migrants. At the end of her work shift, she was placed in a suite with some of her male coworkers and felt uncomfortable with the arrangement. SP notified her supervisor, Respondent, about her being uncomfortable with the room arrangement. SP explained that Respondent then suggested that she go into one of the empty rooms set aside for the migrants. SP entered the room, then Respondent entered her room and lay in the bed next to her. SP repeatedly told Respondent she was not interested in his advances and simply wanted to sleep; nevertheless, he kept trying to kiss her. SP stated that she continued to tell him she was uninterested, but Respondent persisted. SP recalled feeling immense discomfort, but eventually acquiesced and kissed Respondent "really briefly," hoping this would end the encounter. After the kiss, Respondent left the room; SP, believing the interaction was over, went to sleep. She woke up later, however, to Respondent lying in her bed, rubbing her genitals over the thin material of her pajamas. SP pushed him off her.

SP continued that a few days later, she texted Respondent to tell him how violated she felt. SP stated that he apologized numerous times and asked her to take his calls so they could talk about it.

2. *Supporting Deposition*

On July 10, 2023, SP met with Investigator Shillingford for a second interview; at the conclusion of that interview, she executed a written Supporting Deposition (Dept Ex. 2). In the Supporting Deposition, SP stated that she was a member of the New York National Guard and on February 19, 2023, was assigned to the Asylum Seeker mission in New York City at the Night Hotel located at 132 W. 45th Street, New York, NY 10036. Her assignment at the Night Hotel was to provide security, distribute food, and ensure access to the rooms. At the end of the workday, there were designated rooms provided for Guardsmen to sleep. She, along with two of her fellow male Guardsmen, was staying in the Penthouse suite. After approximately three weeks of this arrangement, she began to feel uncomfortable: the other Guardsmen were "hitting" on her, and it made her feel uneasy. It was at this point that she sought alternative sleeping arrangements.

SP went to Respondent and told him that she was uncomfortable sleeping on the couch and with the sleeping arrangements. Respondent told her that he had an office with a bed that she could use instead. She entered the room alone, under the impression that she would be the only one using the room. Minutes later, Respondent texted her, instructing her to close the curtains in the room. She found the instruction odd but complied, assuming he did so because he did not want someone peeking in on her while she was sleeping. She closed the curtains, changed into her pajamas, and lay in bed. Shortly thereafter, Respondent entered the room, took off his boots, and lay on the bed next to her.

SP stated that she and Respondent began talking, and he spoke of a woman from Camp Smith "who had pissed him off." Respondent stated that he wanted to slap her. SP asked him whether he would "hit a female?" and he replied, "Yeah." At this point, SP felt scared based

on the conversation and his response to her question. Respondent then leaned over and attempted to kiss SP but she turned her head away. Respondent repeatedly told SP that he just wanted to pleasure her and tried getting his hands in between her legs. Respondent was lying on SP's left side with his left hand on her left leg, continuously trying to work his hands up her leg toward her vagina. SP pushed his hand away, stated she "wasn't here for that," and repeatedly told him no, but he persisted.

Respondent's body was pressed against SP's and his proximity made SP feel scared and trapped. She kissed Respondent, hoping that "would be the end of it." SP then turned on her side, presenting her back to Respondent, to go to sleep. Respondent wrapped his arms around her stomach; SP was still uncomfortable, so she turned to lie on her back, eventually falling asleep.

SP later woke up to the feeling of Respondent's hand rubbing her vagina over her clothing. SP said, "No," and pushed his hand away; Respondent then left the room. The next morning, SP woke up to get ready for the workday. Before leaving the room, Respondent told SP, , "You are mine and you're not going anywhere."

SP stated that throughout the encounter, she felt afraid and uncomfortable. At no point did she give Respondent or anyone else permission to touch her vagina or her in a sexual manner.

SP affirmed her statement under the penalty of perjury (P.L. § 210.45).

3. *New York County District Attorney Interview*

On August 21, 2023, SP was interviewed by Assistant District Attorney Paul Barker of the Manhattan District Attorney's Office. Sergeant Pamphile was present for the interview and summarized SP's statements in an IAB worksheet (Resp. Ex. A).

SP stated that she had been a member of the National Guard since 2018 and, on February 19, 2023, was assigned to the overnight shift at the Night Hotel for the Asylum Seeker mission. Upon assignment to the mission, she noticed that she was the only female and did not feel comfortable. There was a dedicated room in the penthouse for the soldiers to rest when there was "downtime," from 000-0530 hours. The sleeping arrangements were that Carlos Islas and "Mohammad" slept in the bed together, and SP slept on the couch. At some point, SP brought up the sleeping arrangements to Respondent and told him that she did not feel comfortable. SP stated that Respondent offered her his office space to sleep in. Before being assigned to the mission, SP did not know Respondent.

On March 10, 2023, SP went to the office space that Respondent provided. She stated that after she entered the room, Respondent texted her, instructing her to close the curtains in the room. SP found the instruction peculiar but complied, assuming he wanted to ensure her privacy. She then changed into her pajamas and lay in bed. Shortly thereafter, she heard the door open and saw Respondent enter the room. He took off his boots, lay on the bed next to her and immediately tried to kiss her. SP informed Respondent that she was not there for that. She asked Respondent what he was doing in there and he stated they were going to watch a movie. SP did not ask him to leave because he was her supervisor.

SP and Respondent had a conversation that scared SP He described a woman who had cut a line at Camp Smith, then stated that he would hit a girl; after hearing this story, SP stated she was fearful of Respondent. SP stated that they would talk, then kiss for "a little while," while lying on the bed. SP explained that she kissed him in the hope that he would leave; instead, Respondent rubbed her thigh and stated that he wanted to pleasure her. SP began to cry, and Respondent asked her what was wrong. SP told him about her breakup with

her previous girlfriend, then turned away from Respondent. When he wrapped his arms around her, SP could feel his genitals against her body. She felt uncomfortable, so she rolled over onto her back.

SP fell asleep but later awoke to Respondent rubbing her vagina over her clothing. SP stated that she never said no or asked Respondent to leave; rather, she got out of bed and went to the bathroom to change into her uniform. Respondent, at some point, asserted, "You're mine now." SP voiced her desire to leave, then left the room.

4. SP's *IAB Interview*

On March 15, 2024, Sergeant Daphney Pamphile conducted a recorded, in-person interview with SP (Dept Exs. 8A, 8B). SP stated that she was currently a Sergeant with the National Guard and was assigned to the asylum mission on Staten Island. On March 10, 2023, she worked a midnight shift at the Night Hotel. During her shift, she distributed food and hung out in the lobby until it was time for her to go to sleep.

She stated that her sleeping arrangement that night was different from previous tours, as she was going to be in a regular room that was supposed to be an office. Her original rest assignment was in the penthouse suite with two other male soldiers. SP described her relationship with the two soldiers as work-related, conceding that they tried to "hit on her," but she would tell them to stop. She stated that she would sleep on the couch in the suite, and the two males would be on the bed next to her. SP stated that these arrangements were in place from the time she reported to the mission in mid-February; she described being uncomfortable in that environment as she was the only female on site. She told her supervisor (Respondent) that she was sleeping on the couch and that she was very uncomfortable (Dept. Ex. 8B at 3-5).

SP described her relationship with Respondent as professional and friendly "until the end." She denied knowing him before she reported to the mission, and that she was ever in a relationship with him. She acknowledged that he had her phone number when she transferred to the Night Hotel and that it was he who contacted her, told her where she would be working, and what her hours were. SP described her first conversations with Respondent as related to her schedule. The conversations then turned to her loss of a promise ring, which had been given to her by a former girlfriend; she informed Respondent that she had lost it, and he stated that he would look for it. On one occasion, when a chaplain came to visit the unit, Respondent proposed to her in front of everyone, which she took as a joke at the time. Respondent later talked about moving to Texas and saying he wanted kids; again, because it was said in front of the other soldiers, she took it as a joke. SP denied that she was ever interested in Respondent as more than her boss (*Id.* at 6-9).

SP stated that when she informed Respondent about her problem with the sleeping arrangements, he suggested that there was an office that he used that he really did not sleep in, that she could use to sleep. She responded to him that since she was already on the couch in the penthouse, she would sleep there the next night. SP stated that Respondent would usually sleep on the couch in the lobby, since he was the boss. (*Id.* at 10).

On March 10th, at about midnight, SP recalled Respondent opening the door to the new room for her; he had previously given her a master key, but she did not have it with her that night. When she entered the room, which she stated was on the third floor, she saw a bathroom, a closet full of boxes on the right, a television with a table beneath it, and a bed. She also described the room as having two windows. When she entered the room, she changed into sweatpants and a sweatshirt. SP denied that she had been drinking or that Respondent was

supposed to stay in the room with her. SP stated that Respondent instructed her to close the blinds; she complied, assuming Respondent "didn't want anybody to look in." She then went to sleep. She did not lock the door, as she recalled it locking automatically when it was closed, and that someone would need a key to enter (*Id.* at 12-15).

SP awoke to the sound of a door opening and someone taking their boots off. She then felt someone lie down next to her and realized it was Respondent. She recalled Respondent saying "nothing. He just tried to kiss me." SP did not want him in the room. She was lying on the right side of the bed, next to the wall, near the windows. Respondent tried to grab her to lean in for a kiss, and SP responded, "No, I'm not here for that" (*Id.* at 16). Respondent then told SP, , in a monotone, about a woman he wanted to slap. SP asked whether he would hit a woman. Respondent replied in the affirmative. Neither party laughed, and SP grew fearful, but they continued conversing. SP disclosed that she was scared because she had only been with a woman before, and Respondent spoke about his daughter (*Id.* at 17-18).

Respondent kept rubbing her thigh and saying he "just wanted to please me" (Dept. Ex. 8B at 19). SP froze, not knowing what to do when confronted with such persistence. SP did not want to kiss him, and she had never kissed a man before. She did not tell him to leave because he was her boss, and she feared that he would put her job in jeopardy. SP did not leave the room as she was afraid he would grab her, given his proximity; as a result, she kissed him. After the kiss, SP rolled over, facing away from Respondent; when she felt him come closer with his genitals pressing against her backside, she repositioned herself to lie on her back. She also positioned her face in the opposite direction of Respondent to avoid further kissing (*Id.*).

SP fell asleep but awoke to Respondent, rubbing between her legs in her vaginal area, over her clothing (*Id.* at 19-20). She swiped his hand away, and then he stopped touching her. SP stated that she did not leave the room because she was frozen and confused, having just woken up. She remembered "staring at the wall" until she fell asleep (*Id.* at 21).

SP did not recall when Respondent left the room, but she later woke up alone and went to change into her uniform in the bathroom. When she returned to the room, Respondent was inside and declared, "You're mine now. You're not going anywhere" (*Id.* at 22). In response, SP asserted, "Respectfully, I don't want to be here. I want to leave to Staten Island" (*Id.*).

SP stated that she did not report Respondent's actions then, but that she later told her best friend E.C., her siblings, the chaplain, and a lieutenant colonel from the Army. She explained that she told her E.C. more of the details of the incident than she told her mother. E.C. assisted her in writing a message to Respondent, telling him how she felt disrespected. SP stated that she told her mother during the weekend of her mother's birthday, stating, "Someone touched me, and I didn't want to be touched," while breaking down (Dept. Ex. 8B at 22-23). SP told her two brothers and her sister that something had happened, that she was tired of being in the military, and that she felt weak and taken advantage of (*Id.* at 23-24).

SP stated that she did not see Respondent after that night but that she did send him a text message afterward to inform him how she felt that night, that she thought he was going to remain downstairs, how she felt disrespected when he touched her, and that she continuously told him no (*Id.* at 25).

C .

SP's mother, C , provided a recorded, telephonic conversation to Sergeant Pamphile on December 21, 2023[5] (Dept. Ex. 10A, 10B). In her statement, she acknowledged that her daughter had told her about an incident which occurred when she was assigned to the asylum seekers mission in New York, involving Respondent. C . stated that her daughter told her a man wanted to touch her, and she felt "really bad" about it. She did not recall whether her daughter told her "the man" had touched her or wanted to touch her but her daughter was very upset by it (Dept. Ex. 10B at 3).

C . stated that her daughter made the disclosure to her in a face-to-face meeting at C's home[6] and was distraught as she related the incident. She recalled SP's exact words as, "Mommy, something happened to me at work" and that she was crying as she made that statement. SP told her that she had been assigned a therapist to help her because the incident was affecting her mental health (*Id.* at 5-6). C . stated that she was trying to provide spiritual comfort to SP, because she is a pastor, but she was also hurt her that her daughter had such an experience at work (*Id.* at. 7). C did not recall whether SP told her where she had been touched but was certain SP said "something happened" (*Id.* at 8).

E.C.

SP's friend E.C. provided a recorded, telephonic statement to Sergeant Pamphile on December 14, 2023 (Dept. Ex. 9A, 9B). In her statement, E.C. acknowledged that she had spoken with SP about an incident with Respondent which had occurred when SP was assigned to the National Guard asylum seeker mission (Dept. Ex. 9B at 3).

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[5] Sergeant Pamphile was assisted on the call by Sergeant Cruz, IAB Group 10, as a Spanish language translator.
[6] In SP's Internal Affairs interview, she recalled that she told her mother while they were out to dinner for her mother's birthday (Dept. Ex. 8B at 23).

E.C. first informed Sergeant Pamphile that she had already discussed her conversation with SP with Assistant District Attorney Paul Barker and expressed confusion about the purpose of Pamphile's call, as her understanding was that the case had been closed. She asked Sergeant Pamphile if SP was aware that she would be contacting her; Pamphile explained that she was from NYPD Internal Affairs and wanted to know what SP told her about the incident (*Id.* at 4).

E.C. stated that SP told her that "[Respondent] came into the room, they were on the bed together and . . . I think they were kissing, and --he tried to do more [sic], and she told him no, like she didn't want to do more. And he seemed to understand, I think, I believe he seemed to understand. So, she fell asleep, and she woke up to him touching her on her private parts and she felt really uncomfortable, and she told him to stop" (*Id.* at 5). E.C. stated that she recalled SP telling her that she went back to sleep but could not remember precisely, as "it was a very long time ago." She also recalled that SP told her she felt "very scared and very uncomfortable" and was unsure of what to do. E.C. stated that she told SP "if she wanted to report him that she was all right to do, to do so, and if she doesn't, then that's also on her rights. It all depends on what she wants to do and that I'll be there regardless" (*Id.*).

E.C. stated that she, too, was in the National Guard, but did not serve with SP on the asylum seekers mission. She denied that SP and Respondent were in a relationship, as SP told her that she had only met Respondent three or four days before the incident occurred. She stated that SP revealed the incident to her during a telephone call (*Id.*, p. 6-7).

E.C. had a second recorded, telephonic interview with Sergeant Pamphile on March 19, 2024 (Dept Ex. 11A, 11B). Sergeant Pamphile told E.C. that she was calling because SP had contacted Pamphile and stated that Respondent had contacted E.C. via Instagram the day before,

on March 18, 2024, at 1444 hours. E.C. stated that she had posted a story on her Instagram account and Respondent had posted a reply to it[7]. Department's Exhibit 12 is a copy of the Instagram exchange with Respondent that E.C. provided to Sergeant Pamphile.

E.C. noticed that he referred to her job in his post, and it concerned her because she did not recognize his profile, and he had some apparent familiarity with her assignment. Despite her hesitancy, she continued the message exchange because she felt bad for him. According to E.C., Respondent was telling her that he got out of the Army in mid-December and she asked him why[8]. Respondent then told her that he had a "situation" which popped up when he was trying to help two soldiers. Respondent told her that the soldiers did not realize he was trying to help them "but then the girl came up and lied, and they even went to his NYPD job" (Dept. Ex. 11B at 2).

E.C. stated that it was at that point that she recognized the story as familiar to her and she asked him, "Are you taking about my best friend?" Respondent asked who her best friend was, and E.C. replied, "SP." Respondent then asked for her telephone number but denied that it was SP he was talking about. She pressed Respondent and asked whether he knew what she was talking about. He asked if she still had the same telephone number; E.C. replied it depended on which number he had. She continued to ask Respondent, "Answer the question, do you know what I'm referring to?" Respondent asked if he could call her and she replied that she was at work. E.C. stated that she told him anything he had to say he could just text, but Respondent did not reply; he later deleted the reason he left the military from his message, but she read Respondent's message before he deleted it (*Id.* at 3-4).

[7] The story included a photograph of E.C. in uniform (Dept. Ex. 11B, at 5, Dept Ex. 12, p. 1).
[8] E.C. recalled that she asked Respondent what happened at approximately 1926 hours in the Instagram message (*See* Dept. Ex. 12, p, 3).

According to E.C., Respondent stated in his message that the reason he was kicked out was because of two soldiers being together. He was trying to help them, but they did not know he was helping them. Later, "the girl" was trying to get transferred to a different site, so she lied and said that he was in bed with her and that it did not make sense that it went to the NYPD. He wrote that her story did not make sense and that she changed it four times (Dept. Ex. 11B *at* 4).

E.C. told Sergeant Pamphile that her Instagram page contains a video of SP [redacted] She stated that her Instagram page is public, whereas Respondent's page was not. E.C. did not recall ever crossing paths with Respondent (*Id.* at 6).

Respondent

Respondent testified that he had been a member of the United States Army and the New York National Guard from 2011 until the end of 2023 (T. 152). He initially enlisted and served an active-duty deployment to Afghanistan; at the conclusion of his enlistment contract, he joined the New York National Guard (T. 152-153). Respondent's Military Occupational Specialty was "11-BRAVO" infantry soldier (T. 153). In the National Guard, he was assigned as a team leader, then was promoted to squad leader; his highest rank was sergeant (E-5)(*Id.*).

Respondent testified that during the Guard's COVID mission, he created the Kingsbridge Armory food distribution site and conducted COVID testing (T. 153-154). At the end of 2022, he took military leave from this Department and began performing Guard duties with the Asylum Seeker mission (T. 154). Respondent described his duties as enforcing the curfew imposed on asylum seekers residing at the Night Hotel and ensured they complied with all check-in procedures; distributed the asylum seekers' mail; preparing meals for distribution to asylum seekers by soldiers on the morning shift; and supervising soldiers' break periods (T. 155). The soldiers also provided security for the mission's operations (T. 156). Respondent testified

further that soldiers assigned to the mission did not reside at the hotel (*Id.*). SP was one of the soldiers assigned to his unit; her duties were to prepare meals for the morning shift and to provide Spanish translation services when needed (T. 157).

Respondent testified that he had been a sergeant in the Guard since 2014 (T. 160). He described his management/supervisory style as friendly and approachable but letting his soldiers know "the right thing to do" (T. 160). He testified that his role also involved counseling soldiers on making good financial decisions, as many had never deployed and would be unaccustomed to managing their finances under such conditions (T. 161).

Respondent testified regarding text messages he had exchanged with SP, in evidence as Department's Exhibit 3. On February 28, 2023 at 2247 hours, SP sent him a text message in which she requested his help in finding an engagement ring she lost (Dept. Ex. 3, p. 4, Tues, Feb 28 at 22:47). He testified that he had not seen the ring, "because [he] doesn't go upstairs," but that he would have the day shift look for it[9] (T. 162-163). He explained further that his response to SP after she thanked him, "Your [sic] welcome love. Let me know if you find it," was "naturally how I speak to everyone" (*Id.*).

On Thursday, March 9, 2023 at 0044 hours, SP sent Respondent a text in which she accused him of sending an internet link to the soldiers so they could access pornographic movies (Dept Ex. 3, p. 6, Thurs, Mar 9 at 00:44). Respondent testified someone had suggested a movie site to him and during a group discussion with members of his unit, he offered it to them "so they could watch whatever TV show or new movie that comes out" (T. 164). When SP accused him of sending the unit "porn" sites, he responded that it was not "porn" but acknowledged that

[9] Respondent's text message response was, "Ok, I'll keep an eye out." The response does not contain any reference to whether he "went upstairs" (Dept. Ex. 3, p.4, Tues, Feb 28 at 22:47).

the "pop-ups do that," and then blamed [redacted][10] for providing that link (*Id.*). SP's response, "Yea, yea, blame [redacted]. All we see is ass ass and ass lmfao" (*Id.*). Respondent then replied with three laughing emojis (*Id.*).

Respondent then testified about a series of text exchanges which appeared on pages 7 through 13 of Department's Exhibit 3. When questioned about exterior and interior photographs of a $380,000 house in Texas he sent SP, he explained that he sent those following up on an in-person conversation he had with the other members of the unit regarding the acquisition of a home as a wise usage of the financial benefits they would receive for their active-duty service (T. 164-165). He testified further that on page 8, where he writes to SP, "LOL so Texas is our plan," to which she responded, "yep, sure is LOL," and he replied, LOL all right I'm down," he was not suggesting that they "run away together to Texas,' but was encouraging "everyone to buy their own home, and try to start their own families" (T. 165). Respondent testified that during this exchange, the discussion turned to how he already had children and did not want any more; according to Respondent, SP replied that she wanted "a bunch of kids," to which Respondent answered, "we have to talk about that, kids are expensive" (*Id.*).

The text of the exchange was as follows:

Resp: Lol guess we have to go on dates and go from there if you want
SP: Lol I guess you're right
Resp: Lol ... We gotta talk about the 4 kids though lol
SP: Lol I'm trying to be a soccer mom yk, have a team myself
Resp: Lmaoooo ... Does it matter if it's boys or girls because I'm convinced I can only make girls thanks to my dad lmao
SP: Well, I'd like 2 girls and 2 boys like my mother did but honestly, I currently don't have any kids so maybe my mind will change later on
Resp: Ok I can work with that...what do you like to do for fun

(Dept. Ex. 3, p. 9).

[10] [redacted] apparently refers to [redacted], who was assigned to Respondent's night shift at the hotel (Dept. Ex. 4).

Immediately after the exchange summarized above, Respondent sent a message to SP asking her, "ahhh, ok … just curious… but when did you realize you were interested in talking to me?" SP responded, "I mean you said some slik thinks to me that I caught onto but acted stupid…It was sweet…I would say yesterday." Respondent replied, "Lol really … I wasn't slick I was just being honest and aww that's what's up…As long as I didn't step out of line with anything." SP replied, "No, you didn't I would've told you." Respondent then texted, "Oh, ok" and sent an upside-down smiley face emoji (Dept. Ex. 3, pp. 13-14).

Respondent acknowledged that that on page 13 of Department's Exhibit 3, he asked SP, , "What are you guys up there doing," she responded, "watching a Harry Potter movie but I'm just laying down," and he replied, "oh, okay just curious" (T. 166-167). He explained that before he sent that message, he had "gone upstairs to use the bathroom and as [he] got upstairs, SP and two other male soldiers are in the bed together" (T. 167). Respondent clarified that SP and the two soldiers were lying on the bed, not sitting, and they were clothed, but not in uniform (*Id.*). He testified further that he asked them, "What's going on?" and they said that they were watching a movie but there was nothing playing on the television; there was an open laptop on the bed but nothing playing on the laptop (T. 168). Respondent testified that he used the bathroom, exited, then told the soldiers to be "downstairs at 5:30 in uniform" (*Id.*). He recalled that this occurred at approximately 0300 hours (*Id.*).

Respondent testified that SP later sent him a text message asking, "why are you still up, you should be sleeping," to which he replied, "LOL," with a laughing emoji, followed by, "wanted to lay next to you" and then asked SP, "why are you still awake (T. 169). Respondent explained that when he texted that he wanted to lay next to SP, he was making a joke about him observing her on the bed with the other two soldiers (*Id.*).

Respondent acknowledged that SP replied, "Well the way this room is set up, I don't think that's possible...Got the guys on the bed as I'm here laying on this couch lol...Well honestly it's hard for me to sleep here"[11] (T. 169). He testified that when he sent SP a text asking, "Do you want to go to 32 and relax," he was alluding to him observing her with the other two soldiers and described it as "that situation can't happen again"[12] (T. 169-170). He explained that he "asked her, I said do you need somewhere else to go take your break, or you know want somewhere else to relax, let me know, this room is available. That's what that message was for" (T. 170).

Respondent testified further that he gave access to SP to another room (Room 32) for her to take her breaks in (T. 170-171). He ordered her to complete an inventory and "put out the food for the next shift" (T. 171). Respondent acknowledged that he issued this directive, part of which appears at the top of page 21 on Department's Exhibit 3 (*Id.*). In the text exchange which followed, Respondent asked SP whether she had "a key to get in," then directed her to meet him "on 3" and he would provide one for her (*Id.*; Dept Ex. 3, p. 21, Fri, Mar 10 at 00:44). He also acknowledged that he sent her a text directing her to "close those curtains my love" (*Id.*). Respondent explained that he had not discussed closing the curtains with SP before that text message but that he sent it because there was a building across the street "and you can see directly into the room"[13] (T. 171-172).

Respondent testified that he gave SP access to Room 32, then left her to retrieve his laptop and hard drive, telling her that he would return with it as soon as he completed a task

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[11] Respondent then replied to SP with, "well the office in 32 is empty...I knock all the way out on the bed watching Netflix and wake up at 6" (Dept. Ex. 3, p. 15).
[12] The full text Respondent sent SP read, "Do you want to go to 32 and relax no 1 goes there since its being used for storage" (Dept. Ex 3, p. 16).
[13] Respondent testified that he had never been inside Room 32 before and to his knowledge, neither had SP (T. 172).

downstairs (T. 172). When he returned to the room 20-30 minutes later, SP was sitting on the bed, with her back against the headboard; she had removed her uniform blouse and placed it on a chair but was otherwise dressed (T. 173). Respondent testified that he sat on the "opposite side of the bed" and had a conversation with her in which he brought up "the room incident with the three soldiers" (T. 173). According to Respondent, he told SP, "Listen, you know, if that was anyone with more rank than me that would've been a major problem for us and for the entire site. I'm not trying to get anyone in trouble, but I do have to talk to you about it" (T. 173-174).

He testified that he also raised the issue of a physical altercation between SP and her former boyfriend, in which a soldier named [redacted], whom Respondent described as "very close to her" became involved (T. 174). According to Respondent, SP "barely gave him information on what transpired" but he had already been apprised of the incident by hotel security (*Id.*). He testified that he told SP it was the second time "that a situation happened while you're at this site" and that he was "not here to hurt anyone here, I'm here to protect you guys" (T. 175). SP assured Respondent that she was fine and Respondent did not have to worry about her (*Id.*).

Respondent detailed that ever since SP arrived at the mission, she had expressed a desire to transfer to Staten Island to be with her friends (T. 175-176). He denied making any physical advances toward SP by either touching, grabbing or laying down next to her; he further denied kissing her (T. 176, 185).

Respondent stated that once the conversation was over, he left the room and returned downstairs; on his way out of the room, he saw a security guard, supposedly the same one who had alerted him to the altercation SP had been involved in (*Id.*). Respondent recalled that he

thanked the security guard for bringing the incident to his attention and stated that he had discussed the matter with SP (T. 176-177).

Respondent testified that he had a text exchange with SP, after he had left Room 32, which appears on page 22 of Department Exhibit 3 (T. 177; Dept. Ex. 3, p. 26, Fri, Mar 10 at 05:39). In this text exchange, he acknowledged that he texted, "Babe are you still getting ready," to which SP responded that she was "coming down now" (*Id.*). Respondent then replied, "Take your time…I'm upstairs…Going to shower an[d] come down" (*Id.*). When SP raised a concern about the security guard seeing them both come out of the same room, Respondent dismissed her concern, asserting that the guard "wasn't paying attention" and had been sleeping (*Id.*). When SP texted Respondent that the guard looked at her, he replied, "probably because he was sleeping[14] (*Id.*).

Respondent testified that when SP made her accusation against him in a text message, he responded, "Oh my God" because he "was confused" and "didn't understand why she would send that because none of what she said transpired" (T. 178; Dept Ex. 3, pp. 27-28, Tue, Mar 14 at 18:41). He testified that he asked to call SP but she did not want to speak to him; he stated that he had no further communication with her because "at this point, there was no reason to reach out to her. She's already accusing me of something I didn't do so it didn't make sense for me to keep reaching out" (T. 179). When counsel for Respondent asked him if he had concerns about sending her a text message to discuss the incident, he answered, "It's just that I knew it didn't happen, it didn't transpire. I was just upset that I knew this didn't happen and she text[ed] me this long paragraph out of nowhere" (T. 180).

[14] Dept. Ex. 3 shows that Respondent unsent a message, then texted, "He definitely wasn't there earlier so he didn't see us go in separately…Is he drewling?" (Dept. Ex. 3, p. 22, Fri, Mar 10 at 05:39).

Respondent testified that approximately one week later, he was advised by the "NCOIC[15]" that their work site was under investigation and that the investigation had something to do with SP (T. 180-181). He testified he was further advised that there was an allegation against him; that his promotion was on hold; and that he would have to leave the asylum seekers mission until the conclusion of the investigation (T. 181). Respondent testified that he worked one more tour of duty after the alleged incident, then attended a two-week military school; upon his return to the unit, he was served with a Military Protective Order, directing him to stay away from SP because she had accused him of sexual assault and sexual harassment (T. 183; Dept. Ex. 7).

Respondent testified that when he was served with the protective order, he spoke to two senior officers in his command and asked them whether he had to notify "his job." According to Respondent, they replied that there was only an allegation and that he did not have to take any further action; they further advised him not to speak to anyone (T. 184).

On cross-examination, Respondent testified that his normal post during his tour of duty was the hotel lobby; he occasionally left the lobby to conduct a patrol of each floor (T. 191-192). He testified that he sometimes would go to the penthouse "to take my break, use the bathroom, you know. Before I leave shift, I would take a shower and go home"[16] (T. 192). He claimed that there was no bed in Room 32 prior to March 9th and that he only became aware that there was a bed in the room on March 10th, when he provided access to SP. (T. 193-194). He was then confronted with a text message he sent SP on March 9 where he told her, "LOL well the office in 32 is empty. I knock all the way out on the bed watching Netflix and wake up at 6" (T. 197).

[15] It is undisputed that NCOIC in this context refers to Sergeant First Class Jesus Sanchez.
[16] Respondent was then asked, "So you would sometimes take your break in the penthouse?" and he answered, "No" (T. 192).

Respondent acknowledged that the message had been sent on March 9th but claimed that he was stating what he would do, not that he had already done so (*Id.*).

Respondent testified that after he observed SP and the soldiers in the break room on the bed, he was not satisfied with their answer that they were not doing anything but took no action because he "didn't make a big deal of something I didn't see" (T. 201). He testified that his correction was to order them to be in the lobby in uniform at 0530 hours (*Id.*). He acknowledged that as their superior noncommissioned officer, their posture could have gotten them into trouble but asserted, "Yes. I'm not here to get anyone in trouble" (*Id.*). Respondent claimed he discussed his observations with Sergeant First Class Sanchez when he conducted their turnover briefing the next morning on March 9th (*Id.*). He admitted that when he discussed the incident with SP on March 10th, telling her she could have gotten into a lot of trouble, he did not tell her that he had already reported the incident to Sanchez (T. 204). Respondent further admitted that he did not assert during his Department interview that he had reported the incident to Sanchez on March 9th (T. 205-206).

Respondent admitted to using "my love" in text messages to SP but claimed that was his way of being speaking to women, even other female soldiers with whom he served (T. 217). He denied referring to SP as "babe" deliberately and claimed that word appeared in the message due to auto-correct (T. 217).

Respondent claimed that when he texted SP, "wanting to lay next to you," he was making a bad joke (T. 231). He conceded that he sent this message after ascertaining that she was interested in him and that sending it reflected poor judgment (T. 232). Respondent appeared to equivocate that the incident he observed with SP and the two other soldiers "could have been serious, depending on who from the military is observing it. So, if that had been a sergeant

major who walked in on that, everyone that worked that shift would have been in trouble" (T. 232-233).

FINDINGS

Credibility

I credit Sergeant Daphney Pamphile's testimony, as it was consistent with her role in the investigation, which included interviewing witnesses, collecting evidence, and reporting her findings. Her testimony also aligned with the evidence collected during the investigation, lending it the ring of truth.

I credit the statements of SP's mother and her friend, E.C., in their capacity of outcry witnesses. I further credit E.C.'s statement regarding the Instagram message exchange she had with Respondent, as it was corroborated by Department's Exhibit 12, a copy of the messages.

I credit Jesus Sanchez' testimony with respect to his policies as the Non-Commissioned Officer-in-Charge at the Night Hotel. I further credit his testimony regarding the prohibition against fraternization in the Army and National Guard. I note that his testimony regarding fraternization and the avoidance of the appearance of impropriety was unremarkable and what any military member would expect the standards to be, even without being briefed on them upon arrival at a new assignment. With respect to the actions Respondent supposedly took regarding the enforcement of those policies, I credit only that he reported what Respondent told him he had done. The evidence supports the finding that Respondent provided a self-serving narrative to Sanchez regarding the performance of his duties as a supervisor which was not supported by the independent evidence in the case.

As discussed in greater detail below, I credit the statements of SP regarding the material assertions of fact necessary to adjudicate the allegations of misconduct. I do not credit Respondent's testimony, as it was self-serving, contradictory and illogical.

Specification 1: Inappropriate Touching

I find by a preponderance of the credible, relevant evidence that the Department Advocate has met its burden of proof that Respondent inappropriately touched SP's genitals over her clothing and that such contact was contrary to good order, efficiency, and discipline of this Department.

The Department Advocate presented hearsay evidence of SP's claim that Respondent, a fellow member of the New York National Guard and her supervisor, touched her genitals while they were both inside a room at the Night Hotel on March 10, 2023. In addition to SP's hearsay statements, the Department Advocate presented evidence of electronic communication between SP and Respondent which occurred before, and after, the alleged incident; the hearsay statements of two outcry witnesses, E.C. and C; electronic communications between E.C. and Respondent; and other documentary evidence.

Respondent has denied touching SP's genitals and claims that she fabricated the accusation against him as a means of obtaining a transfer to a more desirable duty assignment.

Few things are more difficult, yet more fundamental to the role of a trier of fact, than the task of attempting to reconstruct the most probable nature of a past event based on conflicting testimonial accounts. While the law creates the framework within which such a task is accomplished, the ultimate determination of which account to accept depends solely on an assessment of witness credibility. That assessment remains the exclusive province of the fact finder.

In making such an assessment, the trier of fact should consider a wide range of factors, including but not limited to, witness demeanor, corroborating evidence, the consistency of a witness account both at trial and over time, the degree to which the witness is interested in the outcome of a case, the potential prejudice or bias of the witness, and perhaps most basically the degree to which the witness accounts are logical and comport with common sense and general human experience.

As an overlay to this dynamic are the complexities of assessing allegations of sexual assaults. This Tribunal is aware that it is often difficult for victims to report sexual assaults. In fact, even after taking the step of filing a report it is not unusual for victims to withhold what they consider to be embarrassing details. The emotional complications of bringing such charges, however, must always be weighed against Respondent's due process right to have all evidence suggesting that the incident did not occur fairly evaluated and considered. It is within this context that I make the following findings of fact.

I find that based upon the totality of the evidence, SP's narrative of the alleged incident is more credible than Respondent's. I make this finding based upon: (1) the specificity and consistency of the material factual assertions contained in her statements; (2) the corroboration of components of her statement by either independent evidence in the case, or by Respondent's own admissions, or both; (3) the degree to which the timing and location of the alleged incident were controlled by Respondent; and (4) the inherently coercive nature of the relationship between SP and Respondent, based upon his position as SP's senior non-commissioned officer and supervisor.

I do not credit Respondent's defense that SP fabricated an accusation of misconduct against him as a means of obtaining a transfer to a more desirable duty location.

Counsel for Respondent has argued that the Tribunal should infer from the decisions of the New York County District Attorney's Office and the New York National Guard not to pursue either criminal or court-martial cases against Respondent that these entities found SP's credibility lacking. In addition, counsel invites the Tribunal's attention to Sergeant Pamphile's memorandum of a meeting with a prosecutor from the District Attorney's Sex Crimes Unit, in which the state prosecutor asserted that no criminal charges would be pursued because of inconsistencies in SP's statements.

In an administrative trial, the finder of fact is not bound by the charging decisions of independent prosecutorial agencies. Indeed, evaluating the strength of a potential prosecution brought under either the New York Penal Law or the Uniform Code of Military Justice involves different procedures and standards of proof than those applicable to this Tribunal. This proceeding requires a *de novo* evaluation of the relevant, credible evidence offered by the Department Advocate's Office in support of the charges, as well as evidence Respondent may present in defending against the charges.

I have reviewed SP's out-of-court statements and made the following observations. The statements all allege that: (1) Respondent, her supervisor, entered a room where she was laying on a bed; (2) attempted to kiss her, which she initially rebuffed; and (3) touched her genitals over her clothing, without her consent, after she had fallen asleep. The situation she described is not factually implausible, albeit highly improper.

In her supporting deposition, her New York County interview and her Internal Affairs interview, she asserted that before he entered her room, Respondent texted her to close the curtains in the room. This assertion is corroborated by the text messages in Department's Exhibit 3.

In each of her four statements, she alleges that she was not wearing her uniform during the interaction with Respondent: in the initial statement, the supporting deposition and the New York County interview, she alluded to wearing pajamas. In the Internal Affairs interview she specified that she was wearing a sweatshirt and sweatpants.

In her initial statement on June 5, 2023, SP does not assert that Respondent rubbed her legs; she did assert that in her supporting deposition and in her Internal Affairs interview. In her initial interview, the supporting deposition and the Internal Affairs interview, she conceded that she acquiesced to Respondent by kissing him, after her initial refusals to do so, in the hope of mollifying him and bringing an end to the encounter; she did not assert this fact in her New York County interview.

In her New York County interview and her Internal Affairs interview, SP stated that when she rolled over on the bed after giving Respondent a kiss, she felt his genitals against her back. She did not make this assertion in her initial interview or in the supporting deposition.

SP's assertion in her Internal Affairs interview that she told Respondent after their allegedly improper interaction that she wanted to transfer to Staten Island is corroborated by the text messages Respondent sent her immediately after she expressed concern about the security guard outside room 32. Respondent texted a picture of a character from "Suits" with the caption, "PLEASE DO NOT LEAVE ME" (Dept. Ex. 3, p. 23). On page 23, he texted a picture of Will Smith on his knees, followed by the text, "Have to make you laugh so you can stay" (Dept. Ex. 3, p. 24).

In summary, SP described a scenario where she was subjected to unwanted, intimate contact by someone in a position of authority over her. Her descriptions of the event conceded that she tried to make clear that she was not interested in intimacy with Respondent but that she

eventually acquiesced to kissing, because of his position of authority and the uncertainty over how much control he could exert over her and her future. The most serious allegation is that SP awoke to find Respondent touching her genitals over her clothing after SP thought the encounter, as uncomfortable as it had already made her, was over.

SP's post-event conduct (*i.e.*, the delayed reporting, the emotional disclosure of the event to her mother and her siblings, the consultation with her friend E.C., postponing meetings with the State Police investigator) appear consistent with that of an individual who has been the victim of an unwanted assault wrestling with the trauma of the event, the loss of control, the prospect of her actions being scrutinized if she were to disclose the assault and the decision of what steps, if any, she could take in response to it.

In contrast, I find Respondent's in-court testimony to be self-serving and illogical. While any Respondent has an interest in the outcome of a disciplinary proceeding, in this case, Respondent advanced a theory which invited the Tribunal to ignore both logical inferences which flowed from the documentary evidence, as well as logical fallacies in his testimony, in favor of a speculative motivation for SP to have fabricated an accusation of misconduct.

While Respondent's own witness, Jesus Sanchez, testified credibly and logically to the standards for of performance of duty of soldiers assigned to the asylum mission, the credible evidence in the record establishes that what transpired at the Night Hotel, under Respondent's supervision, was starkly different. Given Sanchez's clear expectations, it makes more sense than not that Respondent's relaxation of rules was deliberate.

Through his own testimony, Respondent established that on March 9, 2023, at approximately 0300 hours, he entered a break room where he observed SP and two male soldiers lying on a bed, not working. According to Jesus Sanchez's credible testimony, the

soldiers assigned to the overnight shift at the Night Hotel were not supposed to be sleeping during their duty hours; they could, however, take breaks, in the discretion of their supervisor. These soldiers were, in effect, watch standers, who had a duty to maintain alertness and provide for the safety and well-being of the persons entrusted to their care, namely, the asylum seekers.

Respondent testified that when he observed the three soldiers in such a supine posture, his only response was to direct them to be in the lobby at 0530 hours in uniform, *some two and one-half hours later* (emphasis added). By failing to immediately order the soldiers to return to the performance of their duties in the hotel, Respondent abdicated the most basic role of a supervisor to ensure that the persons under his supervision performed the duties of their assignment.

The tenor of Respondent's testimony on this point was that he was surprised to see of the three soldiers on the bed; this does not make sense, since he, as part of his duties, according to Sanchez, was supposed to patrol the rest areas to make sure no one was in a space they were not supposed to be in. According to SP's statement, she was assigned to the asylum seekers mission in mid-February 2023; there is no evidence in the record to suggest that when Respondent observed her in the penthouse break room, she was not where she was supposed to be. Respondent, as the supervisor of that shift, was able to assign soldiers to break rooms, consistent with Army policies regarding men and women serving together. After reviewing all the evidence in the case, the Tribunal, is still unable to discern how SP's assignment to a break room with two male soldiers would not have been an obvious departure from the norms regarding fraternization, a fact of which Respondent would have been keenly aware. I further find that Respondent had the authority to assign SP to Room 32, or some other room, where

she would not be forced to take her breaks with male soldiers, from the time of her initial assignment in mid-February.

I find that when Respondent made the decision not to immediately address the impropriety of SP being on a bed with two male soldiers, that he did so with a design to use SP's laxity as leverage in a scheme to pursue an intimate relationship with her, in violation of Army fraternization regulations.[17] When Respondent was questioned about his response, or lack thereof, to the incident during his testimony, he stated, "It's not that I didn't take no further action. I didn't want to make a big deal about something I didn't see . . . I didn't want to get anyone in trouble . . ." (T. 201). This assertion, made by a non-commissioned officer with 12 years of military service, including active-duty deployment to Afghanistan as an "11-Bravo" combat infantry soldier, is shocking and antithetical to discipline in either a military, or a paramilitary, organization. It strains credulity that a soldier with eight years of experience as a non-commissioned officer, who had been provided with increasing levels of leadership responsibility, would not recognize the insidious effect of such a mindset upon military discipline and readiness in his unit.

Respondent also admitted that he and SP texted each other during duty hours, which, on its face, carries no inference of wrongdoing. The context of those text messages, however, when considered in their totality, establishes that Respondent enjoyed a casual and flirtatious relationship with her which did not respect the differences in their respective military ranks. Contrary to his assertion that his texting SP was unremarkable, as he had the mobile numbers of all the members of his unit and would text them in a group chat, the messages in evidence as Department's Exhibit 3 are not part of any group and are solely between Respondent and SP

[17] I take judicial notice of Army Regulation 600-20, 6 November 2014, paragraphs 4-14, 4-16.

There is no evidence in the record that Respondent sent text messages to any other member of his unit where he inquired when they became interested in him; "joked" about wanting to lie down next to them; and what they liked to do for fun. Department's Exhibit 3 contains references to SP as "babe" and "my love," terms of endearment which are objectively inappropriate for communications between a senior and subordinate.

While Respondent's professed reluctance to enforce rules might suggest that the matter of SP's presence in a break room with two other soldiers was closed after he left the break room, the credible evidence established that it was not. Respondent waited until the next day, when he could approach SP in an environment he controlled (Room 32), to assert, "You know, if someone more senior to me had walked in on what I saw in the break room, you and I could have gotten into a lot of trouble" (T. 174, 201, 232-233). Misconduct is misconduct, regardless of the status of the person who witnesses it. Respondent's statement also suggests that Respondent wanted SP to know that he had exercised forbearance on her behalf, an act for which she could perceive she was beholden to him.

The most logical interpretation of Respondent's statement, coming from a non-commissioned officer to a junior soldier, is an implicit threat to take disciplinary action against the soldier at a time and place of the senior's choosing. The utterance puts the soldier on notice that she is in jeopardy; that the statement was made by SP's supervisor, in a room where he never should have been alone with her on her bed, leaves an unspoken implication that to avoid being disciplined, she would have to remain in his good graces, by whatever means he chose, including physical intimacy. Her decision to either acquiesce to whatever his request would be, or to put a stop to the situation, brought potential risks to her reputation, her standing in the unit and her military career. This scenario is a textbook example of creating, at minimum, a hostile

work environment, or, at worst, soliciting a *quid pro quo* for Respondent's continued forbearance.

To remove any ambiguity about the gist of Respondent's statement, he told SP in the same conversation that he was aware of a domestic violence incident involving her, a former boyfriend and one of the soldiers with whom she was in the break room; he offered that the occurrence of any additional incidents would place her in a bad light within the command. The combination of those statements to SP, in conjunction with Respondent's close physical presence, on a bed, in a room away from other soldiers over which he had control, in clear violation of the Army fraternization regulations, was objectively coercive. The irony of Respondent's purporting to "counsel" SP about the appearance of impropriety which could be inferred from her lying on a bed with two male soldiers, while he engaged in similarly problematic behavior, sitting on her bed, alone in a room with her, is not lost on the Tribunal.

The record contains several instances of Respondent's conduct from which the Tribunal may infer his consciousness of guilt. First, Respondent's text communication to SP where he admonishes her to close the curtains in the room, which he just given her access to, suggests that there was something in the room, or about to transpire in the room, that he did not want observed by anyone else. I find his in-court explanation that he was trying to protect SP's privacy from onlookers at a nearby office building to be a facile attempt to cover his true concern, which was to shield his own conduct from observation. If SP used the room only for authorized breaks, she would be expected to be in uniform, leaving little to attract voyeuristic attention. If, however, she was going to disrobe and go to sleep, as Respondent volunteered to her that he did in that room, then drawing the shades would prevent voyeurs from witnessing either her state of undress or any improper activity which occurred in the room. I also find Respondent's claim

that he was unaware that there was a bed in Room 32 until he entered it on March 10th to be self-serving and implausible.

Second, when SP raised concern in a text message about the security guard posted outside room 32 witnessing them both enter it, Respondent dismissed the concern by stating that the guard was asleep. In contrast, Respondent testified at trial that he had a discussion with the security guard and thanked him for bringing SP's domestic violence incident to his attention. These assertions may, or may not, be factually irreconcilable. Since the only evidence of a conversation with the security guard is Respondent's testimony, it is self-serving. On the other hand, the denial Respondent communicated in the response to SP's text message may have been true, or deliberately represented as true, to allay SP's fear of discovery of Respondent's presence in a room he should not have been in. Based upon the totality of the evidence, the Tribunal finds that he told SP that the security guard was sleeping to reduce the chance that she might feel the need to come forward before the guard had an opportunity to report his observations.

Third, when SP sent the text message to Respondent in which she accused him of "touching [her] vagina on top of [her] clothes even though [she] said no before," his response, record in the text message as "edited" was "Ohhh my goooood nooooo" (Dept. Ex. 3, pp. 27-28, Tue, Mar 14 at 18:41). While silence does not constitute admission, from Respondent's failure to deny what he should have understood was a clear accusation of professional, if not criminal, misconduct, I infer that he, more likely than not, did not make a denial at that moment because he was aware that he had, in fact, done what SP accused him of.

Fourth, Respondent appears to have advanced a false narrative about the March 10th incident with SP in his Instagram messaging with SP's friend E.C., one year after the event.

During that exchange, he asserted to E.C. that he had left the National Guard because he had found a male and female soldier in bed together and tried to help them, without specifying what he meant by "help." He then asserted that the female soldier lied and stated that he was the soldier in bed with her, rather than the soldier who had been. When E.C. expressed some familiarity with the story and revealed that she was SP's friend and that she was aware of an incident involving her, Respondent deleted his message and asked to call E.C., rather than continue texting. When she refused to do so, Respondent ended the message exchange. I find that Respondent, more likely than not, realized that he had unwittingly made false representations in his message exchange to an individual who may have been aware of the true nature of his encounter with SP on March 10, 2023.

When SP's accusation that Respondent touched her genitals is considered in the context that Respondent: (1) fostered a texting relationship with SP which was unduly familiar, as between a soldier and her non-commissioned officer supervisor, and at worst, objectively flirtatious; (2) took inconsistent postures with respect to enforcing the Army fraternization policy upon personally witnessing an apparent violation, then raising the issue with SP while engaging in similar behavior in a coercive environment; and (3) failed to deny a direct accusation of misconduct, it takes on the ring of truth. On balance, SP's hearsay statements, even considering the inconsistencies contained therein, are more credible than Respondent's testimony.

Based upon the totality of the evidence, I find that the material factual assertions SP made are credible and therefore find that Respondent touched her genitals over her clothing.

The credible, relevant evidence also establishes that Respondent's actions were contrary to good order, efficiency, and discipline in this Department. As discussed above, the evidence

shows that Respondent abused a position of trust to engineer a situation where he could get SP alone and touch her genitals, at a time when they were both supposed to be performing military duties, and it was Respondent's responsibility to ensure she performed them.

Based upon the foregoing, I find Respondent Guilty of Specification 1.

Specification 2: Failure to Notify

I find by a preponderance of the credible, relevant evidence that the Department Advocate has met its burden of proof that Respondent failed to notify this Department of his involvement in an off-duty incident.

Patrol Guide procedure 212-32 requires Members of Service who are involved in, or are witnesses to, an off-duty incident, must notify the Desk Officer in the precinct of occurrence or, if outside the City of New York, the Operations Unit (P.G. 212-32).

Department's Exhibit 7 is a Military Protective Order, which Respondent admitted was served upon him (T. 183). The commentary contained in Patrol Guide procedure 212-32 includes the service of an Order of Protection within the definition of "off-duty incident."

Respondent admitted to being served with the protective order and further admitted that he was advised by his military superiors that: (1) he was under investigation; (2) he was being removed from the asylum seekers mission; and (3) his promotion to Staff Sergeant had been put on hold. He did not deny that he failed to make a notification to this Department but claimed that he relied upon the advice of his military superiors that he was not required to make such a notification. Since neither of his military superiors was a representative of this Department, their "advice" amounted to no more than opinions.

Based upon the facts which Respondent admitted to having in his possession, he was obligated to make a notification to this Department and failed to do so (*Disciplinary Case No.*

2020-22653 [Sept. 27, 2021]; *Disciplinary Case No.* 2018-19794 [May 13, 2021]; *Disciplinary Case No.* 2018-19132 [Apr. 20, 2021]; *Disciplinary Case No.* 2017-18172 [Apr. 5, 2019]).

Based upon the foregoing, I find Respondent Guilty of Specification 2.

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 was also 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 4, 2017, has been found Guilty of touching SP's [redacted] genitals over her clothing and failing to notify this Department that he was involved in an off-duty incident.

The penalty range for offenses charged as conduct prejudicial to the good order and efficiency of this Department is a mitigated penalty of training to an aggravated penalty of termination.

The presumptive penalty for failure to make a notification regarding an off-duty incident is five penalty days. The aggravated penalty is ten penalty days, and the mitigated penalty is one penalty day.

Respondent has a formal disciplinary history. In 2019, Respondent forfeited 31 pre-trial suspension days after pleading Guilty to failing to identify himself as a Member of Service to on-duty Members of Service during a motor vehicle investigation. He also pled guilty to acting in a non-compliant manner during the investigation.

Based upon the facts in this record, Respondent engaged in unprofessional and shocking behavior while on authorized military leave from this Department. He betrayed the trust reposed in him by the United States Army and, implicitly, by this Department. This represents an aggravating factor under the Disciplinary Matrix (*Disciplinary Matrix*, p. 10). The facts also strongly support a finding that Respondent's improper actions were part of a plan he devised over time, leaving him time to reflect on the wrongfulness of his contemplated actions (*Id.*). Even if Respondent had not been SP's superior non-commissioned officer at the time of the incident, and she was a civilian, touching a person's genitals without their consent violates every norm of decency in a civilized society and could reasonably be foreseen to have an adverse impact upon the Department with regard to its mission, reputation, credibility and relationship with the community (*Id.*).

This Department, and the people of the City of New York, have a right to expect better from sworn Members of Service. I find that Respondent's continued service would be contrary to good order, efficiency and discipline in the force; accordingly, I recommend that he be DISMISSED from this Department (*See Disciplinary Case No.* 2023-28430 [Jun. 17, 2024]; *Disciplinary Case No.* 2020-22447 [Dec. 29, 2022]; *Disciplinary Case No.* 2020-22175 [Jul. 8, 2021]).

Respectfully submitted,

Paul M. Gamble

Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

APPROVED

OCT 30 2025

JESSICA S. TISCH
POLICE COMMISSIONER

POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER STEPHAN GRANT
TAX REGISTRY NO. 963058
DISCIPLINARY CASE NO. C-031357

Respondent was appointed to the Department on January 4, 2017. On his three most recent annual performance evaluations, he was twice rated "Exceptional" for 2022 and 2024 and was rated "Exceeds Expectations" for 2023. He has been awarded three medals for Excellent Police Duty.

In 2019, Respondent forfeited thirty-one (31) suspension days after pleading Guilty to, while on entry-level probation, (i) failing to identify himself as a Member of Service to on-duty Members of Service during a motor vehicle investigation and (ii) acting in a non-compliant manner during the investigation.

For your consideration.

Paul M. Gamble KM

Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials